

STATE OF ALABAMA)
SHELBY COUNTY)

**DECLARATION OF PROTECTIVE COVENANTS FOR HIGHLAND RIDGE,
A SUBDIVISION LOCATED IN SHELBY COUNTY, ALABAMA**

KNOW ALL MEN BY THESE PRESENTS THAT:

WHEREAS the undersigned Shelby 39, LLC, an Alabama limited liability company (the "Developer"), is the owner of Highland Ridge, a planned residential subdivision situated in Shelby County, Alabama, a map of which is recorded in Map Book 39, at Page 10, in the Office of the Judge of Probate of Shelby County, Alabama (the "Subdivision"); and

WHEREAS, the Developer desires to establish uniform standards of development quality and to provide for the effective preservation of the appearance, value and amenities of the Subdivision which will benefit the purchasers of the lots within the Subdivision (the "Owners"); and

WHEREAS, for these purposes, Developer desires to subject the Subdivision, including, without limitation, each lot therein, to the conditions, limitations, and restrictions hereinafter set forth.

NOW, THEREFORE, the Developer declares that the Subdivision, and each lot therein ("Lot" or "Lots"), shall be held, transferred, sold, conveyed and occupied subject to the following protective covenants, conditions, and limitations, all of which shall be construed as and deemed as covenants running with the land and shall be binding on and inure to the benefit of all parties owning an interest in any Lot or Lots in the Subdivision, to-wit:

ARTICLE 1

SUBDIVISION SUBJECT TO THIS DECLARATION

Highland Ridge, the real property constituting the Subdivision is more particularly described in the map recorded in Map Book 39, at Page 10, in the Office of the Judge of Probate of Shelby County, Alabama.

ARTICLE 2

ARCHITECTURAL CONTROL

1. Architectural Control Committee. All construction within the Subdivision shall be subject to the architectural review and control functions of the Architectural Control Committee (the "ACC"). For such time as the Developer shall own any Lot within the Subdivision, or until such time as the Developer relinquishes control of the ACC, the ACC shall be composed of three (3) people appointed by the Developer from time to time. At such time

that all of the Lots in the Subdivision have been sold to third parties or at such time that Developer shall relinquish control of the ACC, the Owners, by majority vote, shall elect three (3) Owners to serve as the ACC. Each such ACC member shall have a 33.33% vote. In the event of the death, resignation, or disability of any member of the ACC who was elected by the Association or designated by other ACC members, the remaining member or members of the ACC shall have full authority to designate a successor and the remaining member or members shall have full authority to approve or disapprove plans and specifications. In the event that any one of the members is unable to meet for any reason, the remaining members shall have all necessary authority to make decisions. A majority of the ACC may designate a representative to act for and on its behalf. No members of the ACC shall be entitled to any compensation for services performed pursuant to this Declaration. At any time after Developer relinquishes control of the ACC or sells all the Lots, the Owners of a majority of the Lots shall have the power, through a duly recorded instrument, to change the membership of the ACC or to amend any of the powers and duties of the ACC.

2. Powers and Duties of the ACC. All plans and specifications, including the plot plans of residences on any Lot in the Subdivision, shall be filed with, and must have been approved by the ACC before any construction is commenced. The ACC shall have the authority to require modifications and changes to submitted plans and specifications as it reasonably deems necessary, in its sole judgment, to obtain conformity of the proposed dwelling with the requirements and restrictions contained in these covenants. All plans must include a summary specifications list of proposed materials and samples of any exterior materials which cannot be adequately described on the plans and any materials with which the committee is unfamiliar.

The ACC may also require such additional information as reasonably may be necessary for the ACC to evaluate the proposed structure or improvement in accordance with this Declaration. The approval by the ACC of plans and specifications submitted to it shall not be deemed to be a waiver by the ACC of the right to object to any of the features or elements embodied in the plans or specifications if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use of other Lots. The ACC must approve or disapprove the submitted plans and specifications for any improvement or structure as hereinabove described prior to commencement of construction of such improvement or structure; however, in the event that the ACC shall fail, for a period of ten (10) days from the date of receipt of such submission, to approve or disapprove any plans or specifications submitted to it for approval, the same shall be deemed to have been approved. THE ACC DOES NOT ASSUME ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, ANY LAWS, RULES, OR REGULATIONS OR OTHER FACTORS NOT EXPRESSLY SET OUT HEREIN.

3. Necessity of Architectural Review and Approval. The authority to review and approve any plans and specifications as provided herein is a right and not an obligation.

Contractors and Owners shall have the sole obligation to oversee and to construct dwellings in accordance with the restrictions hereof and the plans and specifications approved by the ACC.

4. Basis for Disapproval of Plans.

A. The ACC shall have the right to disapprove any plans and specifications submitted for approval for any of the following reasons:

(i) failure of such plans and specifications to comply with the covenants and restrictions herein set forth;

(ii) failure to include information in such plans and specifications as may have been reasonably requested by the ACC;

(iii) objection to the exterior design, appearance or materials of any proposed structure or improvement;

(iv) incompatibility of any proposed structure or improvement or use thereof with existing structures or uses upon other Lots in the Subdivision;

(v) objection to the site plan, clearing plan, or drainage plan for any parcel;

(vi) objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any proposed structure or improvement;

(vii) failure of plans to take into consideration the particular topography, vegetative characteristics and natural environment of the Lot;

(viii) any other matter which, in the reasonable judgment of the ACC, would render the proposed structure, improvements, or uses inharmonious with the general plan of the improvement of the Subdivision or with structures, improvements or uses located upon other Lots in the Subdivision.

B. Approval of plans and specifications submitted to the ACC shall terminate and be rendered void if construction is not begun within six (6) months after the date of the certificate evidencing such approval, unless such six (6) month period is extended by the ACC (in which event the extended time period shall be the applicable period).

C. In any case where the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds

upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

5. Failure to Obtain Approval. If any structure or improvement shall be altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the ACC pursuant to the provisions of Article 2, such alteration, erection, maintenance, or use shall be deemed to have been undertaken in violation of this Declaration, and without the approval required herein, and, upon written notice from the ACC, any such structure or improvement so altered, erected, placed or maintained upon any Lot in violation hereof shall be removed or realtered, and such use shall be terminated, so as to extinguish such violation.

If, within fifteen (15) days after the notice of such a violation, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the ACC shall have the right, through its- agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided in this covenant shall not be valid as against a bona fide purchaser (or bona fide mortgagee) of the Lot in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County prior to the recordation among the land records of Shelby County, of the deed (or mortgage) conveying the Lot in question to such purchaser (or subjecting the same to such mortgage).

6. Certificate of Compliance. Upon completion of the construction or alteration of any structure or improvement in accordance with plans and specifications approved by the Committee, the Committee shall, upon written request of the Owner thereof, issue a certificate of compliance in form suitable for recordation, identifying such structure or improvement and the Lot on which such structure or improvement is placed, and stating the plans and specifications, the location of such structure or improvement, and the use or uses to be conducted thereon have been approved, and that such structure or improvement complies with the requirements of the ACC. Preparation and recording of such certificates shall be at the expense of such Owner. Any certificate of compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all structures or improvements on the Lot, and the use or uses therein, comply with all the requirements of this Article 2, and with all other requirements of this Declaration as to which the ACC exercises any discretionary or interpretive powers.

7. Inspection Rights. Any agent of the ACC may at any reasonable time or times enter upon and inspect any Lot and any improvements thereon for the purpose of ascertaining

whether the maintenance of such Lot and the maintenance, construction, or alteration of structures and improvements thereon are in compliance with the provisions hereof; and neither Developer nor the ACC nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

8. Waiver of Liability. Neither the ACC nor any architect nor agent thereof, nor the Developer, nor any partner, agent, or employee of any of the foregoing, shall be liable in any way for: (i) any failure of structures or improvements to comply with requirements of this Declaration, regardless of whether a certificate of compliance has been issued; (ii) any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions; (iii) any structural or other defects in any work done according to such plans and specifications; (iv) any judgment or decision, action or inaction, rendered in order to attempt to carry out the terms set forth in this Declaration or in carrying out or failing to carry out the responsibilities of the members of the ACC; and (v) any claim that enforcement of this Declaration constitutes an interference with contractual relations or violates any other law, rule or regulation. All persons submitting any such plans and specifications, and all persons relying thereon, agree not to sue or claim damages of any nature against the entities and persons referred to in this Section for any cause of action arising directly or indirectly out of the matters referred to in this Section and/or any decision made by the ACC or such other person enumerated herein to carry out the terms of this Declaration, and further agree to and do hereby release said entities and persons from any and every such cause and further, each Owner agrees to indemnify and hold the Developer and the ACC harmless from each and every claim, cost or expense, including, but not limited to, court costs and attorney's fees incurred by the Developer and the ACC arising directly or indirectly from actions or inactions taken in connection with the enforcement of these covenants. This provision shall be construed broadly to protect the ACC, the Developer and others described herein against any claim, action or demand arising directly or indirectly from the enforcement of this Declaration and actions taken in connection therewith.

ARTICLE 3

GENERAL

1. Exclusive Residential Use and Improvements.

A. All Lots in the Subdivision shall be known and described as residential in nature and shall be used for single family residential purposes exclusively.

B. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories, or 35 feet in height, and a private garage, and other out-buildings incidental to and necessary for proper residential use of the Lot. Any out-building shall be in conformity to the standards set herein and approved by the ACC.

C. Notwithstanding anything to the contrary herein, the Developer or its assigns shall be permitted to construct and maintain on any two Lots a structure and related facilities designed and used as a construction field office and/or a sales office.

D. No building shall be located on any Lot nearer than 25 feet to the front Lot line or the rear Lot line, or to a side street.

E. No dwelling shall be erected containing less than two thousand (2,000) square feet of living area ("living area," whenever used in this paragraph, shall not include porch, garage or basement areas). A one-level residence shall contain a minimum of two thousand (2,000) square feet of living area. A one and one half story residence shall contain a minimum of two thousand four hundred (2,400) square feet of living area (1,600 square feet minimum on main floor and 800 square feet on second floor). A two story residence shall contain a minimum of three thousand two hundred (3,200) square feet of living area (1,600 square feet on each level). A split level residence shall contain a minimum of two thousand (2,000) square fee of living area on the main level.

Whenever Shelby County's minimum building site requirements are more restrictive than those set out herein, the Shelby County building site restrictions shall be applicable.

F. BUILDING REQUIREMENTS:

(i) ROOF PITCH. The front roof pitch on any residence shall not be less than 6 x 12 unless first approved in writing by the ACC.

(ii) PORCHES. All porches on the front and sides of any dwelling shall be supported by the foundation of the structure.

(iii) FOUNDATIONS. No exposed block shall be visible on any portion of the foundation of any dwelling.

(iv) STYLE. All homes are to be of traditional styling, unless approved in writing by the ACC.

(v) CHIMNEYS. No cantilevered chimney chases shall be allowed on the front of any structure. All chimney chases on the front of the structure shall be supported by the foundation of the structure.

(vi) HVAC EQUIPMENT. Outside air-conditioning units may not be located in the front yard.

(vii) **WINDOWS.** Either wood frame, vinyl, pvc, or aluminum clad windows may be used on any portion of the dwellings constructed.

(viii) **CONCRETE BLOCKS.** No concrete block work, including foundations, concrete block steps, walkways, walls or any other concrete blockwork, whether painted, stuccoed or otherwise, shall show from the exterior of any building.

(ix) **BUILDING MATERIALS.** Brick or stone veneer shall be used on at least three sides of all dwellings, excluding gables or cantilevers. Horizontal siding or wood frame may be used on a dwelling. No vinyl siding shall be allowed, except that vinyl soffett material may be used for soffets.

(x) **GARAGES.** Prior approval from the ARC must be obtained for any garage doors that open to the front of the residence. Garage doors shall be kept closed at all times except when in use. No garage shall be converted to any use other than for the parking of vehicles therein without the approval of the ARC.

(xi) **CONSTRUCTION OF IMPROVEMENTS.** When the construction of any building is once begun, work thereon must be prosecuted diligently and continuously and must be completed within 12 months.

2. **Maintenance.** It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkempt conditions of buildings or grounds on such Lot which shall tend to decrease the beauty of the specific area or of the neighborhood as a whole. Each Owner will be solely responsible for the repair and maintenance of the sidewalk located within the Owner's property lines.

3. **Landscaping.** No weeds, underbrush, or other unsightly growth shall be permitted to grow or remain upon any part of the Subdivision and no refuse pile or unsightly object shall be allowed to be placed or suffered to remain upon any part of the Subdivision, including vacant parcels. The undersigned reserves the right (after 10 days' notice to the Owner) to enter any 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 the undersigned 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. This provision shall not apply to the undersigned Developer and Builders or their assigns during the sales and development period, such sales period to extend until the last Lot is sold and built upon.

Upon the completion of a residence, all grassed area will be landscaped with solid sod in the front and 15' along the sides and rear of the residence. Areas required to be grassed shall meet minimum requirements of Shelby County AND requirements of ACC.

4. Fences and Hedges.

No fence shall be constructed unless approved by the ACC in advance of installation. The approval of the ACC shall be governed by the following:

A. No fences shall extend nearer the street than the rear of the dwelling.

B. No shrubs or trees shall be planted on street corners that will impede view of signs, pedestrians or automobiles.

5. Use Restrictions.

A. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except dogs, cats, or other household pets may be kept provided they are not kept, bred or maintained for any commercial purpose.

B. 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.

C. 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.

D. No water pipes, gas pipes, sewer pipes or drainage pipe shall be installed or maintained above the surface of the ground of any Lot within the Subdivision, except for hoses, movable irrigation pipes and concrete drainage ditches.

E. No clothes lines of any kind will be permitted.

6. Trash. 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 so placed or screened by shrubbery or other appropriate material approved in writing by the ACC 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.

7. Temporary Structures. 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 governmental authorities where applicable.

8. Signs. 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, one sign of not more than six (6) 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 designed specifications of the ACC. No signs shall be nailed to trees. This provision shall not apply to the Developer or Builders or their assigns during the sales period.

9. Storage of Vehicles, Boats, Trailers, etc. No disabled, dismantled, nonoperating, wrecked or junk vehicles will be stored on any Lot (unless completely within residence and out of sight). Boats, utility trailers, recreational vehicles, motorcycles, and travel trailers must be parked or stored in the basement or on a separate parking pad located behind the rear of the residential structure. No tractor trailer trucks, panel vans or other commercial trucks in excess of a one ton classification shall be parked or stored on any Lot.

10. Satellite Dishes. No satellite dishes, microwave dishes of a diameter greater than eighteen (18) inches or radio antennae of a height greater than six (6) feet shall be permitted. All satellite dishes must be in rear yard.

11. Enforcement. The covenants and restrictions herein shall be deemed to be covenants running with the land. If any person shall violate or attempt to violate any of such restrictions or covenants, it shall be lawful for the undersigned Developer or any persons owning any Lot on said land: (A) to prosecute proceedings at law for the recovery of damages against the person or persons so violating or attempting to violate any such covenant or restriction, or (B) to maintain a proceeding in equity against the person or persons so violating or attempting to violate any such covenant or restriction for the purpose of preventing such violation: provided however, that the remedies in this paragraph contained shall be construed as cumulative of all other remedies now or hereafter provided by law.

12. Protective Covenants Running with the Land. It is understood and agreed that the foregoing covenants and restrictions shall attach to and run with the land for a period of twenty-five (25) years from the date hereof at which time these covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless by a vote of the majority of the then owners of the Lots, it is agreed to change same in whole or part. It shall be lawful for the Developer and Owners to institute and prosecute any proceedings at law or in equity against that person, persons, corporation or corporations violating or threatening to violate these covenants and restrictions. Failure to institute proceedings for any one or more violations shall not constitute approval of same or be construed as a waiver of any right of action contained herein for past or future violations of these covenants and restrictions.

13. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed by United States mail, postage paid, to the street address of the Lot owned by such Owner.

14. Severability. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid or unenforceable, all remaining covenants and restrictions shall nonetheless remain in full force and effect. Invalidity of any provision or provisions hereof by judgment or court order shall in no way affect any previous other provision, all of which shall remain in full force and effect.

15. Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Alabama, and County of Shelby.

16. Captions. The captions and titles of the various Articles and Sections in this Declaration are for convenience of references only, and in no way define, limit or describe the scope or intent of this Declaration.

17. Usage. Whenever used herein the singular shall include the plural and the singular, and the use of any gender shall include all genders.

18. Effective Date. This Declaration shall become effective upon its recordation in the office of the Judge of Probate of Shelby County, Alabama.

ARTICLE 4

OWNERS' ASSOCIATION

1. Definitions.

A. The Articles of Incorporation: The Articles of Incorporation of the Highland Ridge Homeowners Association, Inc., a nonprofit corporation.

B. The Association: The Highland Ridge Homeowners Association, Inc., its successors and assigns.

C. The By-Laws: The By-Laws of the Highland Ridge Homeowners Association, Inc.

D. Member: A person or other entity who is a record owner of any Lot within the Subdivision, subject to the terms of the Articles of Incorporation and Bylaws of the Association.

E. Common Areas: Those portions of the Subdivision which are of common use and benefit to all Owners and are not subject to annual and special assessments of the Association, such areas to include, without limitation, the landscaped entry way to the Subdivision, any street lighting now or hereafter installed in the Subdivision, any retaining walls on the property, any areas designated as Recreation or Park Areas, (description of any specific easement areas), including any and all easements granted or to be granted for the common benefit of the Owners and other areas as may be designated "Common Areas" by the Developer or the Association.

2. Responsibilities of Association. Except as may be otherwise provided herein to the contrary, the Association shall maintain and keep in good repair and condition (i) all portions of the Common Areas, which responsibility shall include the maintenance, repair, upgrade, improvement and replacement of any private roads, walks, trails, paths, walkways and lanes, street lights, landscaped areas, and other Improvements made by Developer or the Association within any of the Common Areas or within any of the easements encumbering the Lots, (ii) such utility lines, pipes, plumbing, wires, conduits and related systems, sanitary sewage disposal system installed by Developer, in Developer's sole discretion, appurtenances, equipment and machinery which are a part of the Common Areas and which are not maintained by a public authority, public serve district, public or private utility, or other person, and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Areas, and any other facilities constructed by Developer or the Association. The Association shall not be liable for injuries or damage to any person or property (1) caused by the elements, acts of God, or any Owner or other person, (2) resulting from any surface or subsurface conditions which may at any time affect any portion of the Property caused by rain or other surface water which may leak or flow from any portion of the Common Area onto a Lot or Dwelling, or (3) resulting from theft, burglary or other illegal entry into the Property, any Lot or Dwelling. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken by or performed by the Association hereunder, or for inconvenience or discomfort arising from the making of Improvements or repairs which are the responsibility of the Association.

3. Operation of the Association. The voting rights of Members, the election of officers and directors, and all other aspects of operation of the Association, including but not limited to Developer's rights regarding the same, shall be subject to the terms and conditions of the Articles of Incorporation and By-Laws of the Association.

4. Lien For Dues and Assessments.

A. Each Owner shall be a Member of the Association; provided, that if any Lot is owned by two or more persons, only one such Owner shall be entitled to vote on Association matters. The rights of membership in the Association are subject to the payment of annual and special assessments and charges. The obligation of such assessments and charges is imposed against each Lot and is a lien upon the Member's Lot against which such assessment or charge is made; provided, however, that notwithstanding anything to the contrary contained in this Declaration, assessments or charges described herein shall not be imposed upon any Lot or Lots owned by Developer or Builders.

B. All property in the Subdivision except for the Common Areas shall be subject to a continuing lien for assessments levied by the Association in accordance with the provisions of this Declaration. The annual assessments and charges together with interest thereon and the costs of collection thereof (including reasonable attorney's fees) as hereinafter provided, shall be a charge on, and shall be a continuing lien upon, the Member's property against which each such assessment or charge is made. All Member's property shall be held, transferred, sold, conveyed, leased, occupied, mortgaged and otherwise encumbered subject to all the terms and provisions of this Declaration, the Articles of Incorporation and the By-Laws applicable to Member's property including, but not limited to, the continuing lien herein described.

C. An annual assessment of Two Hundred and No/100 Dollars (\$200.00) for maintenance of the entry way, landscaping of Common Areas, and other uses as determined by the Association shall be due and payable to the Association by the Members on the first day of January of each year, said amount being delinquent if not paid by the 31st day of January following the due date therefor. The annual assessment shall be prorated and collected from the Members as of the day of closing. All assessments so collected by the Association shall be placed in an interest-bearing account established by the Developer or the Association (the "Account"). Collection of assessments, maintenance of Common Areas and landscaping shall be the sole responsibility of the Association. Notwithstanding anything hereinabove or hereafter to the contrary, the annual assessment shall not become effective with regard to any Lot until a residence has been constructed thereon and the Lot has been sold to a purchaser. Developer owned Lots and Builder owned Lots are exempt from payment of the annual assessment.

D. The Association may, in its discretion increase or decrease the amount of the annual assessment described in paragraph C above, or impose special assessments in addition to the annual assessment to defray costs incurred by the Association or the ACC. Any special assessments so imposed shall have the same force and effect as the annual assessment and shall constitute a continuing lien on the Lots to secure payment thereof.

E. Each Member, by acceptance of a deed or other conveyance to a Lot within the Subdivision, whether or not it shall be so expressed In any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association the annual assessments, special assessments and charges, such assessments to be fixed, established and collected from time to time as determined by the Association. Each such assessment, together with interest and costs of collection, including reasonable attorney s fees, shall be the personal obligation of the person or persons who is or are the Owner of any one or more Lots at the time when the assessment fell due.

F. The assessments levied by the Association shall be used exclusively for the purpose of providing any and all of the services and activities as may be to the mutual benefit of the Members, maintaining, operating, and repairing of the Common Areas, repair, replacement and additions thereto, and for the cost of labor, insurance, equipment, materials, and supervision thereof, for other purposes beneficial to the Members as determined by the Association and for the purpose of carrying out the functions, purposes, responsibilities and duties of the Association and the ACC. The Association does not assure that such services will be provided and nothing herein shall be construed as an obligation to provide any such services.

G. The assessments applicable to Lots shall be set by the Board of Directors of the Association.

H. Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the rate of ten per cent (10%) per annum. The Association may bring an action at law against the Member personally obligated to pay the same, or foreclose the lien against the Member's Lot. No Member shall waive or otherwise escape liability for the assessments provided for in this Declaration or otherwise by non-use of the Common Areas or other areas to which assessments are applied or by abandonment of the Lot or Lots owned by such Member.

I. The lien of any assessment or charge authorized by the Declaration with respect to any Lot is subordinate to the lien of any bona fide mortgage on such Lot if, but only if, all assessments and charges levied against such Lot falling due on or prior to the date such mortgage is recorded have been paid. The sale or transfer of any Lot pursuant to a mortgage foreclosure proceeding, or a proceeding in lieu of foreclosure, or the sale or transfer of such Lot pursuant to a sale under power contained in a mortgage on such property shall extinguish the lien for assessments falling due prior to the date of such sale, transfer or foreclosure, but the Association shall have a lien on the proceeds of such sale senior to the equity of redemption of the mortgagor. The foregoing subordination shall not relieve a Member whose Lot has been mortgaged of his personal obligation to pay all assessments and charges falling due during the time he is the owner of such Lot. The Board of Directors may at any time, either before or after the mortgaging of any portion of the Property, waive, relinquish or quit claim in whole or in part the right of the Association to assessments and other charges collectible by

the Association with respect to such Member's property coming due during the period while the same is or may be held by a mortgage or mortgagees pursuant to such sale or transfer.

IN WITNESS WHEREOF, the said Developer has executed this instrument on the 26th day of September, 2007.

DEVELOPER:

Shelby 39, LLC, an Alabama limited liability company

By:

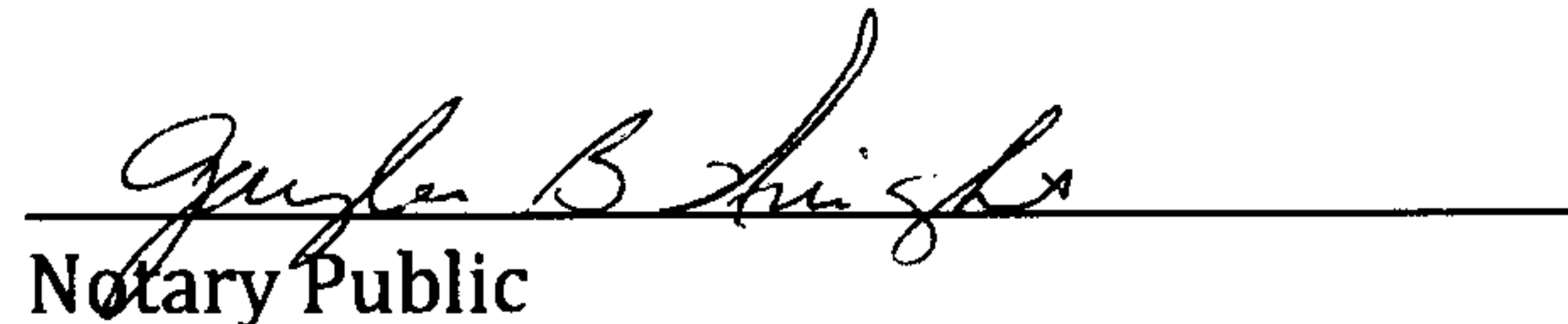

Leo E. Joseph, Jr., as its Manager

STATE OF ALABAMA)
SHELBY COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Leo E. Joseph, Jr., whose name as Manager of Shelby 39, LLC, an Alabama limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that, being informed of the contents of the instrument, he, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and seal this the 26th day of Sept, 2007.

NOTARY PUBLIC STATE OF ALABAMA AT LARGE
MY COMMISSION EXPIRES: June 24, 2009
BONDED THRU NOTARY PUBLIC UNDERWRITERS


Notary Public

My Commission Expires: _____

This instrument prepared by
James J. Odom, Jr., Esq.
Post Office Box 11244
Birmingham, AL 35202-1244