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TRUST INDENTURE

THIS INDENTURE OF TRUST, by and between Morris C. Benners and wife, Anne Jones Benners, (hereinafter sometimes called "Settlors"), and Jack J. Benners and Morris C. Benners, Jr., (hereinafter sometimes called "Trustees"),

W I T N E S S E T H:

It is hereby agreed by and between the parties hereto as follows:

1. Settlors own a house and lot, together with a contiguous vacant lot, each adjoining and having direct access to Smyer Lake (also known as Mountain View Lake) in Shelby County, Alabama, (hereinafter sometimes called "the property"), more particularly described as follows:

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> Lots 26 and 27, according to the Map and Survey of Mountain View Lake Company, Second Sector, as made by J. M. Keel, surveyor, dated January 1, 1956.
>
> All minerals and mining rights, including oil and gas are excepted, provided however that the owner of said minerals and mining rights, including oils and gas, shall not have the right to disturb the surface or so conduct any mining or extraction of oil and gas so as to deplete or polute the water in any well, the Grantee herein may dig.
>
> This conveyance is made subject to certain restrictions on said property more fully set out in that certain instrument recorded in the Probate Office of Shelby County, Alabama, in Vol. 172, Page 236.

Settlors desire to make a gift of the property to the Trustees for the use and benefit of Settlors' children, and other lineal descendants, under the terms and conditions set forth in this Indenture. Trustees are will-

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ing to act as trustees under this Indenture with respect to the property in consideration of their obtaining a beneficial interest in the property for themselves and their siblings.

2. In consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Settlors agree, substantially simultaneously with the execution of this Indenture, to convey the property to the Trustees subject to the terms and conditions of this Indenture, and Trustees agree to accept the property and to administer, in accordance with the provisions of this Indenture, the trust hereby created.

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3. The trustees shall make the property available for reasonable and equitable use by Settlors' children, their families, and other lineal descendants of Settlor without charge, except that charges may be made for the purposes and in the manner set forth hereinbelow. To cover utilities, maintenance, ad valorem and other taxes, insurance and other reasonably necessary expenses of operating, conserving, preserving, safeguarding and maintaining the property and access roads thereto in good and safe condition suitable for appropriate and regular use by Settlors' children, their families, and other lineal descendants of Settlors, the trustees may: (1) assess charges based approximately on extent of use; (2) assess charges equally to Settlors' children (or their families or descendants) on a per stirpes basis; (3) assess a flat basic charge equally to Settlors' children (or their families or descendants) on a per stirpes basis, plus a charge based upon extent of use; or (4) assess charges on such other basis as

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the trustees may deem fair and equitable. Said charges shall be designed to cover only the aforesaid expenses and shall not be designed to provide any substantial excess over and above what is required for the aforesaid expenses. To reduce or eliminate the necessity of assessments against Settlors' children (or their families or descendants), the trustees in their discretion may rent or lease the property or some part thereof to a lineal descendant of Settlors or to others for periods of time appropriate for that purpose. Settlors suggest, but do not require, that such rentals or leases to persons other than lineal descendants of Settlors be limited to an aggregate of not more than four months during any one calendar year and (unless all of the then surviving children of Settlors otherwise consent) to not more than one continuous twelve-month period in the case of lineal descendants of Settlors, in order that the property be available as much as reasonably possible for use by all of Settlors' children (or their families or descendants). Major capital expenditures, if any, and the means of financing the same shall be agreed upon in writing by the then surviving children of Settlors before any such major capital improvements can be authorized or expenditures made or committed therefor. Settlors further suggest, but do not require, that the two lots constituting the property (one with the house on it and the other one now vacant) not be rented or leased simultaneously so that Settlors' children (or their families or descendants) will always have access to the lake itself through one lot or the other. If a person having a beneficial interest in the property shall fail or refuse to pay any charges assessed against him hereunder by the trustees, the trustees

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may take any one or more of the following actions, in addition to any and all other remedies which may be available to the trustees: (1) deny such person access to the property until such time as the underlying charges, with such reasonable interest charge, if any, as the trustee may fix, shall be paid in full; (2) charge against the beneficial interest of such person the unpaid amount, with such reasonable interest charge, if any, as the trustees may fix; (3) during such period as such person may be delinquent, it shall not be necessary for the trustees to obtain his consent with respect to any matter for which his consent would otherwise be required under this Indenture; and (4) if such person is a trustee hereunder, he shall forfeit his position as trustee if he remains delinquent for more than 90 days with respect to charges or assessments, and the remaining trustee, if any, shall then be the sole trustee until such time as the nondelinquent beneficial owners shall choose a successor trustee.

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4. The four children of Settlors shall be the sole initial beneficial owners, in equal parts, of the trust hereby created, subject to restrictions imposed by this Indenture. No beneficial interest or part thereof shall be sold, conveyed, transferred, assigned, pledged, hypothecated, bequeathed, devised or otherwise disposed of except: (1) to one or more other lineal descendants of Settlors; or (2) as a part of the sale of the entire interest in the property or in one of the two lots (and improvements, if any, thereon) constituting the property, pursuant to a determination by the trustees that such sale is in the best interest of the beneficiaries as a whole. In the event a beneficial owner dies and by his will fails

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validly to bequeath, devise or otherwise dispose of his beneficial interest in the property or in any part thereof, the beneficial interest not validly devised shall be divided equally, per stirpes, among the children of such deceased beneficial owner (or his grandchildren in the case of any child who predeceases the deceased beneficial owner leaving grandchildren surviving the deceased beneficial owner); or, if there are no lineal descendants surviving such deceased beneficial owner, then the beneficial interest not validly devised shall be distributed to all other beneficial owners in equal parts per stirpes. Provided, the widow or widower of a deceased person who at the time of death was a beneficial owner, shall continue to have the privilege of using the property on a reasonable basis, subject to co-ordination of use by the trustees, as long as the trust hereby created shall continue to exist, notwithstanding the fact that such widow or widower does not have a beneficial interest in the property.

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5. This trust shall terminate no later than one year subsequent to the first to happen of the following events: (1) the property is sold to one or more persons who are not lineal descendants of Settlors; (2) the entire beneficial interest in the property becomes vested in one and only one child of Settlors or in lineal descendants of one and only one child of Settlors; (3) the property is exchanged for assets other than essentially equivalent purpose real estate; and (4) nineteen (19) years after the last to die of the persons constituting Settlors and all of Settlor's lineal descendants living at the time of execution of this Indenture of Trust. Furthermore, there shall be a termination of this trust with respect

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to one of the two lots (and houses, buildings, appurtenances and improvements, if any, thereon) comprising the property (which shall not affect the continuation of the trust with respect to the other lot) no later than one year subsequent to the first to happen, with respect to said lot, of any of the first three events enumerated in the first sentence above of this Paragraph 5. At the time of termination of this trust, the trustees shall distribute to the then beneficial owners their pro rata shares of the assets of the trust. During the time this trust is in existence with respect to the property or any part thereof, the property or part thereof then included in this trust shall not be subject to partition, division or forced sale at the instance of any one beneficial owner, but only at the instance of all of the beneficial owners acting together unanimously.

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6. I hereby nominate, constitute and appoint Jack J. Benners and Morris C. Benners, Jr., as joint Trustees of this trust. Should either of them fail for any reason to serve or continue to serve as trustee or die while serving in such capacity, then the survivor of them shall continue as trustee. If at any time the holders of a majority of the beneficial interest in this trust desire to appoint a successor joint trustee to replace the former trustee who is no longer serving, they may do so by notifying the sole trustee in writing that they have elected to do so. Successor trustees need not necessarily be beneficial owners under this trust. Successor trustees (but not the original Trustees) may be removed by similar action of the holders of a majority of the beneficial interest in this trust.

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7. Subject to the specific limitations and restrictions otherwise set out in this Indenture, in the course of administering this trust, the trustees may at any and all times and from time to time do and have done with respect thereto any and all things that in the absolute uncontrolled judgment and discretion of the trustees may seem necessary, desirable or proper to protect, promote or conserve the interest of the trust and of the beneficial owners of the trust assets in like manner as if my trustees were themselves beneficially entitled to the entire trust; and every formal and informal decision and determination of or by the trustees in the construction of powers or in any matter with respect to which my trustees may be empowered to act or to proceed or to exercise any discretion, whether made upon a question formally or actually raised or only implied in any act or proceeding or exercise of discretion of or by the trustees relating to or with respect to the trust, shall be binding upon all persons and corporations howsoever interested or to be interested in the trust and shall not be questioned or effectively objected to on any grounds by anyone. Notwithstanding the intentionally broad language of the preceding sentence, however, and notwithstanding the breadth of the language by which any power or discretion is conferred upon any trustee or trustees by any provision of this Indenture, whether contained in this Section 7 or not, each and every power and discretion conferred upon any trustee or trustees by any provision of this Indenture, whether contained in this Paragraph 7 or not, shall constitute an administrative, fiduciary power or discretion, and shall not constitute or be deemed or construed or so

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given effect by anyone to constitute, a power of appointment. Each and every such power and discretion shall be exercisable only in the interests of the trust created by this Indenture and of the beneficiaries of the trust, and not to or for the personal advantage of any trustee; and no trustee or trustees shall by the exercise of any such power or discretion, or as the consequence of any immunity conferred upon the trustee or trustees by any provision of this Indenture whether contained in this Paragraph 7 or not, either acquire or be enabled to acquire any interest in the trust, or in any share, part or asset thereof, whether by the exercise of any such power or discretion or as the consequence of any such immunity, unless that trustee is, or those trustees are, entitled to or may acquire that beneficial interest under some dispositive (as distinguished from an administrative) provision of this Indenture, or unless a disinterested trustee would be or become entitled to such an interest upon or in the course of the proper exercise and discharge by that disinterested trustee of his, her or its fiduciary duties to the trust created by this Indenture and to the beneficiaries of those trusts and of this Indenture. Without limiting the generality of the first sentence of this Paragraph 7 in any way, but solely to define with particularity certain of the powers conferred upon my trustees, the trustees shall at any and all times and from time to time have, and may exercise, in public or in private, personally or by attorney or by agent, without previous or other approval or order of any court, and without previous or other notice to or consent by anyone, each and all of the following powers in addition to any similar or dis-

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similar powers that may otherwise be conferred upon the trustees by law, subject to the specific limitations and restrictions otherwise set out in this Indenture, all of which shall be broadly construed: (1) To receive from my estate or my executor or any other personal representative(s) of mine, and to retain, and by purchase, exchange or otherwise in any way whatever to make, investments in any property of any kind, nature, character or description, real, personal or mixed (including stock of any corporate trustee or any company owning stock of any corporate trustee) and wheresoever situated whether domestic, foreign or alien, and whether or not any or all of the same may be described or deemed as permissible for executors or trustees under the laws of the State of Alabama or any other State of the United States or under the rules of any court or under any rule of policy anywhere, and whether or not any or all of the same may be unproductive, underproductive or overproductive of income; (2) To hold any or all stock, securities, and other paper whatever in bearer form; and to hold any or all such stock, securities and other paper and any or all real property in the name of the trustees, or in the name of some other person or persons, corporation or corporations, all without disclosing any fiduciary relationship; (3) To lease, grant easements over, make any agreements or contracts whatever with respect to, grant options upon, sell, exchange or otherwise in any way dispose of, convey or transfer all or any share, part or component part or asset of the trust (including specifically, but without any limitation, any and all timber, timber rights, cutting rights, minerals, mineral rights, and rights of way) for such consideration,

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on such terms and conditions, and for such a period or periods of time (even though it or they may or does or do extend beyond the term of this trust) as my trustees in their absolute uncontrolled judgment and discretion may deem necessary or desirable or proper; (4) To manage and by general or limited proxy with or without full power of substitution to vote all stock, securities, and rights and interests evidenced by any other type of paper whatever in any public or private corporation, trust or association in respect of all matters ordinary and extraordinary, including without limitation the borrowing of money for long terms or short terms, the issuance or retirement of any such aforesaid stock, securities, or paper, the sale of some or all assets, conversion, consolidation, or other transaction or reorganization of any character whatever, whether or not in bankruptcy; (5) Alone or with any one or more others to do any one or more of opposing, proposing, becoming a party to, participating fully or partly or not at all in, and carrying out any formal or informal plan of reorganization of a character hereinbefore referred to or of any other character whatever affecting any public or private corporation or other business unit any of whose stock, securities or other paper whatever, or any interest in which, may be subject to the terms of this trust or otherwise included in the trust; (6) To borrow or lend or advance money with or without security, and on any terms whatever to give or retain security therefor by mortgage, pledge, or any other means whatever; (7) To renew or extend loans or any other indebtedness, however evidenced, at any time owing by the trustees in their capacity as such, or by the trust; (8) To compromise,

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compound, settle, or submit to arbitration any matter of dispute; (9) To institute, defend, and by intervention or otherwise to become a party to and to participate in, any formal or informal actions, suits or proceedings whether at law, in equity, in admiralty or merely administrative, and whatever the jurisdiction of the court, body or person(s) before or by whom the same are conducted; (10) To determine conclusively what items constitute principal, income, and charges to principal and income, having only such if any regard for any statutes on the subject as the trustees may deem proper; (11) To fix and from time to time to change the means and systems by and according to which and the periods of time with reference to which, the income, capital changes, distributions, and taxes of the trust shall be determined; (12) To determine whenever necessary for any purpose including the making of distributions in kind, the value of the trust or of any share, part or asset thereof; (13) To make distributions and payments in kind or otherwise, and to select the properties, property rights and interests in property which or shares or parts of which shall from time to time be distributed or paid over to the parties entitled thereto, all without ever securing from any court any determination or confirmation or value or direction as to specific items to be distributed or paid over; (14) From time to time, and at any time before distribution, but within a time permitted by law, to assign and transfer, and to join with one or more others in assigning or transferring, to a voting trustee or trustees, who may be or include one or more trustees hereunder, any or all shares of

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stock in any public or private corporation that may from time to time or at any time comprise a part of the trust, to select or to join with one or more others in selecting the voting trustee or trustees, and to propose, negotiate, fix, consent to, and change the voting trustee or trustees, the term, and any or all of the conditions and provisions for, upon, and subject to which any such shares of stock shall be held by the voting trustee or trustees; and (15) To remove from and to procure the removal from and to consent to the removal from, the State of Alabama, and to locate and to procure to be located and to consent to be located, anywhere, any part, share or asset of the trust.

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IN WITNESS WHEREOF, the undersigned Settlors and Trustees have executed this Indenture this 24th day of December, 1976.

WITNESSES:

SETTLORS

Morris C. Benners

Anne Jones Benners

TRUSTEES

Jack J. Benners

Morris C. Benners, Jr.

We, the undersigned initial beneficiaries, in consideration of the establishment of the above trust for

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our benefit, do hereby consent to and agree to be bound by the provisions of the above Indenture of Trust.

WITNESS:

12/24/76 (date) — Carol B. Garbutt

12/25/76 (date) — Thomas H. Benners, II

12/24/76 (date) — Morris C. Benners, Jr.

12/24/76 (date) — Jack J. Benners

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JUDGE OF PROBATE

Deed tax - See deed - 303 - 71
Rec. 19.50
Ind. 1.00
20.50