



1798

DT-103-J

## Declaration of Trust

WHEREAS, WE, Ernest L. Miller and Mary L. Miller, (wife), of the City/Town of \_\_\_\_\_, County of Shelby, State of Alabama, are the owners as joint tenants of certain real property located at (and known as) 6582 Quail Run Drive, in the City/Town of \_\_\_\_\_, State of Alabama, which property is described more fully in the Deed conveying it from Agree, Inc. to Ernest L. Miller & Mary L. Miller as "that certain piece or parcel of land with buildings thereon standing, located in said Quail Run, being

Lot 29, according to the Survey of Quail Run, Phase 2, as recorded in Map Book 7, Page 113, in the Probate Office of Shelby County, Alabama.

Subject to easements and restrictions of record.

Being the same premises earlier conveyed to the Settlers by an instrument dated July 13, 1979 and recorded in Vol. 320, Page 876 of the Shelby County Land Records.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that we do hereby acknowledge and declare that we hold and will hold said real property and all our right, title and interest in and to said property and all furniture, fixtures and personal property situated therein on the date of the death of the survivor of us, IN TRUST

1. For the use and benefit of the following four (4) persons, in equal shares, per stirpes

Donald K. Miller - our son  
Bruce D. Miller - our son  
Marilyn Chris Miller Ray - our daughter  
Craig H. Miller - our son

If because of the physical or mental incapacity of both of us certified in writing by a physician, the Successor Trustee hereinafter named shall assume active administration of this trust during our lifetime, such Successor Trustee shall be fully authorized to pay to us or disburse on our behalf such sums from income or principal as appear necessary or desirable for our comfort or welfare. Upon the death of the survivor of us, unless the beneficiaries shall predecease us or unless we all shall die as a result of a common accident or disaster, our Successor Trustee is hereby directed forthwith to transfer said property and all right, title and interest in and to said property unto the beneficiaries absolutely and thereby terminate this trust; provided, however, that if any beneficiary hereunder shall not have attained the age of 21 years, the Successor Trustee shall hold such beneficiary's share of the trust assets in continuing trust until such beneficiary shall have attained the age of 21 years. During such period of continuing trust the Successor Trustee, in his absolute discretion, may retain the specific trust property herein described if he believes it in the best interest of the beneficiary so to do, or he may sell or otherwise dispose of such specific trust property, investing and reinvesting the proceeds as he may deem appropriate. If the specific trust property shall be productive of income or if it be sold or otherwise disposed of, the Successor Trustee may apply or expend any or all of the income or principal

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Helena, AL 35080

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directly for the maintenance, education and support of the beneficiary without the intervention of any guardian and without application to any court. Such payments of income or principal may be made to the parents of such beneficiary or to the person with whom the beneficiary is living without any liability upon the Successor Trustee to see to the application thereof. If such beneficiary survives us but dies before attaining the age of 21 years, at his or her death the Successor Trustee shall transfer, pay over and deliver the trust property being held for such beneficiary to such beneficiary's personal representative, absolutely.

2. Each beneficiary hereunder shall be liable for his proportionate share of any taxes levied upon the total taxable estate of the survivor of us by reason of the death of such survivor.

3. All interests of a beneficiary hereunder shall be inalienable and free from anticipation, assignment, attachment, pledge or control by creditors or by a present or former spouse of such beneficiary in any proceedings at law or in equity.

4. We reserve unto ourselves the power and right during our lifetime (1) to place a mortgage or other lien upon the property, (2) to collect any rental or other income which may accrue from the trust property and to pay such income to ourselves as individuals. We shall be exclusively entitled to all income accruing from the trust property during our lifetime, and no beneficiary named herein shall have any claim upon any such income and/or profits distributed to us.

5. We reserve unto ourselves the power and right at any time during our lifetime to amend or revoke in whole or in part the trust hereby created without the necessity of obtaining the consent of any beneficiary and without giving notice to any beneficiary. The sale or other disposition by us of the whole or any part of the property held hereunder shall constitute as to such whole or part a revocation of this trust.

6. The death during our lifetime, or in a common accident or disaster with us, of all of the beneficiaries designated hereunder shall revoke such designation, and in the former event, we reserve the right to designate a new beneficiary. Should we for any reason fail to designate such new beneficiary, this trust shall terminate upon the death of the survivor of us and the trust property shall revert to the estate of such survivor.

7. In the event of the physical or mental incapacity or death of one of us, the survivor shall continue as sole Trustee. In the event of the physical or mental incapacity or death of the survivor, or if we both shall die in a common accident, we hereby nominate and appoint as Successor Trustee hereunder the beneficiary named first above, unless such beneficiary shall not have attained the age of 21 years or is otherwise legally incapacitated, in which event we hereby nominate and appoint as such Successor Trustee the beneficiary named second above, unless such beneficiary named second above shall not have attained the age of 21 years or is otherwise legally incapacitated, in which event we hereby nominate and appoint

(Name) \_\_\_\_\_, of  
(Address) \_\_\_\_\_  
Number Street City State Zip

to be Successor Trustee.

8. This Declaration of Trust shall extend to and be binding upon the heirs, executors, administrators and assigns of the undersigned and upon the Successors to the Trustees.

9. We as Trustee and our Successor Trustee shall serve without bond.

10. This Declaration of Trust shall be construed and enforced in accordance with the laws of the State of Alabama

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 24th day of February 1982

(First Settlor sign here) Ernest L. Miller  
(Second Settlor sign here) Mary L. Miller

I, the undersigned legal spouse of one of the above Settlers, hereby waive all community property, dower or curtesy rights which I may have in the hereinabove-described property and give my assent to the provisions of the trust and to the inclusion in it of the said property.  
(Spouse sign here) \_\_\_\_\_ L.S.

Witness: (1) Rita E. Brouillette STATE OF Alabama  
COUNTY OF Shelby  
Witness: (2) Tyrea B. Catcher City Helena, Alabama  
or 35080 Town

On the 24th day of February, 1982, personally appeared Ernest L. Miller and Mary L. Miller

known to me to be the individuals who executed the foregoing instrument, and acknowledged the same to be their free act and deed, before me.

(Notary Seal)

Margaret J. Jones  
Notary Public