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THIS INSTRUMENT WAS PERPARED BY:

✓ Don Kirby
NAME (PLEASE PRINT)
P.O. Box 222
ADDRESS (PLEASE PRINT)
Calera, Ala. 35040

CERTIFICATE OF INCORPORATION

OF

DON KIRBY CONSTRUCTION, INCORPORATION

A BODY CORPORATE

KNOW ALL MEN BY THESE PRESENTS that for the purpose of forming a corporation under the Alabama Business Corporation Act, as last amended, the undersigned, Kathy D. Kirby, Jack M. Kirby, Donald E. Kirby, Sr. each of whom is over the age of nineteen (19) years, desiring to organize a body corporate under the laws of the State of Alabama, and being all of the subscribers to the capital stock of the corporation hereby orgainzed, do make, sign and file this Certificate of Incorporation as follows:

ARTICLE I

The name of the corporation is DON KIRBY CONSTRUCTION, INCORPORATION and the corporation shall be authorized to trade in said name or to use any other trade name not now being used by any other person firm or corporation.

ARTICLE II

The objects and purposes for which the corporation is formed are as follows:

- (a) To build and sell new homes, remodeling existing homes.
- (b) To purchase, acquire, hold, improve, sell convey, assign, exchange, release, mortgage, encumber, lease, hire and deal in real and personal property of every kind and character.
- (c) To apply for, purchase, or acquire by assignment, transfer or

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BOOK

(1)

otherwise, and hold, mortgage or otherwise pledge, and to sell, exchange, transfer, deal in and in any manner dispose of, and to exercise, carry out and enjoy any license, power, authority, concession, right or privilege which any corporation may make or grant.

- BOOK 24 PAGE 224
- (d) To manufacture, purchase or otherwise acquire, own, mortgage, pledge, sell, assign and transfer, exchange or otherwise dispose of, and invest, trade and deal in and with goods, wares and merchandise and personal property of every class and description, whether or not the same specifically pertain to the classes of business above specified; and to own and operate mines, plants, factories, mills, warehouses, yards, merchandise stores, commissaries and all other intallations or establishments of whatever kind and character or description, together with the equipment, rolling stock and other facilities used or useful in connection with or incidental thereto.
- (e) To acquire bonds or stocks of this corporation or otherwise, the goodwill, rights assets and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.
- (f) To purchae or otherwise acquire, hold, use, sell, assign, lease, Mortgage or in any manner dispose of, and to take, exchange and grant licenses, or other rights therein, in respect of letters patent of the United States or any foreign county, patent rights, licenses and privileges, inventories, improvements, processes, formulae, methods, copyrights, trademarks and trade names, relating to or useful in connection with any business, objects or purposes of the corporation.

(2)


BOOK 24 PAGE 225
(g) To acquire, by purchase, subscription or otherwise, and to own, hold, sell and dispose of, exchange, deal in and deal with stocks, bonds, debentures, obligations, evidence of indebtedness, promissory notes, mortgages and securities executed by any individual or by any corporation of Alabama or any other state or foreign country, whether public or private, government or municipality or otherwise, and to issue and exchange for all such stocks, bonds, debentures or other evidence of indebtedness, promissory notes, mortgages or securities, the stocks, bonds, debentures or other evidence of indebtedness of this corporation, and this corporation shall have express power to hold, sell, assign, transfer, mortgage, pledge or otherwise dispose of the shares of capital stocks, bonds, debentures, promissory notes, mortgages and securities so acquired by it, and while the owner thereof, to exercise all the rights, privileges and powers of ownership including the right to vote thereon, to the same extent as a natural person may do, subject to the limitations, if any, on such right now or hereafter provided by the laws of Alabama.

(h) To endorse, or otherwise guarantee, or obligate itself for, or pledge or mortgage all or any part of its properties for the payment of the principal and interest or either, on any bonds, debentures, notes, scrip, coupons or other obligations or evidence of indebtedness, or the performance of any contract, mortgage, or obligation, of any other corporation or association, domestic or foreign, or of any firm, partnership or joint ventures.

(i) To enter into, make and perform contracts of every kind for any lawful purpose without limit as to amount, with any person, firm, association, corporation, municipality, county, state, territory,

(3)

government, governmental subdivision, or body politic

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- (j) To acquire the goodwill, right, assets and properties, and to undertake the whole or any part of the liabilities of any person, firm, association, or corporation; to pay for the same in cash, the stock or other securities of the corporation, or otherwise; to hold, or in any manner dispose of, the whole or any part of the property so acquired; to conduct in any lawful manner the whole or any part of the business so acquired and to exercise all the powers necessary or convenient in and about the conduct and managements of any such business.
 - (k) To borrow and lend money, without security, or upon the giving or receipt of such security as the Board of Directors of the corporation may deem advisable by way of mortgage, pledge, transfer, assignment, or otherwise, of real or personal property of every nature and description, or by way of guaranty, or otherwise.
 - (l) To draw, make, accept, endorse, discount, execute and issue promissory notes, drafts, bills of exchange, warrants, debentures, and other negotiable or transferable instruments.
 - (m) To issue bonds, debentures or other securities or obligations and to secure the same by mortgage, pledge, deed of trust, or otherwise.
 - (n) To act as agent, jobber, broker or attorney in fact in buying, selling and dealing in real and personal property of every nature and description and leases respecting the same and estates and interests therein and mortgage and securities thereon, in making and obtaining loans, whether secured by such property or notes, and in supervising, managing and protecting such property and loans and all interest in and claims affecting the same.
 - (o) To purchase, take, receive, redeem or otherwise acquire, hold, own, pledge, transfer or otherwise dispose of its own shares of stock
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(4)

and its bonds, debentures, notes, scrip or other securities or evidences of indebtedness, and to hold, sell, transfer or reissue the same.

- BOOK 24 PAGE 227
- (p) To enter into any plan or project for the assistance and welfare of its employees.
 - (q) To enter into any legal arrangements for sharing of profits, union of interest, reciprocal concessions, or cooperation, as partner, joint venturer or otherwise, with any person, partnership, corporation, association, combination, organization, entity or other body whatsoever, domestic or foreign, carrying on or proposing to carry on any business which this corporation is authorized to carry on, or any business or transaction deemed necessary, convenient or incidental to carrying out of any of the objects of this corporation.
 - (r) To have one or more offices to carry on all of its operations and business without restriction or limit as to amount, in any of the States, districts, territories or possessions or colonies of the United States, and in any of all foreign countries, subject to the laws of such state, district, territory, possession, colony or country.
 - (s) To carry on any other business in connection with the foregoing.
 - (t) To do any and all of the things herein set out and such other things as are incidental or conducive to the attainment of the objects and purposes of this corporation, to the same extent as principal, factor, agent, contractor, or otherwise, either alone or in conjunction with any person, firm, association, corporation or any entity of whatsoever kind, and to do any and all such acts and things and to exercise any and all such powers to the full extent authorized or permitted to a corporation


under any laws that may be now or hereafter applicable or available to this corporation.

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BOOK The foregoing clauses, and each phrase thereof, shall be construed as objects and purposes of this corporation, as well as powers and provisions for the regulation of the business and the conduct of the affairs of the corporation, the directors, and stockholders thereof, all in addition to those powers sepcifically conferred upon the corporation by law, and it is hereby expressly provided that the foregoing sepcific enumeration of purposes and powers shall not be held to limit or restrict in any manner the powers of the corporation otherwise granted by law. Nothing herein contained, however, shall be condtrued as authorizing this corporation to carry on the business of banking or that of a trust company, or the business of insurance of any of its branches.

ARTICLE III

- (a) The principal office of the corporation in the State of Alabama shall be located at 5th. Ave. 14th. St. Calera, Al. 35040.
- (b) The period for the duration of the corporation shall be perpetual.

ARTICLE IV

- (a) The total number of shares which the corporation shall have the authority to issue shall be one one hundred (100) shares of common stock at a par value of ten and no/100 dollars (\$10.00) per share. The total of authorized stock is thus one thousand and no/100 dollars (\$1,000) and all of said stock shall be common and none shall be preferred stock, or stock of a different class. The corporation will begin business with one hundred shares of said common stock of the aggreage value of one thousand and no/100 dollars (\$1,000) fully paid for as shown by the subscription
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list hereinafter set out.

- (b) The name and post office address of the officer or agent of the corporation designated by the incorporators to receive subscriptions to the capital stock of its corporation is Don Kirby,
5th. ave.-14th ST,
P.O. Box 222, Calera, Al. 35040.

- (c) The names and addressess of the incorporators and the number of shares subscribed by each are as follows;

<u>NAME</u>	<u>ADDRESS</u>	<u>NUMBER OF SHARES</u>
Kathy D. Kirby	5th Ave. 14 th Street P.O. Box 222 Calera, Al. 35040	15
Jack M. Kirby	3207 Edenbury Drive Hueytown, Al. 35023	5
Donald E. Kirby, Sr.	5th Ave. 14th Street P.O. Box 222 Calera, Al. 35040	80

- (d) The names and address of the directors who shall hold office until the first annual meeting of stockholders and until their successors have been elected and qualified are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Kathy D. Kirby	5th Ave. 14th Street P.O. Box 222 Calera, Al. 35040
Jack M. Kirby	3207 Edenbury Drive Hueytown, Al. 35023
Donald E. Kirby, Sr.	5th Ave. 14th Street P.O. Box 222 Calera, Al. 35040

- (e) Names and address of the officers who shall hold office until their successors have been duly elected and qualified are as follows:

<u>NAME</u>	<u>ADDRESS</u>	<u>OFFICE</u>
Donald E. Kirby, Sr.	5th Ave. 14th Street P.O. Box 222 Calera, Al. 35040	President
Kathy D. Kirby	5th Ave. 14th Street P.O. Box 222 Calera, Al. 35040	Vice-President
Jack M. Kirby	3207 Edenbury Drive Hueytown, Al. 35023	Secretary -Treasure

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BOOK Each of the subscribers of incorporators respectively agrees that no stock shall be sold or otherwise alienated by any holder thereof until the same shall be first offered in writing at its book value to the corporation for thirty (30) days; such writing to be filed with the Secretary of the corporation and a copy thereof mailed to each known stockholder of the corporation. In the event the corporation does not exercise said option, or it gives notice in writing said thirty (30) days that it does not wish to exercise said option, then said stock shall be offered to the individual stockholders on a pro rata basis for a period of thirty (30) days and any stockholders share not so purchased, shall be offered to those stockholders exercising their option on a pro rata basis, it being the intent of this agreement that the corporation shall first the option of the purchase of transfer of tis stockm or any portion thereof. This restrictive transfer applies to transfer between stockholders, as well as transfers to non-stockholders.

In the event of the death of any stockholder of dissolution of any corporate stockholder, the share owned by said stockholder shall be offered for sale or transfer in compliance with the conditions set out above, and each stockholder binds himself, his heirs and assigns thereto.

ARTICLE VI

All persons who shall acquire stock in this corporation shall acquire it subject to the provisions of this Certificate of Incorporation, as the same from time to time may hereafter be amended, So for as not otherwise expressly provided by the laws of the State of Alabama, the corporation shall be entitled to treat the person or entity in whose name any share of its stock is registered as the owner thereof for all purposes and shall not be bound to recognize any equitable or other claim to or interest in said share on the part of any other person, whether or not the corporation shall have notice thereof.

ARTICLE VII

(a) The President shall have authority to execute all deeds, mortgages, bonds and other contracts requiring a seal, under the seal of the corporation and the Secretary or any Assistant Secretary shall have authority to affix said seal to instruments requiring it, and attest the same.

(b) The corporate powers shall be exercised by the Board of Directors, except as otherwise provided by Statute or by this Certificate of Incorporation. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is hereby expressly authorized:

- (1) To adopt, alter, amend and repeal the By-Laws of the corporation, but By-Laws so made by the directors may be altered or repealed by the Directors of Stockholders; and
- (2) To fix and determine and to vary the amount of working capital of the corporation; to determine whether any, and if any, what part, of any accumulated profits shall be declared and paid as dividends; to determine the date or dates for the declaration and payment of dividends; and to direct and determine the use of

(9)

disposition of any surplus or net profits over and above the capital stock paid in.

The corporation may, in its By-Laws, confer powers upon its Board of Directors in addition to the foregoing, and in addition to the powers and authorities expressly conferred upon directors by statute.

ARTICLE VIII

24 PAGE 232 BOOK No contract or other transaction between this corporation and any person, firm, association or corporation and no other act of this corporation shall, in the absence of fraud, be invalidated or in any way affected by the fact that any of the directors of the corporation are, directly or indirectly, pecuniarily or otherwise interested in such contract, transaction or other act, or related to or interested in such contract, transaction or other act, or related to or interest in (either as director, stockholder, officer, employee, member or otherwise) such person, firm, association or corporation. Any director of the corporation individually, or any firm or association of which any director may be a member, may be a part to, or may be pecuniarily or otherwise interested in, any contract or transaction of the corporation, provided that the fact that he, individually, or such firm or association is so interested, shall be disclosed or known to the Board of Directors or a majority of the members thereof as shall be present at any meeting of the Board of Directors, or of any committee of directors having the powers of the full board, at which action upon any such contract, transaction or other act is taken; and if such fact shall be so disclosed or known, any director of this corporation so related or otherwise interested may be counted in determining the presence of a quorum at any meeting of the Board of Directors, or of such committee, at which action upon any such contract, transaction or act shall be taken, and may vote thereat with respect to such action with like

force and effect as if he were not so related or interested. Any director of the corporation may vote upon any contract or other transaction between the corporation and any subsidiary or affiliated corporation without regard to the fact that he is also a director of such subsidiary or affiliated corporation.

Attached hereto, marked "Exhibit A", and made a part hereof is a statement under oath of the person designated by the incorporators to receive subscriptions to the capital stock of said corporation showing the amount of capital stock which has been paid in; and "Exhibit B", attached hereto and made a part hereof is a true and correct copy of the subscription list showing the amount of capital stock subscribed for by each of said incorporators, and in the manner in which the same is distributed and has been paid.

IN WITNESS WHEREOF, we, the said incorporators, have hereunto set our hands and seals on the 24th day of March, 1983.


Kathy D. Kirby


Jack M. Kirby

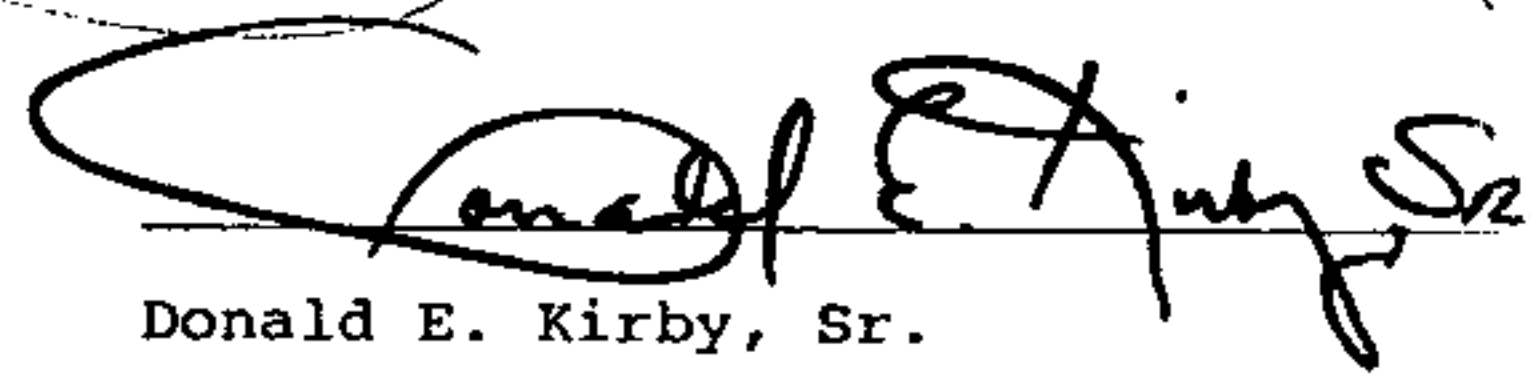

Donald E. Kirby, Sr.

EXHIBIT "A"

VERIFIED STATEMENT RELATIVE TO SUBSCRIPTION
TO CAPITAL STOCK
OF

DON KIRBY CONSTRUCTION, INCORPORATED

STATE OF ALABAMA)

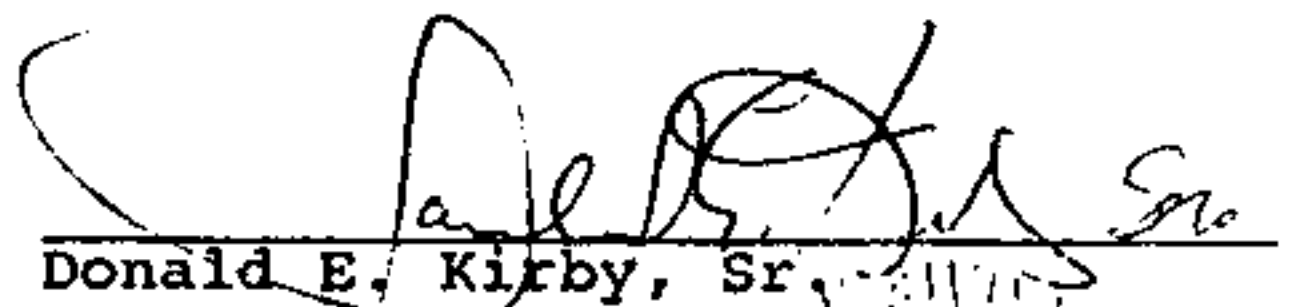
SHELBY COUNTY)

BEFORE ME, the undersigned authority in and for said county, in said state, personally appeared Donald E. Kirby, Sr., who, being first duly sworn, deposes and says as follows:

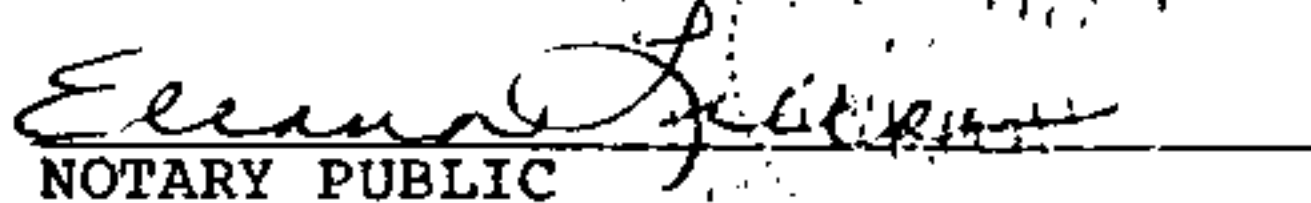
That he is the agent or person designated by the incorporators of Don Kirby Construction, Incorporated, a proposed corporation, to receive subscriptions to the capital stock of said corporation.

That, as shown by the subscription list, hereto annexed, and marked "Exhibit B", the amount of capital stock paid in is One Thousand and No/100 Dollars (\$1,000) which said amount is more than twenty per cent (20%) of the stock subscribed for, and is more than the minimum amount required by law.

That said One Thousand and No/100 Dollars (\$1,000) has been paid in cash to affiant as such agent for the said incorporators and none of the capital stock subscribed for has been paid in by contracts in writing calling for the performance of stipulated labor or services nor for the transfer or conveyance of property.


Donald E. Kirby, Sr.

SWORN TO AND SUBSCRIBED before me this 25 day of March 1983.


NOTARY PUBLIC

Notary Public, State of Alabama at Large
My Commission Expires February 13, 1985
Bonded by Western Surety Company

EXHIBIT "B"

SUBSCRIPTION LIST TO CAPITAL STOCK
OF

DON KIRBY CONSTRUCTION, INCORPORATED

STATE OF ALABAMA)

SHELBY COUNTY)

We, the undersigned, do hereby severally subscribe for and agree to take and pay in cash the amount of stock set opposite our respective names, said stock to be issued by an Alabama Corporation to be styled DON KIRBY CONSTRUCTION, INCORPORATED and with its principal offices to be located at P.O. Box 222 Calera, Alabama 35040, it being further understood and agreed by each of us that said stock will be paid for by the undersigned, as one of the incorporators of said Alabama Corporation under the formation of the same.

COMMON STOCK AT \$10.00 PER SHARE

<u>NAME OF SUBSCRIBER</u>	<u>NUMBER OF SHARES SUBSCRIBED FOR</u>	<u>CONSIDERATION</u>
Jack M. Kirby	5	\$50.00
Kathy D. Kirby	15	\$150.00
Donald E. Kirby, Sr.	80	\$800.00


Donald E. Kirby, Sr.


Kathy D. Kirby


Jack M. Kirby



STATE OF ALABAMA

I, Don Siegelman, Secretary of State, of the State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that pursuant to the provisions

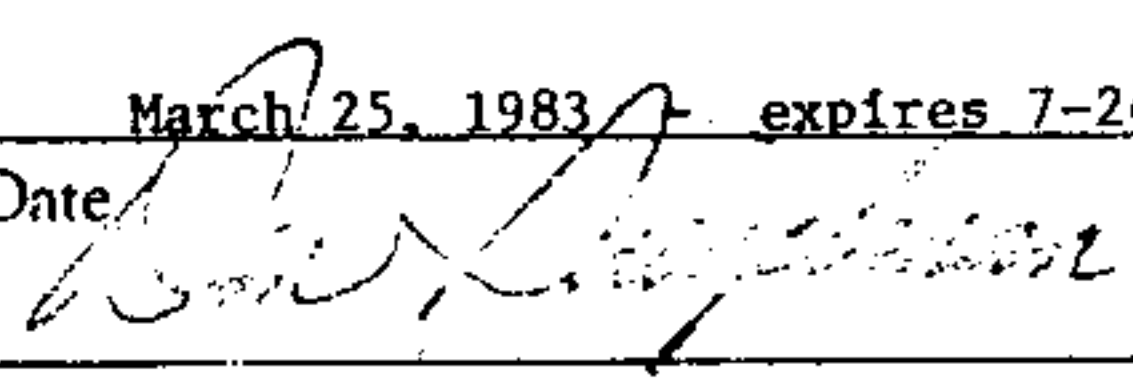
of Section 10-2A-26, Code of Alabama 1975, the corporate name _____

Don Kirby Construction, Inc.

is reserved as available based only upon an examination of the corporation records on file in this office for the exclusive use of Don Kirby Construction, Inc.

for a period of one hundred twenty days from this date. In the case of a domestic corporation, the name of the county in which the corporation was or is proposed to be incorporated is Shelby. I further certify that as set out in the application for reservation of corporate name, the Secretary of State's office does not assume any responsibility for the availability of the corporate name requested nor for any duplication which might occur.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the City of Montgomery, on this day.

Date March 25, 1983 expires 7-24-83

Don Siegelman Secretary of State

State of Alabama

SHELBY

County

CERTIFICATE OF INCORPORATION

OF

DON KIRBY CONSTRUCTION, INC.

The undersigned, as Judge of Probate of SHELBY County, State of Alabama, hereby certifies that duplicate originals of Articles of INCORPORATION of DON KIRBY CONSTRUCTION, INC., duly signed and verified pursuant to the provisions of Section 10-2A-26 of the Alabama Business Corporation Act, have been received in this office and are found to conform to law.

ACCORDINGLY the undersigned, as such Judge of Probate, and by virtue of the authority vested in him by law, hereby issues this Certificate of INCORPORATION of DON KIRBY CONSTRUCTION, INC., and attaches hereto a duplicate original of the Articles of INCORPORATION.

GIVEN Under My Hand and Official Seal on this the 25th day of MARCH, 19 83.



STATE OF ALA. SHELBY CO.
I CERTIFY THIS
NOTEMENT WAS FILED

1983 MAR 25 AM 10:01

Thomas A. Swadlow, Jr.
JUDGE OF PROBATE

Thomas A. Swadlow, Jr.

Judge of Probate

Rec. 25.00
1.00
26.00