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AFFIDAVIT

THIS AFFIDAVIT is made and entered into as of this 3<sup>rd</sup> day of November, 1989 by and among DANTRACT, INC., an Alabama corporation ("Dantract"), ~~WILLIAM C. DANIEL~~ *Charles W. Daniel* ("Daniel"), THOMPSON REALTY CO., INC., an Alabama corporation ("TRC") and HALL W. THOMPSON ("Thompson").

R E C I T A L S:

R. Hugh Daniel, Sr. and wife, Martha C. Daniel were the owners of certain real property situated in Shelby County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Property"). Dantract and Daniel have acquired, as successors in interest to R. Hugh Daniel and wife, Martha C. Daniel, and currently own a majority of the acreage comprising the Property.

The Property is the same property which is described in Exhibit A attached to (i) Restrictive Covenants dated October 2, 1975 recorded in Misc. Book 12, Page 845 in the Probate Office of Shelby County, Alabama, as amended by Amended Amendment to Restrictive Covenants dated June 8, 1976 recorded in Misc. Book 15, Page 845 in said Probate Office and (ii) Restrictive Covenants dated October 2, 1975 recorded in Misc. Book 12, Page 852, as amended by Amendment to Restrictive Covenants dated June 8, 1976 recorded in Misc. Book 15, Page 840 in said Probate Office (hereinafter collectively referred to as the "Restrictive Covenants"). The Restrictive Covenants set forth certain permitted uses and specified minimum house sizes and set-back requirements for the Property.

The undersigned desire to set forth their understanding of the intentions of the parties to the Restrictive Covenants at the time that the same were originally executed and recorded.

NOW, THEREFORE, in consideration of the premises, the parties hereto acknowledge and agree as follows:

1. The intent of the original Restrictive Covenants was not to preclude or prohibit the construction of a golf course on any portion of the Property outside of the Affected Property, as defined in Paragraph 2 below. Furthermore, the undersigned hereby acknowledge and agree and consent to the construction and operation of a golf course with related facilities and amenities on any portion of the Property outside of the Affected Property, as defined in Paragraph 2 below.

2. The intent of the original Restrictive Covenants was to impose building restrictions, set-back requirements and minimum house sizes for only those portions of the Property lying within 200 feet of (i) either side of the right-of-way of Hugh Daniel Drive, as the same is presently situated and (ii) the westerly right-of-way of Dunnavant Valley Road (Shelby County Highway No. 41) [the "Affected Property"].

3. The undersigned further acknowledge, agree and consent to the amendment and restatement of the Restrictive Covenants pursuant to the Amended and Restated Restrictive Covenants executed as of the date hereof by and among Dantract, Daniel, TRC, Daniel Oak Mountain Limited Partnership, Harry B. Brock, Jr., and wife Jane H. Brock, Shoal Creek and Shoal Creek Association, Inc.

IN WITNESS WHEREOF, the undersigned have caused this Affidavit to be executed as of the date and year first above written.

DANTRACT, INC.

By: 


Its: President

  
CHARLES W. DANIEL

THOMPSON REALTY CO., INC.

By: 

Hall W. Thompson, President

  
HALL W. THOMPSON

STATE OF ALABAMA )

Jefferson COUNTY )

I, the undersigned authority, a Notary Public in and for and said County in said State, hereby certify that Charles W. Daniel whose name as President of DANTRACT, INC., an Alabama corporation, is signed to the foregoing instruments, and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 3rd day of November, 1989.

Dorothy B. Watkins  
Notary Public

My commission expires: 1-15-92

STATE OF ALABAMA )

Jefferson COUNTY )

I, the undersigned authority, a Notary Public in and for and said County in said State, hereby certify that Charles W. Daniel whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand this 3rd day of November, 1989.

Dorothy B. Watkins  
Notary Public

My commission expires: 1-15-92

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STATE OF ALABAMA )

Shelby COUNTY )

I, the undersigned authority, a Notary Public in and for and said County in said State, hereby certify that Hall W. Thompson whose name as President of THOMPSON REALTY CO., INC., an Alabama corporation, is signed to the foregoing instruments, and who is known to me, acknowledged before me on this day, that being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 2 day of November, 1989.

Tommye R. Vickman  
Notary Public

My commission expires: 4-24-93

STATE OF ALABAMA )

Shelby COUNTY )

I, the undersigned authority, a Notary Public in and for and said County in said State, hereby certify that Hall W. Thompson whose name 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 executed the same voluntarily on the day the same bears date.

Given under my hand this 2 day of November, 1989.

Tommye R. Vickman  
Notary Public

My commission expires: 4-24-93

# EXHIBIT A

1. W 1/2 of SE $\frac{1}{4}$ ; E $\frac{1}{2}$  of SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of SW $\frac{1}{4}$ ; Section 14, Township 18 South, Range 1 West.
2. E 1/2 of SE $\frac{1}{4}$  of Section 15, Township 18 South, Range 1 West.
3. E $\frac{1}{2}$  of NE $\frac{1}{4}$  in Section 22, Township 18 South, Range 1 West.
4. All of Section 23, Township 18 South, Range 1 West, lying NW of Dunnivant Valley Road.
5. All of Section 26, Township 18 South, Range 1 West, lying NW of Dunnivant Valley Road.
6. All of Section 27, Township 18 South, Range 1 West, lying NW of Dunnivant Valley Road.
7. SE $\frac{1}{4}$  of Section 28; SE $\frac{1}{4}$  of NE $\frac{1}{4}$ ; the South 200 feet of the SW $\frac{1}{4}$  of SW $\frac{1}{4}$ ; and SE $\frac{1}{4}$  of SW $\frac{1}{4}$ , except one acre in the northwest corner thereof; all in Section 28, Township 18 South, Range 1 West.

Also the following described land in Section 28, Township 18 South, Range 1 West:

A part of the NE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 28, Township 18 South, Range 1 West described as follows: Begin at the northeast corner of said forty and run west along the north line a distance of 260 feet to the point of beginning of tract herein described; thence run south 32 deg. 40 min. west 623 feet; thence south 57 deg. 20 min. east 750 feet to east line of said forty; thence south along east line of southeast corner; thence west along south line to southwest corner; thence north to northwest corner; thence north 86 deg. 30 min. east 1072 feet to point of beginning.

Also a part of W 1/2 of SW $\frac{1}{4}$  of Section 28, Township 18 South, Range 1 West, described as follows: Begin at a point which is 200 feet north of southwest corner of said Section 28 and run east parallel with south line of SW $\frac{1}{4}$  of SW $\frac{1}{4}$  to a point on east line of said forty which is 200 feet north of southeast corner of said forty; thence north along east line of said forty 1120 feet to northeast corner of said forty; thence continue north along east line of NW $\frac{1}{4}$  of SW $\frac{1}{4}$  a distance of 600 feet, more or less to southeast corner of Leslie H. Smith property; thence north 67 deg. west along southeast line of Leslie H. Smith property a distance of 260 feet to top of ridge; thence in a southwesterly direction along top of ridge to south line of NW $\frac{1}{4}$  of SW $\frac{1}{4}$  at a point 806 feet west of southeast corner; thence continue south along top of ridge south 50 deg. west 674 feet to a point on west line of SW $\frac{1}{4}$  of SW $\frac{1}{4}$  at a point 684 feet north of point of beginning; thence run south along west line of said forty 684 feet to point of beginning;

Also part of SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 28, Township 18 South, Range 1 West described as follows: Begin at the southwest corner and run north 2 deg. 30 min. west a distance of 653 feet; thence south 61 deg. east 1230 feet to south line; thence south 86 deg. 30 min. west 1072 feet to point of beginning.

8. All of Section 33, Township 18 South, Range 1 West.
9. W 1/2 of Section 34 and all the NE $\frac{1}{4}$  of Section 34 lying West of the Dunnivant Valley Road, being County Road 41.

All being situated in Township 18 South, Range 1 West, Shelby County, Alabama.

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

89 NOV -7 PM 12:56

*Thomas A. Snowden, Jr.*  
JUDGE OF PROBATE

|                            |    |       |
|----------------------------|----|-------|
| 1. Deed Tax -----          | \$ | _____ |
| 2. Mig. Tax -----          | \$ | _____ |
| 3. Recording Fee -----     | \$ | 12.50 |
| 4. Indexing Fee -----      | \$ | 3.00  |
| 5. Notary Fee -----        | \$ | _____ |
| 6. Conf. & Stamp Fee ----- | \$ | 1.00  |
| Total -----                | \$ | 16.50 |