

This Instrument Prepared by:
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**BROOK RIDGE ESTATES
DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS**

THIS BROOK RIDGE ESTATES DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made as of the 1st day of December, 1993 by EDWARD J. MARINO and E. J. MARINO, JR., individuals (collectively, the "Developer").

RECITALS:

Developer is the owner of certain real property (the "Property"), located in Shelby County, Alabama, and more particularly described on Exhibit "A" attached hereto and incorporated herein, and desires to own, develop, improve, subdivide, and sell the Property for single-family residential housing purposes, subject to certain easements, covenants, conditions, restrictions, requirements and obligations in order to protect the value and desirability of the Property and to have a flexible and reasonable method for the administration and maintenance of the Property.

NOW, THEREFORE, Developer does hereby declare that all of the Property shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to the following easements, covenants, conditions, restrictions, charges, liens and regulations, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property, now or at any time in the future, and their respective heirs, executors, administrators, personal representatives, successors and assigns.

**ARTICLE I
DEFINITIONS**

1.01 Assessment. The annual fee paid by each Owner or Occupant to the Committee for each Owner's or Occupant's pro rata share of the Common Expenses for the Property.

1.02 Committee. The term "Committee" shall mean the three (3) member committee comprised of E. J. Marino, Jr. and two (2) Owners of Lots on the Property that will have the powers and the duties set forth in this Declaration.

1.03 Common Areas. The term "Common Areas" shall mean all real property now or hereafter owned by the Developer for the nonexclusive, common use and enjoyment of the Owners and Occupants, and Brook Drive, Ridge View Lane, and all other private roads located on the Lots and owned by the Owners of the Lots to provide ingress to and egress from any portion of the Property (other than any such private roadways which are located solely within the boundary lines of any Lot or 2002-11-1993-38371 in addition to the

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foregoing, the Common Areas shall include (a) all private roadways and easements located adjacent to or in close proximity with (but otherwise outside of) the Property which provide ingress to or egress from any portion of the Property, (b) all signage, lighting, walkways, gates, walls, fences, landscaped or other areas immediately adjacent to any private roadways which may be adjacent to or in close proximity with the Property which provide ingress to and egress from any portion of the Property, (c) all storm drains and sewers, drainage and retention ponds, basins or other areas and facilities located on the Property, (d) all utility lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which are located in or serve any portion of the Common Areas, (e) all easements and easement areas within the Development and any other areas on the Property which are designated as Common Areas by Developer from time to time. The designation of any land and/or improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment thereof or any other rights, licenses or benefits therein.

1.04 Common Expenses. The term "Common Expenses" shall mean all expenditures made or incurred by or on behalf of the Owners for the benefit of the Property as described in Article VI of this Declaration and all funds assessed for the creation or maintenance of reserves for the same purposes.

1.05 Declaration. The term "Declaration" shall mean the Brook Ridge Estates Covenants, Conditions and Restrictions as set forth herein, and all amendments thereto.

1.06 Developer. The term "Developer" shall mean Edward J. Marino and E. J. Marino, Jr., their heirs and assigns.

1.07 Dwelling. The term "Dwelling" shall mean any single-family detached residential house located on a Lot.

1.08 Governmental Authority. The term "Governmental Authority" shall mean any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction over any portion of the Property.

1.09 Brook Drive. The term "Brook Drive" shall mean and refer to that certain private roadway situated on, and owned by the Owners of, Lots E and F.

1.10 Ridge View Lane. The term "Ridge View Lane" shall mean and refer to that certain private roadway situated on, and owned by the Owners of, Lots A, B, C, and D.

1.11 Lot. The term "Lot" shall mean each lot indicated on the subdivision plat for the Property.

1.12 Occupant. The term "Occupant" shall mean and include any Owner, the family members, guests, tenants, agents, servants, employees and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Dwelling within the Property. All action or omission of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

1.13 Owner. The term "Owner" shall mean the record owner, including Developer, of fee simple title to any Lot, whether a natural person or an entity; provided, however, Owner does not include any Mortgagee unless and until such Mortgagee has foreclosed on a mortgage on a Lot and has purchased such Lot at a foreclosure sale.

ARTICLE II SUBDIVISION PLAT

2.01 Subdivision Plat. Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Developer may deem necessary with regard to the Property, including, without limitation, the locations and dimensions of all Lots, Common Areas, private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, and lakes. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration. Notwithstanding anything provided to the contrary in this Declaration, Developer may at any time or from time to time divide and redivide, combine and resubdivide any Lots owned by Developer.

ARTICLE III EASEMENTS

3.01 Grant of Nonexclusive Easements. Subject to the terms and conditions of this Declaration, Developer does hereby grant to each Owner and Occupant, as appropriate, and each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot, does hereby grant to the other Owners and the Developer, as appropriate, the nonexclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas, including but not limited to Brook Drive and Ridge View Lane, in common with Developer, its successors and assigns, and all other Owners and Occupants. The easements and rights granted pursuant to this Section 3.01 are and shall be permanent and perpetual, are nonexclusive, are appurtenant to and shall pass and run with title to each Lot. The costs of maintaining the Common Areas, including but not limited to Brook Drive and Ridge View Lane, shall be

included as Common Expenses and shall be paid by the Owners of the Lots as set forth in Article VI below.

3.02 Grant of Easement to Governmental Authorities. Developer, Owners and Occupants, by acceptance of a deed or other instrument conveying any interest in any Lot, do hereby grant to each of the Governmental Authorities and their respective agents, employees and representatives, a permanent, perpetual and nonexclusive easement over, across, through and upon Brook Drive, Ridge View Lane and all other private roads on the Property for the purposes of performing such duties and activities related to law enforcement, fire protection, trash and refuse collection, building inspection services, mail and package delivery, medical and emergency services and any other functions or duties to be performed by the Governmental Authorities as shall be required or appropriate from time to time.

3.03 Reservation of Controlled Access Easement - Waiver of Unlimited Access. Each Owner and Occupant, by acceptance of a deed or other instrument conveying any interest in any Lot, does hereby waive all rights of uncontrolled and unlimited access, ingress to and egress from such Lot and acknowledges and agrees that (i) in order to provide a secure and safe environment, access and ingress to and egress from the Property may be controlled, restricted and limited to exclude the general public therefrom, and (ii) access, ingress to and egress from such Owner's or Occupant's Lot shall be limited to the roads, sidewalks, walkways, and paths designated as Common Areas; provided, however, that, subject to the terms and provisions of this Declaration, vehicular and pedestrian access to and from all Lots shall be provided at all times.

3.04 Reservation of Easement for Utilities. Developer, Owners and Occupants, by acceptance of a deed or other instrument conveying any interest in any Lot, do hereby establish and reserve for themselves and their successors and assigns a permanent and perpetual nonexclusive easement appurtenant over, across, under, through and upon all portions of the Common Areas and all Lots which are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and all utilities necessary or convenient for the use of any portion of the Property, including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sewer services, storm drains and sewers, drainage systems, retention ponds, lakes, basins and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Property. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair,

operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same.

ARTICLE IV RESTRICTIONS

4.01 Use Restrictions. The Property will be used for residential purposes only, and no trade or business purposes, including all types of home industry, will be permitted. No building or structure other than a single family Dwelling shall be erected on any Lot within the Property except as otherwise permitted herein. Prohibited uses include, but are not limited to:

(a) dangerous, noxious, offensive or excessively noisome activities which may be or become an annoyance or nuisance to Owners and Occupants;

(b) raising, breeding, or keeping of any animals, birds, or fowl; provided that an Owner shall be permitted to keep not more than four dogs and/or cats as provided in Section 4.18 of this Declaration; and

(c) exploring, mining, boring, quarrying, drilling, or otherwise removing oil or other hydrocarbons, minerals, gravel or natural gas.

4.02 Set-Back Lines; Green Belt; Fences. All Dwellings and other improvements, including but not limited to fences, on Lots A, B, C, and D shall be built inside the 110 foot rear (north) set-back line, the 25 foot side yard (east) set-back line, and the 25 foot side yard (west) set-back line. All Dwellings and other improvements, but not including fences, on Lots E and F shall be built inside the 25 foot side yard (east) set-back line, and the 25 foot side yard (west) set-back line on the Lots. The Owners and Occupants shall maintain in their natural, uncleared states, green belts which are 10 feet wide and which run parallel to the east and west side yard lines of the Lots. The location and type of any fence to be installed on Lots A, B, C, and D must be reviewed and approved by the Committee prior to installation of the same.

4.03 Utilities. All electrical and telecommunication lines located upon the Property shall be located underground.

4.04 Maintenance. All building, landscaping and other improvement upon individual Lots shall be continuously maintained by the Owner or Occupant thereof so as to preserve a well-kept appearance, especially along the perimeters of any Lot.

4.05 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. No storage building

of any type shall be permitted unless such building is designed as part of the main residential structure and approved by the Committee. There shall be no occupancy of any Dwelling until the interior, exterior and landscaping of the Dwelling is completed.

4.06 Garages. Garage openings will not be permitted on the front of Dwellings. In cases where the location of a garage on the front of a Dwelling is unavoidable in the Committee's sole opinion, electric automatic door closers shall be used.

4.07 Satellite Dishes. No satellite dishes will be allowed.

4.08 Storage of Boats, Trailers and Other Vehicles. No motor homes, boats, trailers, wrecked cars, unmaintained cars, or vehicles other than operating automobiles, pick-up trucks, or vans shall be parked or stored in any location on a Lot that can be seen from any road on the Property.

4.09 Porches. No wooden front porches shall be permitted. All front porches must be of brick or masonry materials.

4.10 Trees. Each Owner shall minimize the removal of trees, shrubs, bushes or other vegetation on a Lot in order to preserve and maintain the natural aesthetics of the Property.

4.11 Minimum Living Space. Minimum Living Space requirements for the main structure of any Dwelling, exclusive of open porches and garages, shall be three thousand (3,000) gross square feet.

4.12 Gardens. No vegetable, herb or similar gardens or plants shall be planted or maintained in the front or side yards of any Lot or Dwelling or in the rear (back) yard of any Lot or Dwelling if the same would be visible from any street.

4.13 Vents. No plumbing or heating vents, stacks and other projections of any nature shall be placed on the roof of the front of a Dwelling. All such vents, stacks and any other projections from the roof of any Dwelling shall be located on the rear roof of such Dwelling and shall (i) be painted the same color as the roofing material used for such Dwelling, and (ii) to the extent practicable, not be visible from any street.

4.14 Exterior Materials and Finishes.

(a) Approved exterior building material finishes for any Dwelling shall include brick, stone, stucco, solid wood siding (e.g., cypress or other solid wood), and, to the extent permitted by the Committee, drivit and such other materials as may be approved by the Committee. All wood surfaces utilized on the exterior of any Dwelling shall be painted or stained. Prohibited exterior finish materials shall include particle board, plywood, vinyl or any other type of pressed, laminated or fabricated siding,

vertical siding, simulated brick or stone and any other materials as the Committee may from time to time determine.

(b) No wooden steps shall be allowed on the front or sides of any Dwellings. Concrete steps must be finished in tile, brick or stone.

(c) No concrete, concrete block or cinder block shall be used as an exposed building surface; any concrete, concrete block or cinder block utilized in the construction of a Dwelling or for retaining walls and foundations shall be finished in the same materials utilized for the remainder of the Dwelling (e.g., brick, stone, stucco, etc.)

(d) Metal flashing, valleys, vents and gutters installed on a Dwelling shall be painted to blend with the color of the exterior materials to which it is adhered or installed.

4.15 Chimneys. The exterior of all chimneys shall be constructed of either brick, stone, stucco or drivit. No cantilevered chimneys or chimneys with siding shall be permitted. If a fireplace utilizes a metal spark arrestor or other metal venting apparatus at the top of the chimney, then a painted metal cowl or surround shall be installed atop the chimney. All metal or other materials placed on top of or around a chimney shall be painted to blend with the color of the roofing material used for such Dwelling.

4.16 Mailboxes. Only one (1) mailbox shall be allowed on any Lot or Dwelling. All mailboxes shall be of the type, design, color and location as approved by the Committee. Mailboxes shall contain only the address of the Lot or Dwelling and no further inscription, paintings, ornaments or artistry shall be allowed. In lieu of mailboxes, the Developer may, at its option, provide within any of the Common Areas, and require all Owners' use of, a community mail center.

4.17 Clotheslines. Outside clotheslines or other outside facilities for drying or airing clothes shall be prohibited on any Lot or Dwelling. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or wall.

4.18 Pets and Animals. No animals, livestock, birds or poultry of any kind shall be kept, raised or bred by any Owner upon any Lot, Dwelling or other portion of the Property; provided, however, that no more than four (4) domesticated animals, except in the case of any new-born litter of any such animal, may be kept on a Lot so long as they are not kept for breeding or immediately removed from the Lot or Dwelling and such Lot or Dwelling shall be kept and maintained in a clean and uncluttered condition.

4.19 Further Subdivision. No Lot may be subdivided or resubdivided; provided, however, that the provisions of this

Section 4.19 shall not be applicable to Developer. No Lot or Dwelling shall be sold or owned under any time-sharing, time-interval or similar right-to-use programs.

4.20 Basketball Goals. All basketball goals shall be attached to a goal post and no goals may be attached to the Dwelling.

Any Owner may request from the Committee at any time a determination of whether a projected use of the Owner's Lot is permitted. A certificate to that effect signed by the Committee shall be deemed to be dispositive of that issue.

ARTICLE V COMMITTEE

5.01 Committee. The Committee shall consist of three (3) persons, one (1) of whom shall be E. J. Marino, Jr. ("Marino") and two (2) of whom shall be Owners of Lots. The Owner-members of the Committee shall be appointed or elected as provided in Section 5.02 below. Marino shall be a permanent member of the Committee and may resign, but may not be removed, from the Committee as long as Marino owns a Lot. In the event Marino resigns from the Committee, is unable or unwilling to serve on the Committee, or sell his Lot and owns no part of the Property, a majority of the Owners shall elect Marino's replacement on the Committee pursuant to Section 5.02. The term of office for each Owner-member of the Committee shall be one (1) year, except as provided in Section 5.02. Any Owner-member appointed or elected as provided in Section 5.02 below may be removed with or without cause in the manner provided in Section 5.02 below. Each Owner, by acceptance of a deed to or other conveyance to a Lot or Dwelling, shall be deemed to ratify the provisions of Section 5.02 below.

5.02 Appointment and Removal of Committee Members. The Developer shall appoint the initial Owner-members of the Committee for one (1) year terms each. At the expiration of the term of each respective Owner-member of the initial Committee, a majority of the Owners shall elect a successor of such Owner-member for a period of one (1) year. Each Owner shall have one (1) vote for each Lot owned by the Owner for each position on the Committee to be filled. In the event of death or resignation of a member of the Committee, the Developer, or if the Developer no longer owns a Lot the remaining members of the Committee, shall appoint a substitute member of the Committee to fill the vacancy of such deceased or resigning member for the remainder of the term of such former member.

5.03 Architectural Standards. The Committee is hereby authorized to promulgate and amend or modify from time to time architectural standards governing the construction, location, landscaping and design of all Dwellings and other improvements, including but not

limited to fences, on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Dwelling or other improvements on a Lot are to be submitted to and approved by the Committee, and any other matters affecting the construction, repair or maintenance of any Dwelling or other improvements on any Lot. The architectural standards adopted by the Committee shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Owners.

5.04 Approval of Plans and Specifications.

(a) In order to preserve the architectural and aesthetic appearance and the natural setting and beauty of the Property, to establish and preserve a harmonious design for the Property, and to protect and promote the value, of the Property, the Lots, the Dwellings and all improvements thereon, no improvements of any nature shall be commenced, erected, installed, placed, moved onto, altered, replaced, relocated, permitted to remain on or maintained on any Lot or Dwelling by any Owner, other than Developer, which affects the exterior appearance of any Lot or Dwelling unless plans and specifications therefor have been submitted to and approved by the Committee in accordance with the terms and provisions of Section 5.04(b).

(b) The Committee is hereby authorized and empowered to approve all plans and specifications and the construction of all Dwellings and other improvements on any part of the Property. Prior to the commencement of construction of any Dwelling or other improvements on any Lot or Dwelling, the Owner thereof shall submit to the Committee plans and specification and related data (collectively, the "Plans") for all such improvements, which shall include the following:

(i) An accurately drawn and dimensioned site development plan indicating the location of any and all improvements, including, specifically, the Dwelling to be constructed on said Lot, the location of all driveways, walkways, decks, terraces, patios and outbuildings and the relationship of the same to any set-back requirements applicable to the Lot or Dwelling.

(ii) A foundation plan, floor plans and exterior elevation drawings of the front, back and sides of the Dwelling to be constructed on the Lot.

(iii) Written specifications and, if requested by the Committee, samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Dwelling on such Lot or any other improvements thereto.

(iv) A landscaping plan for the Lot.

(v) Such other plans, specifications or other information or documentation as may be required by the Committee.

(c) The Committee shall, in its sole discretion, determine whether the Plans submitted by any Owner for approval are acceptable and shall notify the Owner of its determination whether the Plans are "approved", "approved as noted" or "disapproved". Notwithstanding anything provided herein to the contrary, an Owner may make interior improvements and alterations within the Owner's Dwelling that do not affect exterior appearance without the necessity or requirement that Committee approval or consent be obtained.

(d) Any revisions, modifications or changes in any Plans previously approved by the Committee must be approved by the Committee in the same manner specified above.

5.05 Construction Without Approval. If (a) any improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot or Dwelling without Committee approval of the Plans for the same, or (b) the Committee shall determine that any approved Plans for any improvements or the approved landscaping plans for any Lot or Dwelling are not being complied with, then, in either event, the Owner of such Lot or Dwelling shall be deemed to have violated this Declaration and the Committee shall have the right to exercise any of the rights and remedies set forth in Section 5.06 below.

5.06 Enforcement and Remedies. In the event any of the provisions of this Declaration are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective family members, guest, invitees, agents, employees or contractors of any Owner or Occupant, then the Committee shall have the right, but not the obligation, at its option to (a) enjoin any further construction on any Lot or Dwelling and require the removal or correction of any work in place which does not comply with the Plans approved by the Committee for such improvements, and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot or Dwelling and take all action necessary to extinguish such violation or breach. All costs and expenses incurred by the Committee in enforcing any of the provisions of this Declaration, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the Committee in causing any Owner or such Owner's contractors, agents or invitees to comply with the terms and provision of this Declaration, shall be paid by such Owner, shall constitute an individual Assessment to such Owner pursuant to Section 6.05 below

and, if the same is not paid when due, shall be subject to the lien provided for in Section 6.01 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the right and remedies of the Committee set forth herein shall not be deemed exclusive of any other rights and remedies which the Committee may exercise at law or in equity.

5.07 Collection of Assessments for Common Expenses. The Committee is hereby authorized and empowered to assess and collect from the Owners or Occupants of Lots or Dwellings an annual Assessment in an amount which is the Owner's pro rata share of the Common Expenses as set forth in Article VI of this Declaration. The Committee is also hereby authorized and empowered to enforce the payment by Owners of Assessments in accordance with Article VI of this Declaration.

ARTICLE VI COMMON EXPENSES AND ASSESSMENTS

6.01 Assessments and Creation of Lien. Each Owner and Occupant of a Lot or Dwelling, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Declaration, is hereby deemed to covenant and agree to pay to the Committee: (a) annual Assessments, as established and to be collected as provided in Sections 6.03 and 6.04 below, and (b) individual Assessments against any particular Lot or Dwelling which are established or assessed pursuant to the terms of Section 6.05 or other provisions of this Declaration. All Assessments, together with late charges and interest as provided in Section 6.06 below, and all court costs and attorneys' fees incurred by the Committee to enforce or collect such Assessments, shall be an equitable charge and a continuing lien upon each Lot or Dwelling for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 6.06 below. Each Owner shall be personally liable for the payment of all Assessments coming due while he, she or it is the Owner of any Lot or Dwelling and such Owner's grantee shall take title to such Lot or Dwelling subject to the equitable charge and continuing lien therefor, but without prejudice to the rights of such grantee to recover from his, her or its grantor any amounts paid by such grantee to the Committee which were the legal obligations of such grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 6.06 below, court costs and attorneys' fees incurred with respect thereto by the Committee, shall also be a personal obligation of the person who was the Owner of the Lot or Dwelling at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot or Dwelling, all of the co-Owners shall be jointly and severally liable for the entire amount of such Assessments. Assessments shall be paid in such manner and on such dates as may be fixed by

the Committee. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Dwelling or Common Area or any other portion of the Property or any other cause or reason of any nature.

6.02 Purpose of Assessments. The annual Assessments provided for herein shall be used for the payment of Common Expenses and for the general upkeep and maintenance of the Common Areas of the Property, including but not limited to the upkeep of Brook Drive, Ridge View Lane and other private roads on the Property.

6.03 Rate of Assessments. The annual Assessment shall be assessed against each Lot or Dwelling, with the Owner of each Lot or Dwelling being required to pay his or her pro rata portion of the Common Expenses as determined by a fraction, the numerator of which shall be the number of Lots owned by the Owner and the denominator of which shall be the total number of Lots in Brook Ridge Estates.

6.04 Computation of Common Expenses and Annual Assessments.

(a) Commencing in December, 1993, and annually thereafter, the Committee shall prepare a budget estimating the Common Expenses for the Property for the upcoming year, including reserve amounts necessary for future capital expenses for the Property. The amount set forth in such budget shall constitute the aggregate amount of Common Expenses for the then applicable year and each Owner shall pay his or her pro rata share of the same as provided in Section 6.03 above.

(b) If any budget or the amount of annual Assessments collected by the Association at any time proves to be inadequate or insufficient for any reason to fully pay all of the Common Expenses, then the Committee may notify the Owners of the additional amount of Common Expenses owed and each Owner will pay to the Committee that Owner's pro rata share of the additional Common Expenses immediately. If the actual amount of annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Association as a reserve for subsequent years' Common Expenses.

(c) The Common Expenses to be funded by the annual and special Assessments may include, but shall not be limited to, the following:

(i) The expenses of maintaining, operating and repairing any utilities, amenities and facilities serving the Property which the Committee determines from time to time would be

in the best interest of the Owners and the Property to so maintain, operate and/or repair;

(ii) The utility charges for any utilities serving any of the Common Areas and charges for other common services for the Property;

(iii) The expenses of maintaining, operating, repairing, upgrading, improving and replacing any portions of the Common Areas, including, without limitation, roads comprising Common Areas within the Property, Brook Drive and Ridge View Lane, which maintenance, upgrade, improvement and repair obligation shall include mowing, landscaping, seeding, cleaning, trash pick-up and removal, paving, repaving, striping and patching all such roadways comprising Common Areas, Brook Drive and Ridge View Lane;

(iv) The establishment and maintenance of a reasonable reserve fund or funds for such purposes.

6.05 Individual Assessments. Any expenses of the Committee which, in the opinion of the Committee, are occasioned by the conduct of less than all of the Owners or by an Owner or Occupant, or the respective family members, agents, guest, servants, employees, invitees or contractors of any Owner or Occupant, shall be specially assessed against such Owners and their respective Lots or Dwellings. The individual Assessments provided for in this Section 6.05 shall be levied by the Committee and the amount and due date of such Assessment shall be specified by the Committee in a notice to such Owner.

6.06 Effect of Non-Payment; Remedies of the Committee.

(a) Each Owner of a Lot or Dwelling is and shall be deemed to covenant and agree to pay to the Committee all Assessments provided for herein. In the event any Assessment or any portion thereof is not paid when due, the same shall be subject to a late charge in an amount determined and uniformly applied by the Committee from time to time and the Owner of such Lot or Dwelling shall be deemed in default herewith. In the event any Assessment or any portion thereof is not paid within thirty (30) days after the due date of the same, then the unpaid portion of the Assessment shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by law (the "Applicable Rate") from and after the thirtieth (30th) day from the due date until the same is paid in full. In the event the Committee employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees, court costs and all other expenses paid or incurred by the Committee. The lien and equitable charge upon each Lot or Dwelling for Assessments as provided above shall also include all late charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses

paid or incurred by the Committee in attempting to collect any unpaid Assessments.

(b) In the event any Assessment or other amount due to the Committee is not paid by any Owner when the same becomes due, then in addition to all other rights and remedies provided at law or in equity, the Committee may undertake any or all of the following remedies:

(i) The Committee may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Assessments and any such judgment rendered in any such action shall include the late charge and interest at the Applicable Rate, together with attorneys' fees, court costs and all other expenses paid and incurred by the Committee in collecting such unpaid Assessments; and/or

(ii) The Committee may enforce the lien created pursuant to Section 6.01 above in the manner hereinafter provided.

(c) There is hereby created a continuing lien on each Lot and Dwelling, with power of sale, which secures the payment to the Committee of any and all Assessments levied against or upon such Lot or Dwelling, all late charges and interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Committee in collecting any Assessments. If any Assessments remain unpaid for more than sixty (60) days, then the Committee may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Committee may file a claim of lien and perfect its lien against the Lot or Dwelling of such delinquent Owner, which claim shall be executed by any member of the Committee, contain the following information and be recorded in the Probate Office of Shelby County, Alabama:

(i) The name of the delinquent Owner;

(ii) The legal description and street address of the Lot or Dwelling upon which the lien claim is made;

(iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and

(iv) A statement that the claim of lien is made by the Committee pursuant to these Covenants and is claimed against such Lot or Dwelling in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the Committee, shall be for the benefit of all other Owners (other than those Owners in default) and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Committee shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot or Dwelling. Each Owner, by acceptance of a deed to any Lot or Dwelling, shall be deemed to (1) grant to and vest in the Committee the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Committee the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

6.07 Certificates. The Committee or any officer or authorized representative thereof shall, upon request and at such reasonable charges as may from time to time be adopted by the Committee, furnish to any Owner a certificate in writing setting forth whether the Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. Such certificate shall be conclusive evidence of payment of any Assessments stated therein.

ARTICLE VII LAKE

7.10 License to Use Lake. Developer is authorized, but is not required, to build a lake on Lots E and F owned by Developer in a location determined by Developer in its sole discretion. In the event Developer builds the lake on the Property, the Developer may, but is not required to, stock the lake with fish. The Developer hereby grants a license to the Owners and Occupants of the Lots and Dwellings to use the lake and fish in the lake on the terms and conditions set forth in this Article VII. The lake will be owned by the Developer, and the other Owners and Occupants shall have no ownership rights with respect to the lake.

7.02 No Obligation. Nothing herein shall be construed as an obligation on the part of the Developer to build the lake or to provide access to the lake to any person other than the Owners and Occupants of the Lots and Dwellings and their immediate families.

7.03 Rules and Regulations. The Developer reserves the right to impose on the Owners and Occupants rules and regulations with regard to use of the lake, including limitations on the frequency of fishing and the number of fish that an Owner or Occupant may catch at any given time. No fishing will be allowed on the lake until, in the Developer's sole discretion, the fish stocked in the lake are mature.

7.04 Permitted Uses. The only uses permitted on the lake are fishing and boating associated with fishing. Water skiing, other water sports, and boating not associated with fishing are prohibited. Only the Owners, Occupants and their immediate families are permitted to use the lake.

7.05 Limitation on Boats and Recreational Vehicles Permitted on Lake. The Owners and Occupants may operate only one (1) boat per Lot each on the lake. The only kind of boat which is permitted on the lake is a fishing boat operated manually or by a trolling motor. No other boats or motor powered recreational vehicles, including but not limited to jet skis and wave runners, are permitted on the lake. No boats shall be stored or left unattended on or around the lake. Each Owner or Occupant is responsible for taking his or her boat out of the lake immediately after each use.

7.06 Indemnification of Lake Owner. In consideration of the license to use and fish in the lake, the Owners and Occupants hereby agree to indemnify and save harmless, and hereby release, waive, discharge and covenant not to sue, the Developer and the Developer's agents, successors, assigns, heirs, next of kin and personal representatives from all liability to the Owners, Occupants, and their families and guests for any and all loss, damage or expense, and any claim, demand or suit therefor on account of injury to the person or property or resulting in death of the Owners, Occupants, or their guests, whether caused by the negligence of the Developer or otherwise, while the Owners, Occupants and their guests are in, on or around the lake for any purpose.

7.07 Violation of Rules. In the event an Owner or Occupant, or a member of an Owner's or Occupant's family or their guests, violate any of the provisions in Article VII of this Declaration or Developer's rules and regulations with regard to use of the lake, the Owner or Occupant, and the Owner's or Occupant's family members and guests, are subject to loss of the license to use the lake, in Developer's sole discretion.

**ARTICLE VIII
INDEMNIFICATION OF DEVELOPER**

8.01 Developer Not in the Business. By acceptance of a deed to any Lot located on the Property or any other instrument conveying any interest therein, the Owners and Occupants acknowledge and agree that the Developer is not in the business of developing property for subdivision and resale for residential purposes. To that end, the Owners and Occupants acknowledge and agree that they have assumed responsibility for the investigation and determination of the suitability of the Property and any Lot, including the surface and subsurface conditions of the Property, for the construction of a single-family residential Dwelling. The Owners and Occupants further agree that the conveyance of any Lot on the Property shall be subject to the conditions of the Property as they exist on the date of sale of the Lot without any representations or warranties with respect thereto by the Developer. To this end, any deed conveying a Lot to an Owner shall contain the following provision:

By acceptance of this deed, Grantee (Owner) hereby covenants and agrees for itself and its heirs, successors, assigns, licensees, lessees, employees and agents that Grantor (Developer) shall not be liable for, and no action shall be asserted against Grantor for, loss or damage on account of injuries to the Property or to any buildings, improvements, or structures now or hereafter located upon the Property, or on account of past or future injuries to any Owner, Occupant, or other person in or upon said Property, which are caused by, or arise as a result of the condition of the Property, including soil and/or subsurface conditions, known or unknown, under or on the Property or any Lot now or hereafter owned by Grantor (Developer), whether contiguous or non-contiguous to the Property or Lot sold hereunder. This covenant and agreement shall run with the land conveyed hereby as against Grantee (Owner), and all persons, firms, trusts, partnerships, limited partnerships, corporations or other entities holding under or through the Grantee (Owner).

8.02 Indemnification of Developer. By acceptance of a deed or any other instrument conveying any interest in a Lot or part of the Property to an Owner or Occupant, the Owners and Occupants hereby agree to indemnify and save harmless, and hereby release, waive, discharge and covenant not to sue, the Developer and his agents,

successors, assigns, heirs, next of kin and personal representatives from all liability to the Owners, Occupants, and their guests for any and all loss, damage or expense, and any claim, demand or suit therefor on account of injury to the person or property or resulting in death of the Owners, Occupants, or their guests, whether caused by the negligence of the Developer or otherwise, while the Owners, Occupants and their guests are in, on or around the Property or any Lot for any purpose.

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed as of the day and year first above written.

Edward J. Marino
Edward J. Marino

E.J. Marino, Jr.
E.J. Marino, Jr.

STATE OF ALABAMA)
COUNTY OF Jefferson)

I, the undersigned, a notary public in and for said County in said State, hereby certify that Edward J. Marino and E.J. Marino, Jr., whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 15th day of December, 1993.

My commission expires
11-12-96

Patricia J. Armstrong
Notary Public

EXHIBIT A

Survey of Brook Ridge Estates located in the NW 1/4 of the SE 1/4 of Section 23, Township 19 South, Range 2 West, Shelby County, Alabama, as recorded in Map Book 17, page 133, in the Probate Court of Shelby County, Alabama.

Inst # 1993-38371

12/02/1993-38371
11:15 AM CERTIFIED
SHELBY COUNTY JUDGE OF PROBATE
019 MCD 53.50