

STATE OF ALABAMA)  
COUNTY OF SHELBY)

AMENDED

DECLARATION OF RESTRICTIVE COVENANTS FOR  
MOUNTAIN FARMS

KNOW ALL MEN BY THESE PRESENTS: That:

WHEREAS: Michael H. Strong ("the Developer").  
has heretofore acquired fee simple title to certain real  
property situated in Shelby County, Alabama and has  
subdivided such property (the Subdivision or the Property)  
into Nine (9) lots (herein "Lots") as described in the survey  
by Hickey Land Surveying Inc., dated Feb. 27, 1996 under Job  
No. 96-H-030, attached as Exhibit "A" (the Survey).  
Property will be deeded by a metes and bounds description and  
no record map will be filed for record in the Probate Office.

WHEREAS, the Developer desires to develop a residential  
estate subdivision to be known as Mountain Farms and in doing  
so to subject the Property to the restrictions and covenants  
set forth in this Declaration of Restrictive Covenants for  
Mountain Farms.

WHEREAS, the Developer desires to subject each Lot owner  
as herein defined to membership in Mountain Farms  
Homeowners Association Inc., ( The "Association").

NOW, THEREFORE, the Developer does, upon recording  
hereof, declare and make the Property and each of the Lots

Inst # 1996-20274

*James Burford*

06/21/1996-20274  
04:09 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
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now or hereafter included in the subdivision of the Property subject to the covenants, conditions, restrictions, uses, limitations and affirmative obligations set forth in this Declaration ( the Declaration), all of which are declared to be in furtherance of a plan for the improvement of the Property in a desirable and uniform manner, and all of which shall run with the land and shall be binding on all persons, firms or corporations having or acquiring any right, title or interest in the Property, the Lots, or any part(s) thereof, and shall be for the benefit of each such Owner of Property or interest therein, and shall inure to the benefit of and be binding of and be binding upon each successor in interest to the Owners thereof. •

#### **ARTICLE I**

##### **Land Use**

1. The Property will be used for residential purposes only and not for any business or trade. Notwithstanding any provision of the Declaration, this aspect of the Declaration can not be changed without the affirmative vote of all of the Owners.

#### **ARTICLE II**

##### **Building Requirements**

1. **MINIMUM STRUCTURE SIZE OF PRIMARY DWELLING.** No Lot shall

contain more than one primary dwelling (the "Dwelling") and no primary dwelling shall be erected on any Lot if such dwelling contains less than 1800 square feet of living space, for a single story dwelling, and not less than 2400 square feet of living space for a 1 1/2 story or 2 story dwelling, with no less than 1350 square feet on the main level. Living space is defined as heated and finished areas and does not include porches, garages, basements, carports or attics.

2. **EXTERIOR MATERIAL.** No Dwelling or out building as hereinafter allowed shall use the following materials which shall be visible on the exterior of any such building: (a) concrete block; or (b) stucco over concrete block.

3. **DRIVEWAYS.** All driveways servicing any Lot shall be asphalt or gravel.

4. **BUILDING LOCATION.** No structure, other than fences, shall be located any closer than 50 feet from Mountain Farms Road (the "ROAD") nor shall any structure other than fences be located any closer than 35 feet from any non-Road Lot line.

5. **FENCING.** The Architectural Control Committee shall have the right to approve any proposed fencing. No fences to be located within 200 feet of the Road shall be constructed of wire or chain link. Only wooden fencing or fencing approved

by the Architectural Control Committee will be allowed.

Notwithstanding the foregoing, no fencing of any kind shall be allowed within thirty (30) feet of the right-of-way line of Mountain Farms Road.

6. **TEMPORARY STRUCTURES AND OUTBUILDINGS.** No mobile homes or temporary dwellings shall be built and used for residential purposes. Notwithstanding any provision of the Declaration, the foregoing can not be changed without the affirmative vote of all the Owners. Guest houses and other outbuildings shall, subject to the approval of the Architectural Control Committee, be allowed.

7. **DESIGN CRITERIA.** The objective of the Architectural Control Committee hereinafter established is to provide for the quality development of all of the Lots within the subdivision.

8. **SEPTIC TANKS.** All septic tanks must be of an improved type, such tanks together with adequate field lines must be approved and completely acceptable to the Shelby County Health Department. No septic tank or field line shall be constructed within 20 feet of an adjoining property line. No sewer or drainage lines shall be constructed or laid which shall empty on or become a nuisance to an adjoining Lot or Property line.

9. **WINDOWS.** Only wooded or aluminum clad wooden windows are permitted on any side of the structure facing Mountain Farms Road.

10. **THE ROOF.** Pitch on any residence shall not be less than 8 and 12 unless first approved in writing by the Architectural Control Committee.

11. **NO** residence shall have an open carport or front drive unless specifically approved in writing by the Architectural Control Committee.

12. **ALL PORCHES** on the front sides of any dwelling shall be supported by the foundation of the structure.

13. **ALL** dwellings will have brick, stone or dryvit type product on all four sides of the foundation, no exposed block. All homes are to be of traditional styling and approved in writing by the Architectural Control Committee.

14. **NO CANTILEVERED** chimney shall be allowed on the front or sides of any structure. All chimney chases on the front and side shall be supported by the foundation of the structure and shall be constructed of the same material as used in the foundation. Cantilevered chimney chases may be allowed on the rear by specific approval of the Architectural Control Committee. Bay windows on the front or side of the dwelling must have a bottom return.



15. **GARAGES.** Garage doors shall not be permitted on the front of houses. In cases where it is unavoidable due to terrain, the garage shall be of sheetrock and painted. Unless located on the side or rear of the house.

16. **CONSTRUCTION OF IMPROVEMENTS.** When the construction of any building is once begun, work thereon must be prosecuted diligently and continuously and must be completed within 12 months.

17. **ALL** roof vents and pipes shall be painted as near the color of the roof as possible, and shall be located on the rear of the structure and not be viewed from the street.

18. **UPON** the completion of a residence all front and side yards which are not left in a natural state will be landscaped with solid sod. The rear yard may be sprigged, seeded, or solid sod, or left in a natural state.

### **ARTICLE III**

#### **ARCHITECTURAL CONTROL COMMITTEE**

1. **APPROVAL OF ARCHITECTURAL CONTROL COMMITTEE.** No structure, building, or fence shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing structure upon any Lot within the Property be altered in any way which materially changes the exterior appearance thereof until same is submitted to and

approved by the Architectural Control Committee (herein "the Committee"). The Committee will be provided with such plans and specifications which will be in a form and shall contain such information, as may be required by the Architectural Control Committee and shall include but not necessarily be limited to:

A. a site plan of the Lot showing the location, height, and exterior design (including a summary of all proposed materials together with samples of exterior materials and paint colors) of all buildings and improvements proposed to be constructed on the Lot; paint colors preferable should be earth tone. Bright colors are discouraged; and

B. a grading, and drainage plan for the Lot.

C. Any remodeling, reconstruction, alterations or additions to an existing residence shall require the written approval of the Architectural Control Committee.

2. **COMPOSITION OF THE COMMITTEE.** A. The Architectural Control Committee (the "Committee"), until termination or modified pursuant to Article III, Paragraph 10 as hereinafter set out shall be composed of Randall H. Goggans until such time as the Developer has sold all of the Lots within the Property. At such time as the Developer has sold all of the lots, the Committee shall be comprised of three (3)

persons elected by a majority vote of the Lot Owners and at such time, the affirmative vote of a majority of the members of the Committee shall be required in order to issue any permit and authorizations set forth herein.

B. Elections for the Architectural Control Committee shall be held according to the provisions set forth in Article II of the By-Laws of the Association.

3. **EVIDENCE OF APPROVAL.** The approval of the Committee shall be evidenced by written permit executed by one or more of the members of the Committee and counter-signed by the applicant therefor. The written permit shall be executed in duplicate with one copy to be retained by the applicant.

4. **BASIS FOR DISAPPROVAL OF PLANS.**

A. The scope of review by the Committee shall be limited to appearance and improvement location only. The purpose of the Committee is to promote quality development on the Lots and not necessarily to impose requirements concerning the type of structure or the design of such structures in such Lots.

THE COMMITTEE DOES NOT ASSUME OR ACCEPT BY THE FILING HEREOF ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER FACTORS.

B. The Committee shall have the right to disapprove any plans



and specifications submitted for approval for any of the following reasons:

- (i) failure of such plans and specifications to comply with the covenants and restrictions herein set forth;
- (ii) failure to include information in such plans and specifications as may have been reasonably requested by the Committee;
- (iii) reasonable objection to the exterior design, appearance or materials proposed to be used in any proposed structure;
- (iv) incompatibility of use of any proposed structure or improvement with existing structures or uses upon other Lots in the Property;
- (v) objection to the site plan, clearing plan, drainage plan for any special parcel;
- (vi) failure of plans to take into consideration the particular topography, vegetative characteristics, and natural environs of the Lot;
- (vii) any other matter which, in the judgement of the Committee, would render the proposed structure, improvement, or uses inharmonious with the general plan of improvement of the Property or with structures, improvements, or uses located upon Lots in the Property.

C. In any case where the Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, the disapproval shall be accompanied by a statement of the grounds upon which such actions were based. If no response is made by the Committee within a thirty (30)

day period after submission of such plans and specifications, it shall be deemed that such plans and specifications are approved. In any such case the Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

5. **RETENTION OF COPY OF PLANS.** Upon approval by the Committee of any plans and specifications, as approved, shall be deposited for permanent record with the Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

6. **FAILURE TO OBTAIN APPROVAL.** If any structure or improvement shall be altered, erected, placed or maintained upon any Lot, or any new structure or improvement commenced on any Lot other than in accordance with plans and specifications approved by the Committee pursuant to the provisions of this Article III, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this covenant, and without the approval required herein, and upon written notice from the Committee, any such structure or improvement as altered, erected, placed or maintained shall be corrected as to extinguish such

violation. If fifteen (15) days after the notice of such violation the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or correction of the same, the Committee shall have the right, through its agents and employees, to enter upon such Lot and to take such steps as may be necessary to extinguish the violation and the cost thereof shall be a binding, personal obligation of such owner as well as a lien (enforceable in the same manner as a mortgage) upon the Lot in question. The lien provided in this paragraph shall not be valid as against a bona fide purchaser (or bona fide mortgage) of the Lot in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County prior to the recordation among the Land Records of Shelby County of the deed (or mortgage) conveying the Lot in question to such purchaser (or subjecting the same to such mortgage).

7. **CERTIFICATE OF COMPLIANCE.** Upon completion of the construction or alteration of any structure or improvement in accordance with the plans and specifications approved by the Committee, the Committee shall, upon written request of the Owner thereof, issue a certificate of compliance in form suitable for recordation, identifying such structure or

improvement and the Lot on which such structure or improvement is placed, and stating that the plans and specifications, the location of such structure or improvement and the use or uses to be conducted thereon have been approved and that such structure or improvement complies with the requirements of the Committee. Preparation and recording of such certificate shall be at the expense of such Owner. Any certificate of compliance issued in accordance with the provisions of this Article III, Paragraph 7, shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrance in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all structures or improvements on the Lot and the use or uses described therein comply with all the requirements of this Article III, and with all other requirements of this Article III, and with all other requirements of this Declaration as to which the Committee exercises any discretionary or interpretive powers.

8. **INSPECTION RIGHTS.** Any agent of Developer or the Committee may at any reasonable time or times enter upon and inspect any Lot or any improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of structures and

improvements thereon are in compliance with the provisions hereof; and neither Developer nor the Committee nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

**9. WAIVER OF LIABILITY.** Neither the Committee nor any architect nor agent thereof, nor Developer, nor any partner, agent, or employee of any of the foregoing, shall be responsible in any way for (i) any failure of structures or improvements to comply with requirements of this Declaration, although a certificate of compliance has been issued; (ii) any defect in any plans and specifications submitted, revised, or approved in accordance with the foregoing provisions; or (iii) any structural or other defects in any work done according to such plans and specifications, and all persons submitting any such plans and specifications, and all persons relying thereon, agree not to sue or claim against the entities and persons referred to in this Section 9 for any cause arising out of the matters referred to in this Section 9 and further agree to and do hereby release said entities and persons for any and every such cause.

**10. DURATION.**

**A.** The duration of the Committee shall be co-extensive with that of the Association.



B. Inactivity of the Committee shall not be deemed a waiver of the rights of the Committee.

#### ARTICLE IV

##### ROADWAY AND ENTRANCE PROMENADE

1. **ROADWAY.** The road ("the Road") accessing the Lots existing on the Property is a private road. The Developer does hereby grant to each Lot and each Lot shall enjoy as an appurtenance a non-exclusive easement for ingress, egress and utilities, which easement shall run with the land. To have and to hold forever. Each Lot over which the Road runs is hereby subject to such easement. The easement established herein shall be thirty (30) feet from both sides of the center line of the Road as shown on the Survey, as described on Exhibit "B" attached hereto and as it physically exists, notwithstanding the physical width of the Road, that is to say, the Road as defined herein is a sixty (60) foot right-of-way. This aspect of the Declaration is not subject to termination for any reason. The Developer hereby grants, bargains, sells and conveys the Road to the Association, subject to the easement granted hereinabove in this Article IV paragraph 1. To have and to hold forever.

2. **ENTRANCE PROMENADE.** The Entrance Promenade (the Promenade) is a common area for the benefit of the Association. The Promenade is described on Exhibit "C"

attached hereto and incorporated by reference herein. The Developer does hereby grant to each Lot and each Lot shall enjoy as an appurtenance a non exclusive easement over and across the Promenade, which easement shall run with the land. To have and to hold forever. The Developer hereby grants, bargains, sells, and conveys the Promenade to the Association subject to the easement granted hereinabove in this ARTICLE IV, paragraph 2. To have and to hold forever.

### 3. ROAD AND PROMENADE MAINTENANCE.

(A) The Developer shall maintain the Road for a period of one (1) year from the date of the recording of this Declaration (herein "the Developer Maintenance Period"). SEE EXHIBIT "B -1"

(B) After the Developer Maintenance Period has expired, the Road shall be maintained by the Association, each Lot bearing one (1) share of any such expense authorized by the Association. One (1) share shall be the percentage of such expense derived from a fraction wherein one (1) is the numerator and the number of Lots subject to these covenants is the denominator. An affirmative vote of a majority of Lot Owners shall be necessary to effectuate any improvement, repair or maintenance of the Road unless such repairs are required by any governmental authority having jurisdiction, in which case such repairs or maintenance required by such

authority shall be binding on all of the owners. The provisions of Article V Paragraph 17, shall apply to road maintenance so long as the Road is a private road, notwithstanding any earlier termination of these covenants. (C) The Developer shall have no maintenance obligation with respect to the Promenade.

4. **CONVERSION TO A PUBLIC ROAD.** (A) The Road may be offered for dedication to the appropriate governmental authority as a public road at any time upon the affirmative vote of 2/3 of the Lot Owners ( "the Requisite vote"). (B) Upon obtaining the Requisite Vote, all cost of dedication, including any expense necessary to upgrade the Road, shall be divided equally between the Lot Owners. By accepting an instrument granting title to a Lot within the subdivision ( whether legal or equitable, by deed, mortgage or otherwise), any person so obtaining title to a Lot shall be deemed to have granted to any or all of the other Lot Owners, a power of attorney coupled with an interest in order to accomplish an authorized dedication as provided for herein.

5. Each Lot Owner shall indemnify and hold harmless the other Lot Owners from and against any cause of action, claims or demand caused by any Lot Owner's (their invitees or guest) damage to the Roadway. "Such indemnity shall extend to the Developer during the Developer Maintenance Period".

## ARTICLE V

### Miscellaneous

1. **ANIMALS.** No dog kennels for commercial purposes will be allowed. No cows, swine or chickens will be allowed, and no commercial breeding of any animal will be allowed.

2. No obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Property.

Without limiting the generality of the foregoing, it is the intent of the Developer and these covenants to restrict the use of the Property and any Lot therein which will detract from a high quality residential estate subdivision.

Accordingly, no commercial vehicle or any inoperable motor vehicle shall be allowed on the Property or any Lot therein which is visible from the Road. No Lot shall be used as a dumping ground for rubbish, trash, garbage or other waste, and such shall not be kept except in sanitary containers which permanent location of such sanitary containers shall not be visible from the Road.

Each Lot shall be maintained in a neat and orderly fashion at least to the extend of visibility from the Road, this includes the yard and any shrub beds. No satellite or microwave dishes larger than 24 inches in diameter or

television or radio antennas shall be placed on any Lot unless approved in writing by the Architectural Control Committee, but in no event shall satellite, microwave dishes or televisions or radio antennas be visible from the street. No Lot shall be cultivated for crops of any sort, except for gardens of reasonable size, which is to be located in the rear of the dwelling.

3. No signs of any kind shall be displayed to the public view on any Lot except one sign of not more than five (5) square feet advertising the Property for sale or rent, or signs used by a builder to advertise the Property during construction and sale period.

4. It is the intent of the Developer to preserve for present and future Lot Owners a heavily wooded physical environment in which a maximum amount of existing vegetation is preserved in undisturbed state, typical of an oak-hickory forest, and that each Lot Owner in the Development shall observe the following restrictions regarding removal and restoration of vegetation: no more than fifty percent (50%) of the trees may be removed; any clearing cutting or pastureland must be approved by the Architectural Control Committee and must be located behind the home and no closer than thirty (30) feet from the boundary line.



5. During all construction, all vehicles, including those delivering supplies, must enter the building Lot on the driveway only as approved by the Committee so as not to unnecessarily damage trees, and street paving. Any damage to the Road not repaired by the contractor will be repaired by the Committee (after ten (10) days written notice) and will be charged to the Lot Owner at a reasonable charge for such services, which charge shall constitute a lien upon such Lot enforceable by appropriate proceedings at law or equity.

During construction, all Builders must keep the homes, garages, and building site clean. All building debris, stumps, trees, etc., must be removed from each building Lot by the Builder as often as necessary to keep the house and Lot attractive. Such debris will not be dumped in any area of the Property.

6. No Lot shall be sold or used for the purpose of extending any public or private road, street, or alley, for the purpose of opening any road, street, or alley, except by the prior written consent of the Committee.

7. No basketball goal or similar object may be installed nearer the street than the front building line of the dwelling. The backboard will be clear or smoked flexiglass construction and the supporting structure shall be painted dark green.

8. All mailboxes shall be of a standard design and type as determined by the Committee.

9. No Lot in said subdivision may be subdivided or replatted without the express written consent and approval of the Architectural Control Committee, the appropriate government agency ( if required) and 2/3 vote of the Lot Owners. All costs and expense associated with any future subdivision shall be borne by the Lot Owner desiring such future subdivision. No Lot shall, in any event, be less than 20 acres in size for a period of ten (10) years from the date of this amendment without the consent of all of the Owners. All Lots created by further subdivision shall be subject to the provisions of this declaration and the Owners of all resubdivided lots shall be members of the Association and subject to all By-Laws attenuate thereto.

10. **GRANTEE'S ACCEPTANCE.** The grantee of any Lot subject to the coverage of this Declaration, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purpose thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed or other contract upon and subject to each and all of these restrictions herein contained and other easements, restrictions and reservations of record.

11. **INDEMNITY FOR DAMAGES.** Each and every Lot Owner and future Lot Owner, in accepting a deed or contract for any Lot subject to the Declaration, agrees to indemnify Developer for any damages caused by such Owner, or the contractor, agent, or employees of such Owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Developer, or for which Developer has responsibility, at the time of the damage.

12. **SEVERABILITY.** Every one of the provisions and restrictions is hereby declared to be independent of, and severable from the rest of the provisions and restrictions and of and from every other one of the provisions and restrictions and of and from every combination of the provisions and restrictions.

13. **OWNER.** (A) As used herein, "Owner" or "Lot Owner" shall mean the record owner of a fee simple title to a Lot within the Subdivision. Whenever action is required or permitted in these Covenants to be taken by the Owners or the Lot Owners, one vote shall be allocated to each Lot, so that the Owner of two or more Lots shall have one vote for each Lot so owned. If a Lot is owned by an entity other than a natural person or persons, the vote allocated to that Lot shall be exercised by

a natural person designated in writing by the entity to the Association. If two or more persons own an interest in a Lot, the vote allocated to that Lot shall be exercised by one natural person designated in writing to the Association by the person or persons owning at least the majority interest in the Lot.

(B) As used in these Covenants, "Developer" shall mean Michael H. Strong or any successor or assign to whom Michael H. Strong conveys at least five (5) of the nine (9) Lots within the Property in one deed, provided that said deed expressly recites that the conveyance is made "together with the rights of Grantor as Developer under the Declaration and the Articles of Incorporation and By-Laws of the Association" or words of similar import.

14. **EFFECTS OF VIOLATION ON MORTGAGE LIEN.** No violation of any of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property, and Lot therein; provided, however, that any mortgagee in actual possession, or any purchaser at any foreclosure sale shall be bound by and subject to this Declaration as fully as any other Owner of any portion of the Property, any Lot therein.

15. **NO REVERTER.** No restriction herein is intended to be, or

shall be construed as a condition subsequent or as creating a possibility of reverter.

**16. DURATION AND AMENDMENT.** The restrictions contained in this Declaration shall run with and bind the Property and, shall inure to the benefit of and shall be enforceable by Developer, the Architectural Control Committee, and the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns until the 31st day of December, 2015, after which time said restrictions shall be automatically extended for successive periods for 10 years. The termination aspects set forth herein do not apply to the Road or the maintenance thereof. This Declaration may not be amended in any respect except by the execution of an instrument by 2/3 of the Lot Owners ( or by all of the Lot Owners if such amendment is of a provision expressly requiring consent of all Lot Owners), which instrument shall be filed for recording among the Land Records of Shelby County, Alabama, or in such other place of recording as may be appropriated at the time of the execution of such instrument. After December 31, 2015, this Declaration may be amended and or terminated in its entirety by an instrument signed by not less than a majority of the Lot Owners, which instrument shall be filed for recording among the Land Records of Shelby



County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

17. ~~No hunting shall be allowed without the consent of all of the Lot Owners.~~ SEE EXHIBIT "B -1"

18. **ENFORCEMENT.** In the event of a violation or breach of any of these restrictions or any amendments thereto by any Owner of a Lot, or employee, agent, or lessee of such Owner, the Owner(s) of Lot (s), Developer, their successors and assigns, or any party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said restrictions, to sue for and recover damages for any amounts required to be paid hereunder, or take all such courses of action at the same time, or such legal remedy deemed appropriate. No delay or failure on the part of an aggrieved party to initiate and available remedy set forth herein shall be held to be a waiver of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of different violations. Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person

or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity. Any party to proceeding who succeeds in enforcing a restriction or enjoining the violation of a restriction against a Lot Owner may be awarded a reasonable attorney's fee against such Lot Owner, and shall have the right to place recorded lien on any Lot for the purpose of securing the payment of any amounts owing by a Lot Owner under this Declaration and such lien may be enforced in the same manner as foreclosure of a mortgage under the Laws of the State of Alabama.

19. **NO WAIVER.** The failure of any party entitled to enforce any of these restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to Article III shall be binding on any and all parties as a conclusive determination that such plans are in conformity with these restrictions.

20. **All** Lot owners shall maintain their Lot and the improvements thereon in a neat and orderly fashion.

**21. MODIFICATION OF THESE COVENANTS BY DEVELOPER.**

Notwithstanding anything to the contrary contained herein, the Developer reserves the right to unilaterally modify these covenants with respect to any Lot Owned by Developer at any time without the necessity of obtaining approval from any Lot Owner or Lot Mortgagee, unless the modification is of a provision expressly requiring the consent of all the Lot Owners in which case the consent of all Lot Owners shall be required. Any such modification shall only apply to Developer Owned Lot (s).

**22. NO WARRANTY.** The Developer makes no warranty of any kind including warranties of fitness for a particular purpose with respect to; (A) any lakes within the Subdivision; (B) any lake plans; (C) wells; (D) well water (quality or quantity); (E) any improvements within the Promenade, including but not limited to fencing; or (F) the Road (after the Developer Maintenance Period). Such matters shall be the responsibility of the Lot Owners and/or the Association as appropriate, such matters being in their "AS-IS" condition.

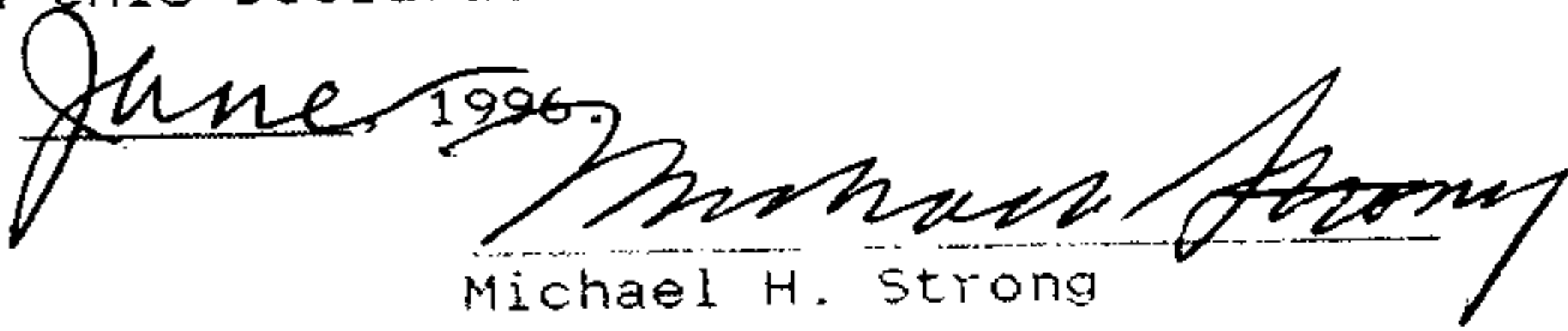
**23. Mountain Farms Homeowners Association, Inc.** (The "Association"). By accepting a deed to a Lot, as an appurtenance to such Lot, an Owner shall become a member of the Mountain Farms Homeowners Association, Inc. and be

subject to the Articles of Incorporation and By-Laws of such Association as they exist and are from time to time amended.

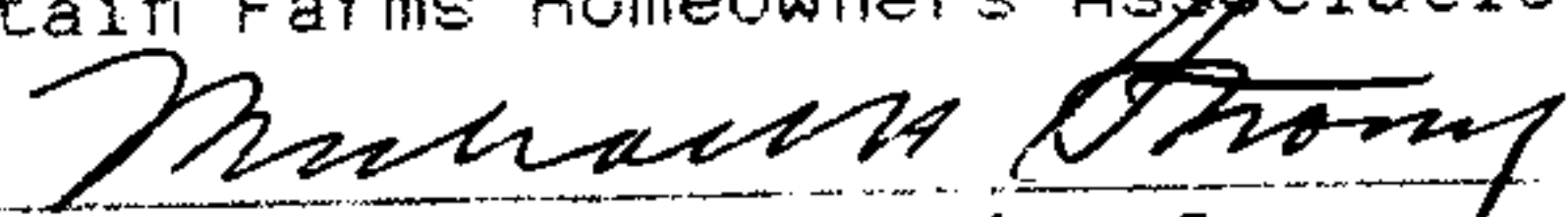
24. **Michael H. Strong**, by his execution of the Declaration, agree that his interest as it appears, in the Property, any Lot contained in the Property, is subordinate and subject to this Declaration.

25. James E. Payne and Cheryl E. Landreth as co-trustees of the James E. Payne Revocable Trust and Michael K. Dodd and wife Cynthia B. Dodd have executed this amended Declaration in order to indicate their consent and approval of this amended Declaration.

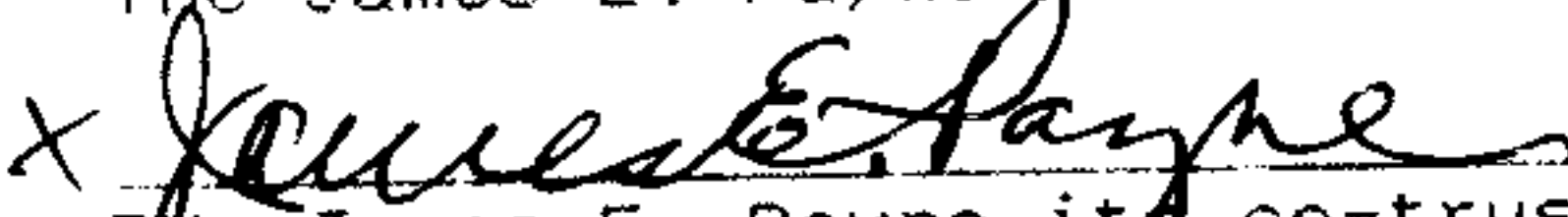
IN WITNESS WHEREOF, the undersigned, as the owner of the Property, has caused this Declaration to be executed as of the 11<sup>th</sup> day of June, 1996.

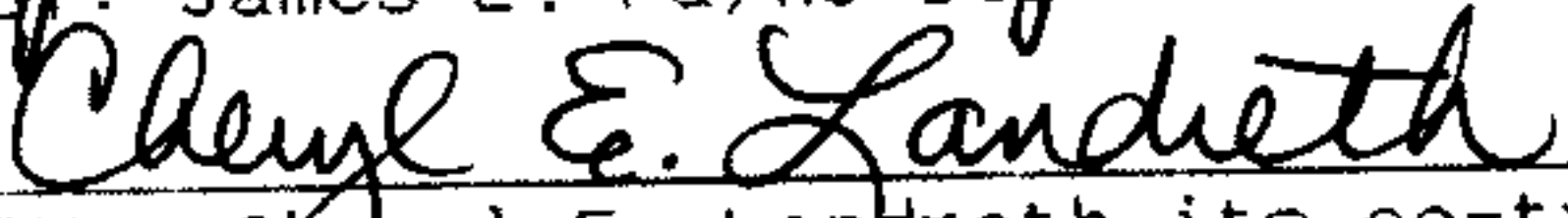
  
Michael H. Strong

Mountain Farms Homeowners Association, Inc.

  
BY: Michael H. Strong its Incorporator

The James E. Payne Revocable Trust

X   
BY: James E. Payne its co-trustee

  
BY: Cheryl E. Landreth its co-trustee

  
Michael K. Dodd

  
Cynthia B. Dodd

STATE OF ALABAMA)

*Jefferson* COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that MICHAEL H. STRONG, 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 foregoing instrument he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 20 day of JUNE, 1996.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires: 3.1.98

STATE OF ALABAMA )

*Jefferson* COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that MICHAEL H. STRONG, whose name as Incorporator of MOUNTAIN FARMS HOMEOWNERS ASSOCIATION, INC., a corporation, 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 said instrument, he as such office and with full authority, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

Given under my hand and seal this 20 day of JUNE, 1996.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires 3.1.98



STATE OF TENNESSEE )

COUNTY OF CHEATHAM )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that JAMES D. PAYNE, whose name as one of the Co-Trustees of the JAMES E. PAYNE REVOCABLE TRUST 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 said instrument, he, as such Co-Trustee and with full authority, executed the same voluntarily for and as the act of said Trust on the day the same bears date.

Given under my hand and seal this 11<sup>th</sup> day of JUNE, 1996.

Cecil A. Smith  
Notary Public  
My Commission Expires: 9/26/98

STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that CHERYL E. LANDRETH, whose name as one of the Co-Trustees of the JAMES E. PAYNE REVOCABLE TRUST 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 said instrument, she, as such Co-Trustee and with full authority, executed the same voluntarily for and as the act of said Trust on the day the same bears date.

Given under my hand and seal this 6 day of JUNE, 1996.

[Signature]  
Notary Public  
My Commission Expires: 3.1.98

STATE OF ALABAMA )

COUNTY OF Jefferson )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that MICHAEL K. DODD and wife, CYNTHIA B. DODD, 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 foregoing instrument they executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 6 day of JUNE, 1996.

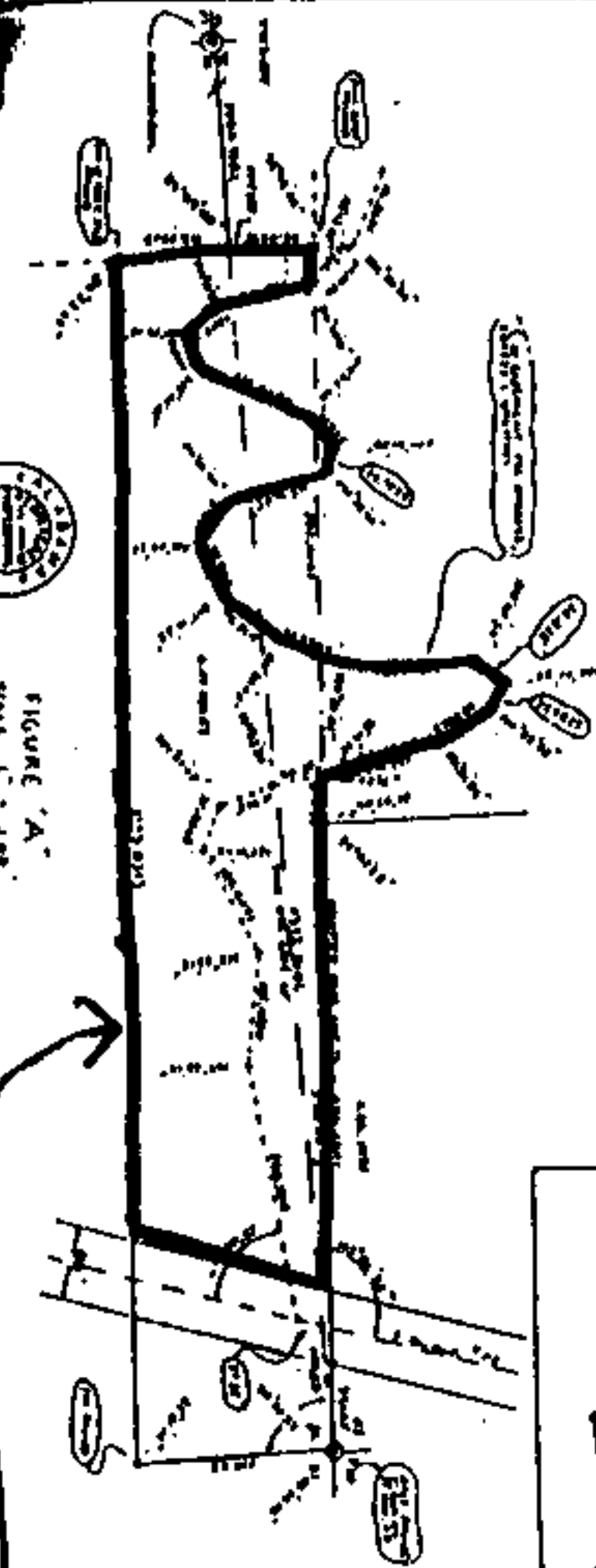
[Signature]  
Notary Public  
My Commission Expires: 3.1.98

# EXHIBIT 'A' MOUNTAIN FARMS

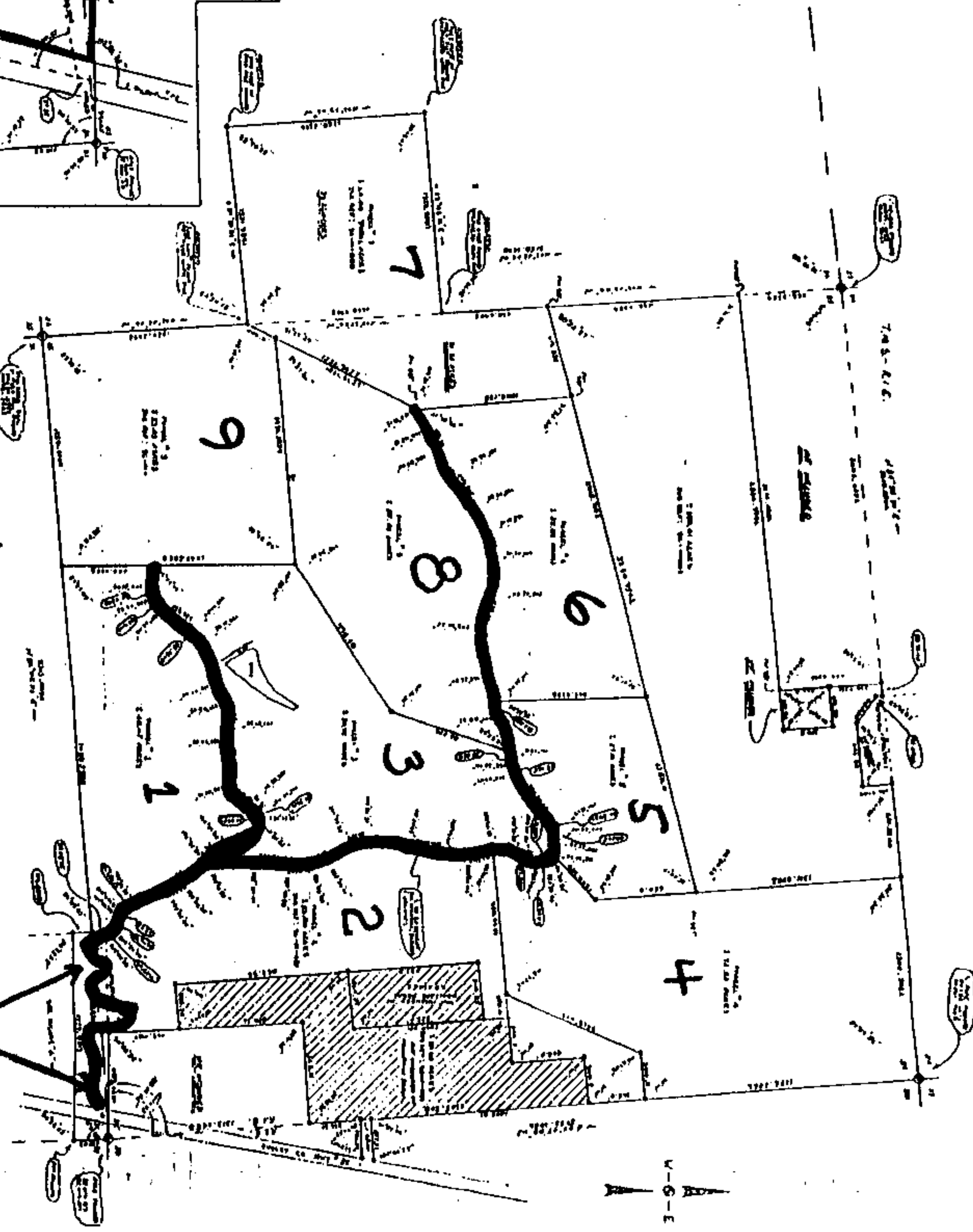
— = THE ROAD



FIGURE 'A'  
MOUNTAIN FARMS



THE PROMENADE



# HICKEY LAND SURVEYING, INC.

401 NORTH ELM AVENUE  
P.O. BOX 11  
SYLACAUGA, ALABAMA 35150

SAM W. HICKEY  
OFFICE (205) 249-4248

February 26, 1996

HOML (205) 245-3324  
Sheet 1 of 2 Sheets

60' COMMON EASEMENT  
INGRESS/EGRESS & UTILITIES

Job Ref: 96-H-030

EXHIBIT 'B' (PAGE 1 OF 2)  
MOUNTAIN FARMS  
THE ROAD

State of Alabama  
Shelby County

Description to-wit:

From the true S.E. corner of Section 25, T18S-R1E, run thence West along the true South boundary of said Section 25 a distance of 140.59 feet to a point in the centerline of Shelby County Hwy. #55 (80' R.O.W.); thence turn  $76^{\circ}03'25''$  left and run 27.55 feet along said Hwy. centerline to the point of beginning of the centerline of a 60.0 foot easement for ingress and egress and utilities; thence turn  $69^{\circ}41'05''$  right and run 280.12 feet along said easement centerline and the following courses;  $17^{\circ}35'17''$  right for 125.48 feet;  $34^{\circ}33'45''$  left for 126.45 feet;  $47^{\circ}48'52''$  right for 52.84 feet;  $47^{\circ}07'05''$  right for 61.51 feet;  $07^{\circ}43'30''$  right for 188.20 feet;  $16^{\circ}36'52''$  left for 65.60 feet;  $34^{\circ}39'43''$  left for 37.88 feet;  $75^{\circ}01'37''$  left for 38.84 feet;  $39^{\circ}41'34''$  left for 147.29 feet;  $19^{\circ}56'42''$  right for 73.89 feet;  $21^{\circ}30'42''$  right for 79.26 feet;  $27^{\circ}10'23''$  right for 58.73 feet;  $56^{\circ}02'27''$  right and run 57.15 feet;  $37^{\circ}45'44''$  right for 115.77 feet;  $51^{\circ}33'40''$  left for 28.70 feet;  $60^{\circ}01'39''$  left for 47.93 feet;  $25^{\circ}03'40''$  left for 128.07 feet;  $45^{\circ}41'25''$  right for 41.30 feet;  $71^{\circ}58'42''$  right for 43.46 feet;  $23^{\circ}12'33''$  right for 99.94 feet;  $29^{\circ}42'55''$  left for 64.03 feet;  $22^{\circ}50'20''$  left for 86.97 feet;  $07^{\circ}09'05''$  right for 59.89 feet;  $23^{\circ}47'18''$  right for 71.66 feet;  $12^{\circ}06'27''$  right for 262.83 feet;  $08^{\circ}42'28''$  left and run 103.48 feet to a reference point in said easement centerline, designated as point "A"; thence turn  $05^{\circ}46'07''$  left and run 221.66 feet to a point in a fork of this easement, designated as point "B"; thence turn  $37^{\circ}48'05''$  right and continue along this easement centerline a distance of 285.70 feet and the following courses;  $04^{\circ}22'16''$  right for 227.18 feet;  $07^{\circ}40'53''$  left for 156.93 feet;  $16^{\circ}40'03''$  left for 105.28 feet;  $13^{\circ}20'51''$  left for 183.0 feet;  $24^{\circ}33'23''$  right for 89.15 feet;  $12^{\circ}54'33''$  right for 303.05 feet;  $05^{\circ}57'09''$  right for 210.02 feet;  $03^{\circ}02'04''$  right for 163.70 feet;  $27^{\circ}04'48''$  left for 175.69 feet;  $09^{\circ}40'25''$  right for 122.0 feet;  $19^{\circ}51'35''$  right for 57.83 feet;  $29^{\circ}24'57''$  right for 121.31 feet;  $55^{\circ}03'01''$  left for 60.58 feet;  $43^{\circ}39'49''$  left for 69.53 feet;  $19^{\circ}20'22''$  left for 101.30 feet;  $15^{\circ}35'30''$  left for 60.47 feet;  $26^{\circ}22'45''$  left for 66.80 feet;  $11^{\circ}11'17''$  left for 391.85 feet;  $23^{\circ}03'07''$  right for 63.06 feet;  $08^{\circ}32'40''$  right for 84.03 feet;  $16^{\circ}29'11''$  left for 247.71 feet;  $21^{\circ}59'31''$  right for 120.46 feet;  $24^{\circ}11'$  left for 163.25 feet;  $15^{\circ}57'20''$  right for 309.41 feet;  $28^{\circ}25'35''$  right for 239.14 feet;  $25^{\circ}13'40''$  left for 283.82 feet;  $10^{\circ}48'05''$  left for 165.03 feet;  $03^{\circ}51'10''$  left for 186.51 feet;  $12^{\circ}29'37''$  left for 249.51 feet;  $01^{\circ}38'35''$  left for 149.03 feet;  $12^{\circ}07'20''$  right for 159.16 feet; thence turn  $13^{\circ}14'45''$  left and run 151.30 feet to the point of termination of this segment; thence from point "B", backsighting

Continue on Sheet 2

**HICKEY LAND SURVEYING, INC.**

401 NORTH ELM AVENUE  
P.O. BOX H  
SYLACAUGA, ALABAMA 35150

SAM W. HICKEY  
OFFICE (205) 249-4248

February 26, 1996

110ML (205) 245-3324

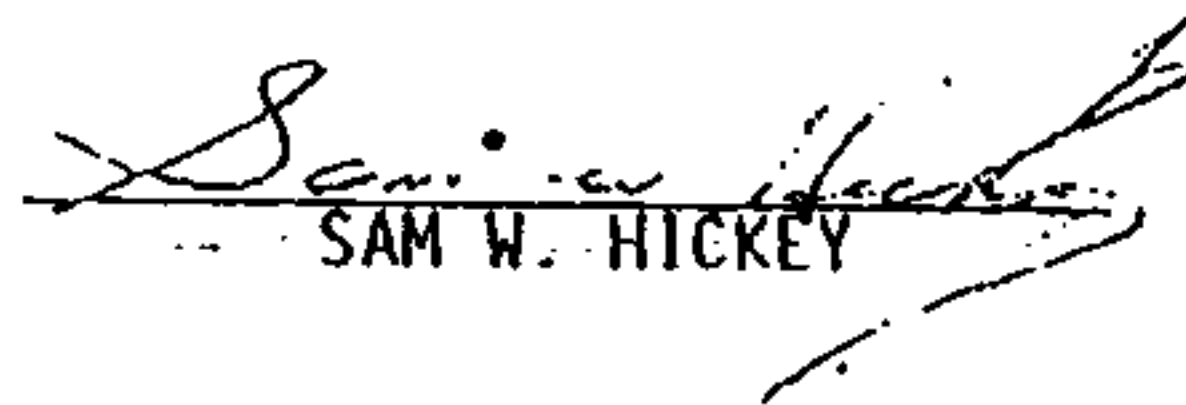
EXHIBIT 'B' (PAGE 2 OF 2)  
MOUNTAIN FARMS  
TITE ROAD

Sheet 2 of 2 Sheets

point "A", turn  $07^{\circ}04'40''$  left and run 152.80 feet along the centerline of the left fork of herein described 60.0 foot easement and the following courses;  $14^{\circ}27'03''$  right for 271.49 feet;  $37^{\circ}56'22''$  left for 54.75 feet;  $41^{\circ}17'11''$  left for 62.53 feet;  $21^{\circ}17'40''$  left for 95.82 feet;  $08^{\circ}59'51''$  left for 146.04 feet;  $45^{\circ}44'16''$  right for 291.49 feet;  $07^{\circ}08'55''$  right for 131.50 feet;  $12^{\circ}27'35''$  left for 127.65 feet;  $08^{\circ}51'47''$  left for 143.0 feet;  $03^{\circ}22'53''$  left for 330.81 feet;  $18^{\circ}10'55''$  left for 85.73 feet;  $19^{\circ}41'40''$  left for 193.99 feet;  $17^{\circ}34'42''$  right for 107.91 feet;  $25^{\circ}43'25''$  right for 73.48 feet; thence turn  $24^{\circ}31'05''$  right and run 144.64 feet to the point of termination of this easement segment.

I hereunto set my hand this the 26th. day of February, 1996.

HICKEY LAND SURVEYING, INC.

  
SAM W. HICKEY

4848  
Al. Reg.





**EXHIBIT "B-1"**  
**TO AMENDED DECLARATION OF RESTRICTIVE COVENANTS FOR**  
**MOUNTAIN FARMS**

1. With respect to Article IV paragraph 3(A), The Developer Maintenance Period shall expire on March 21, 1997.

2. With respect to Article IV paragraph 17, the following shall apply: Without consent of all of the Lot Owners, no firearms shall be discharged on the Property other than:

- (A) Shotguns (without slugs); or
- (B) Rifles no larger than 22 caliber; or
- (C) Hand guns no larger than 25 caliber. There shall be no organized hunting and/or clubs conducted on the Property.



EXHIBIT 'C'  
MOUNTAIN FARMS  
THE PROMENADE

From the true S.W. corner of Section 25, T18S-R1E, run thence East along the true South boundary of said Section 25 a distance of 3980.80 feet to the point of beginning of herein described parcel of land; thence turn 89°09'49" left and run 92.09 feet to an accepted pine knot corner; thence turn 93°08'46" right and run 36.24 feet to a point in the centerline of a 60.0 foot easement for ingress and egress and utilities; thence turn 46°13'20" right and run 8.37 feet along said easement centerline and the following courses; 29°42'55" right and run 99.94 feet; 23°12'33" left and run 43.46 feet; 71°58'42" left and run 41.30 feet; 45°41'25" left and run 128.07 feet; 25°03'40" right and run 47.93 feet; 60°01'39" right and run 28.70 feet; 51°33'40" right and run 115.77 feet; 37°45'44" left and run 57.15 feet; 56°02'27" left and run 58.73 feet; 27°10'23" left and run 79.26 feet; 21°30'42" left and run 73.89 feet; 19°56'42" left and run 147.29 feet; 39°41'34" right and run 38.84 feet; 75°01'37" right and run 37.88 feet; 34°39'43" right and run 65.60 feet; 16°36'52" right and run 132.71 feet to a point on an accepted property line; thence turn 75°17'44" left and run along said property line a distance of 57.07 feet to an accepted iron; thence continue along said course a distance of 590.45 feet to an accepted pipe on the East boundary of Co. Hwy. #55; thence continue along said course a distance of 97.70 feet to the true N.E. corner of Section 36, T18S-R1E; thence turn 85°28'06" right and run 210.03 feet to an accepted iron property corner; thence turn 94°28'49" right and run along an accepted property line a distance of 1339.03 feet to an accepted iron; thence turn 86°53'57" right and run 118.08 feet to the point of beginning of herein described parcel of land, containing 6.17 acres, subject to a 60.0 foot easement for ingress and egress and utilities, being 30.0 feet either side the centerline of the existing paved drive leading from Co. Hwy. #55 westerly across the parcel heretofore described, also, subject to any and all other rights-of-way and easements of record across said parcel.

LESS AND EXCEPT ANY PORTION OF  
THE ABOVE DESCRIBED PROPERTY  
LYING EAST OF THE RIGHT OF  
WAY OF SHELBY COUNTY HIGHWAY 55.

Inst # 1996-20274

06/21/1996-20274  
04:09 PM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
034 NCB 92.00