

STATE OF ALABAMA       )  
                                  :  
SHELBY COUNTY         )

### **EASEMENT AGREEMENT**

THIS EASEMENT AGREEMENT (this "Agreement") is made and entered into as of the 7<sup>th</sup> day of January, 1999 by GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company ("Developer"), and EMRIS H. GRAHAM, JR. and wife, SHARON D. GRAHAM ("Owner").

### **RECITALS:**

Owner is the owner of that certain real property (the "Adjacent Saddle Creek Lot") situated in Shelby County, Alabama which is more particularly described as Lot 4-C, according to the Resurvey of Lots 4-C and 4-D, Saddle Creek Farms, as recorded in Map Book 14, Page 19 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office").

Developer desires to grant to Owner a permanent and perpetual driveway easement over, across, through and upon that certain real property (the "Easement Property") owned by Developer which is more particularly described in Exhibit A attached hereto and incorporated herein by reference.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and Owner do hereby agree as follows:

#### **1       Driveway Connection Rights.**

(a)       Subject to Owner's compliance with all of the terms and provisions of this Paragraph 1, Developer does hereby grant to Owner, for the benefit of the Adjacent Saddle Creek Lot, a permanent and perpetual easement appurtenant (the "Driveway Easement") over, across, through and upon the Easement Property for the purpose of providing vehicular and pedestrian ingress and egress to and from the Adjacent Saddle Creek Lot and that certain cul-de-sac known as "Montrose Road" which is shown and depicted on that certain subdivision plat entitled "Greystone 7th Sector, Phase V" recorded in Map Book 23, Page 61 in the Probate Office.

(b)       The exercise of the Driveway Easement by Owner shall be subject to satisfaction of all of the following terms and conditions:

(i)       Owner, at Owner's sole cost and expense, shall be solely responsible for constructing, operating, maintaining, repairing and replacing a driveway with appropriate storm drainage facilities (the "Driveway") over and across the Easement Property;

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(ii) At such time as Owner commences use of any Driveway constructed on the Easement Property, Owner shall (1) subject and encumber the Adjacent Saddle Creek Lot with and to the terms, covenants, conditions, easements, restrictions, changes and liens of the Greystone Residential Declaration of Covenants, Conditions and Restrictions dated as of November 6, 1990 and recorded in Real 317, Page 260 in the Probate Office, as amended from time to time (collectively, the "Declaration"); provided, however, that any and all improvements situated on the Adjacent Saddle Creek Lot at the time such Adjacent Saddle Creek Lot is subjected to and encumbered by the Declaration shall automatically be deemed to be in full compliance with all of the terms and provisions of the Declaration and (2) use best efforts to petition the City of Hoover, Alabama (the "City") and cause the Adjacent Saddle Creek Lot to be annexed into the City;

(iii) Any Driveway constructed on the Easement Property and the exercise of the Driveway Easement shall only benefit the Adjacent Saddle Creek Lot. Only one (1) driveway shall be constructed and maintained on the Easement Property and the Driveway shall serve only one (1) residence situated on the Adjacent Saddle Creek Lot; and

(iv) Without the prior written consent of Developer, which consent may be withheld by Developer in its sole and absolute discretion, Owner shall not (1) grant to any person or entity (other than the then owner of the Adjacent Saddle Creek Lot) any rights to cross or come upon the Adjacent Saddle Creek Lot in order to utilize the Driveway or Driveway Easement or (2) transfer or assign the Driveway Easement or any rights or interests therein to any other person or any other real property (other than to any subsequent owner of the Adjacent Saddle Creek Lot).

(c) Subject to the terms and provisions of Paragraphs 1(b) above which limit, restrict or prohibit the assignment of any of the rights granted pursuant to this Paragraph 1, the terms and provisions of this Paragraph 1 shall be binding upon and inure to the benefit of Developer, Owner and their respective heirs, executors, personal representative, successors and assigns.

2. **Amendments.** This Agreement may not be modified or amended except by a written instrument executed by Developer and the then owner(s) of the Adjacent Saddle Creek Lot.

IN WITNESS WHEREOF, Developer and Owner have executed this Agreement as of the day and year first above written.

**GREYSTONE DEVELOPMENT COMPANY,  
LLC, an Alabama limited liability company**

By: DANIEL REALTY CORPORATION, an Alabama  
corporation, Its Manager

By: 

Its: VIC - PRESIDENT



Emris H. Graham, Jr.



Sharon D. Graham

STATE OF ALABAMA

SHELBY COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that M. Lewis Gwaltney, whose name as Vice President of DANIEL REALTY CORPORATION, an Alabama corporation, as Manager of GREYSTONE DEVELOPMENT COMPANY, LLC, an Alabama limited liability company, 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 officer and with full authority, executed the same voluntarily for and as the act of said corporation, acting in its capacity as Manager of said limited liability company.

Given under my hand and official seal this 7 day of January, 1999.

  
Notary Public

[NOTARIAL SEAL]


My commission expires: 11/2/99

STATE OF ALABAMA

SHELBY COUNTY

I, the undersigned, a notary public in and for said county in said state, hereby certify that Emris H. Graham, Jr. and wife, Sharon D. Graham, 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 11 day of January, 1999.

  
Notary Public

[NOTARIAL SEAL]

My commission expires: 1/10/2000



**CONSENT OF DANIEL OAK MOUNTAIN LIMITED PARTNERSHIP**

Daniel Oak Mountain Limited Partnership, an Alabama limited partnership, as the "Developer" under the Declaration referenced in Paragraph 1(b)(ii) above, joins in the execution of this Easement Agreement and does hereby (a) consent to the granting of the Driveway Easement to Owner, (b) acknowledge and agree that Owner may, upon completion of construction of the Driveway on the Easement Property, utilize the Driveway for pedestrian and vehicular ingress and egress between the Adjacent Saddle Creek Lot and the cul-de-sac known as Montrose Road which is situated within the Development, as such term is defined in the Declaration and (c) consent to the terms and provisions of Paragraph 1(b)(ii) above.

Dated as of the 7 day of January, 1999.

**DANIEL OAK MOUNTAIN LIMITED  
PARTNERSHIP**, an Alabama limited  
partnership

By: DANIEL REALTY INVESTMENT  
CORPORATION - OAK MOUNTAIN,  
an Alabama corporation, Its General Partner


By:   
Its: VICE-PRESIDENT

STATE OF ALABAMA )

SHELBY COUNTY )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that M. Lewis Gwaltney whose name as Vice President of DANIEL REALTY INVESTMENT CORPORATION - OAK MOUNTAIN, an Alabama corporation, as General Partner of DANIEL OAK MOUNTAIN LIMITED PARTNERSHIP, an Alabama limited partnership, 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 officer and with full authority, executed the same voluntarily for and as the act of such corporation in its capacity as general partner as aforesaid.

Given under my hand and official seal this the 7 day of January, 1999.

  
Notary Public  
My Commission Expires: 11/2/99

This instrument prepared by and  
upon recording should be returned to:

Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
2001 Park Place, Suite 1400  
Birmingham, Alabama 35203  
(205) 521-8429

**EXHIBIT A**

**LEGAL DESCRIPTION OF EASEMENT PROPERTY**

## EXHIBIT A

A 20 foot drive easement for ingress and egress situated in Lot 4D in a Resurvey of Lots 4C and 4D Saddle Creek Farms as recorded in Map Book 14, Page 19, in the Office of the Judge of Probate, Shelby County, Alabama, lying 10 feet either side of a line being more particularly described as follows: Commence at an iron pin found at the Southwest corner of said Lot 4D, said iron pin found also being on the North line of Lot 11 in Greystone 7<sup>th</sup> Sector Phase V as recorded in Map Book 23, Page 61, in the Office of the Judge of Probate, Shelby County, Alabama; thence run East along the South line of said Lot 4D and along the North line of said Lot 11 for a distance of 217.45 feet to the point of beginning, said point of beginning being on a curve to the left having a central angle of  $51^{\circ}11'07''$  and a radius of 63.75 feet; thence turn an interior counterclockwise angle to the left of  $23^{\circ}33'09''$  to the radius of said curve and run in a Northwesterly direction along the arc of said curve for a distance of 56.95 feet to a point on a reverse curve to the right having a central angle of  $24^{\circ}49'35''$  and a radius of 141.27 feet; thence run in a Northwesterly direction along the arc of said curve for a distance of 61.21 feet to a point; thence run tangent to last stated curve in a northwesterly direction for a distance of 31.90 feet to a point on a curve to the right having a central angle of  $48^{\circ}43'58''$  and a radius of 33.12 feet; thence run in a Northwesterly direction along the arc of said curve for a distance of 28.17 feet to a point; thence run tangent to last stated curve in a Northwesterly direction for a distance of 50.61 feet to a point on a curve to the left having a central angle of  $54^{\circ}37'13''$  and a radius of 22.57 feet; thence run in a Northwesterly direction along the arc of said curve for a distance of 21.52 feet to a point on the West property line of said Lot 4D, said point being the end of said easement.

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