

STATE OF ALABAMA     )  
                                  :  
SHELBY COUNTY         )

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS, EASEMENTS AND RIGHTS FOR THE  
MEADOW BROOK PROFESSIONAL AND MEDICAL CENTRE SUBDIVISION**

THIS DECLARATION (this "Declaration") is made as of the 3rd day of August, 1999, by **CSG CONSTRUCTION COMPANY, INC.**, an Alabama corporation (the "Developer"), and **SORY W. SHANNON, JR.** ("Shannon").

**WITNESSETH:**

The Developer and Shannon, as the owners of that certain real property (the "Property") described on Exhibit A attached hereto and incorporated by reference, desire that all of the Property be used as a professional office and medical office park and be subject to certain covenants, conditions, restrictions, easements and rights, all of which shall run with the land.

Shannon, as the owner of Lot 3, according to the Survey of Meadow Brook Professional and Medical Centre, First Sector, as recorded in Map Book 17, Page 21 in the Office of the Judge of Probate of Shelby County, Alabama (the "Shannon Lot"), has joined in the execution of this Declaration by the execution of the Consent of Owner attached hereto and incorporated herein by reference and does hereby (a) consent to and approve of all of the terms and provisions of this Declaration, including the creation of the easements and rights herein and the liens and contribution obligations hereinafter set forth and (b) covenant and agree that the Shannon Lot does not constitute the homestead of either Shannon or his spouse. All references herein to the Property and the Lots shall mean and include the Shannon Lot.

**NOW, THEREFORE**, the Developer does hereby declare that the Property is and shall be held, transferred, sold, conveyed, leased, mortgaged, occupied and used subject to the covenants, conditions, limitations, restrictions, reservations, easements, liens, charges, rights and privileges hereinafter set forth.

**ARTICLE I  
DEFINITIONS**

The following words or terms when used in this Declaration shall have the following meanings, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

**Section 1.1**    "**ACC**" shall mean and refer to the architectural control committee for the Property to be appointed, elected and removed in accordance with the terms and provisions of Article VIII below.

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SHELBY COUNTY JUDGE OF PROBATE  
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CLAYTON T. SWEENEY, ATTORNEY AT LAW

Inst # 1999-32727

**Section 1.2 "Additional Property"** shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Property) which the Developer may from time to time elect to add to the provisions of this Declaration pursuant to the provisions of Section 2.2 below. The Additional Property may also include additional Landscape Easement Areas.

**Section 1.3 "Developer"** shall mean and refer to CSG Construction Company, Inc. and its successors and assigns.

**Section 1.4 "Improvement"** with an initial capital letter, shall mean and refer to any building and any other device or other improvement constructed, situated, erected, maintained or placed upon any Lot which in any way affects the exterior appearance of any Lot. Improvement shall include, by way of illustration and not limitation, buildings, structures, sheds, foundations, covered patios, mailboxes, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural condition of any Lot. Improvements shall also mean any grading, excavation or fill, the volume of which exceeds eight (8) cubic yards.

**Section 1.5 "Landscape Easement Area"** shall mean and refer to those areas of the Property designated by the Developer as the "Landscape Easement Area" and now or hereafter shown on a Subdivision Plat; including, without limitation, the grounds that are within the median of the entrance road to the Property, and any landscape plantings, lighting, irrigation systems and other Improvements located therein.

**Section 1.6 "Lot"** shall mean and refer to any numbered part or parcel of the Property so designated by the Developer and now or hereafter shown on the Subdivision Plat.

**Section 1.7 "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including the heirs, personal representatives, successors and assigns of an Owner. Notwithstanding any applicable title theory concerning mortgages, deeds of trust or deeds to secure debts, "Owner" shall not mean or refer to the holder of a mortgage, deed of trust or deed to secure debt covering a Lot unless and until such holder has acquired title to a Lot pursuant to a foreclosure or any proceeding in lieu of foreclosure.

**Section 1.8 "Subdivision Plat"** shall mean and refer to (a) that certain plat of the Property which is more particularly described in Exhibit A attached hereto and incorporated herein by reference, as the same may be amended and modified in accordance with this Declaration and (b) any other plats reflecting any Additional Property which may be added to the terms of this Declaration pursuant to Section 2.2 below.

**Section 1.9 "Turnover Date"** shall mean and refer to the earlier of (a) the date on which the Developer no longer owns any of the Property or (b) the date on which Developer elects, in its sole and absolute discretion, to relinquish all rights to appoint and remove members of the ACC.



**Section 1.10 "Utility Easement Area"** shall mean and refer to those areas of the Property for the placement of utilities all as shown on the Subdivision Plat.

## **ARTICLE II PURPOSE OF DECLARATION**

**Section 2.1 General Declaration.** Developer does hereby declare that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration. Developer does further declare that the Property and each Lot and any Improvements to any Lot shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with title to the Property and each Lot thereof and shall be binding upon and inure to the benefit of Developer and all Owners and their respective heirs, executors, successors and assigns.

**Section 2.2 Additional Property.** Developer shall have the right, in its sole and absolute discretion, at any time and from time to time, to add and submit any Additional Property to the provisions of this Declaration and, to the extent any Additional Property is submitted specifically to the terms and provisions of this Declaration by Developer, then any such Additional Property shall constitute part of the Property. Additional Property may be submitted to the provisions of this Declaration by an instrument executed by Developer (and the owner of any Additional Property to the extent the same is not owned by Developer) and recorded in the Office of the Judge of Probate of Shelby County, Alabama, which instrument shall be deemed an amendment to this Declaration (which need not be consented to or approved by any Owner) and shall (a) refer to this Declaration stating where this Declaration has been recorded in the Office of the Judge of Probate of Shelby County, Alabama, (b) contain a statement that such Additional Property is specifically made subject to the provisions of this Declaration or only portions thereof, (c) contain a legal description of such Additional Property and (d) state such other or different covenants, conditions and restrictions as Developer, in its sole discretion, shall specify to regulate and control the use, occupancy and improvement of such Additional Property. From and after the date on which an amendment to this Declaration is recorded submitting any Additional Property to the terms and provisions of this Declaration, the total number of votes applicable to the Property (including any Additional Property) shall be increased by the number of Lots within such Additional Property. In no event shall Developer be obligated to submit any Additional Property to the provisions of this Declaration or to impose any of the covenants, conditions or restrictions set forth in this Declaration upon any real property owned by Developer or otherwise situated adjacent to or in close proximity with the Property.

**Section 2.3 Mutuality of Benefit and Obligation.** The provisions of this Declaration are made (a) for the mutual and reciprocal benefit of each Lot within the Property and are intended to create mutual, equitable servitudes upon and in favor of each Lot, (b) to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of any Lots within the Property and (c) to create a privity of contract and estate between the Owners, their respective heirs, executors, successors and assigns.

**Section 2.4 Development of Property.** Developer shall have the right, but not the obligation, without being required to obtain the consent or approval of any Owners, to make Improvements and changes to the Landscape Easement Area and any Lots owned by Developer, including, without limitation (a) installation and maintenance of any Improvements in or to the Landscape Easement Area, (b) changing the location of the boundaries of any Lots owned by Developer, (c) installation and maintenance of any water, sanitary sewer, storm sewer and any other utility systems and facilities within the Landscape Easement Area, the Utility Easement Area or any of the public or private streets or roads within the Property and (d) subdivide, resubdivide and combine any Lots owned by Developer and otherwise amend the Subdivision Plat with respect to any Lots owned by the Developer, as provided in Section 2.5 below.

**Section 2.5 Designation of Lots.** With respect to any Lots owned by the Developer, the Developer shall have the right and power, but not the obligation, to (i) further subdivide such Lots into more than one Lot, (ii) withdraw its designation of any parcel of the Property as a Lot, (iii) redesignate any previously designated parcel of the Property as a Lot having different boundaries and configurations from those previously designated and (iv) divide or subdivide a Lot into two or more Lots, in each case without any requirement that the consent or approval of any Owners be obtained.

### **ARTICLE III EASEMENTS**

**Section 3.1 Reservation of Utility Easements.** The Developer reserves for the benefit of all providers of public or private utilities a permanent and perpetual easement on, over, across, through and under each Utility Easement Area around the Lots for the purpose of constructing, installing, maintaining, repairing, replacing and using the utility facilities as may now or hereafter be located within the Utility Easement Areas (including, without limitation, utility facilities for water, electricity, gas, telephone, cable television, sanitary sewer, storm sewer and other public conveniences or utilities) and as may be reasonably required, necessary or desirable to provide economical and safe utility services to the Lots or any other real property situated adjacent to or in close proximity with the Property. Such easement includes, without limitation, the right of any provider to cut and remove any trees, bushes or shrubbery; cut, grade and fill the ground; or take any other similar action reasonably required, necessary or desirable to provide such utility facilities, including the right to locate poles, wires, conduits, pipes, manholes, encasements and similar utility facilities on, over, across, through and under each Utility Easement Area.

**Section 3.2 Reservation of Landscape Easements.** The Developer reserves for the benefit of all Owners and the ACC a permanent and perpetual easement on, over, across, through and under the Landscape Easement Area, including the median area for the entrance road into the Property (which is not shown on the Subdivision Plat), for the purpose of constructing, installing, maintaining, repairing and replacing such landscape plantings, Improvements and signage as the ACC may, in its sole discretion, elect to install, place or maintain within the Landscape Easement Area (including, without limitation, grass, trees, bushes, shrubs, flowers, walls, fences, walkways, trails, electrical lighting devices, sculptures, decorative structures, directional and identity signage, monument signage and irrigation facilities) and as may be reasonably required, necessary or



desirable to provide landscaping within the Landscape Easement Area. Such easement includes, without limitation, the right to cut and trim grass, trees, bushes or shrubbery; cut, grade and fill the ground; construct walls, fences, walkways, trails, electrical lighting devices, sculptures, decorative structures, directional and identity signage and irrigation facilities; or take any other similar action reasonably required, necessary or desirable to provide such landscaping, including the right to locate drainage facilities, wires, conduits, pipes and similar facilities on, over, across, through and under each Landscape Easement Area.

#### **ARTICLE IV**

#### **USE AND PROPERTY RESTRICTIONS**

**Section 4.1    Use Restrictions.** Each Lot shall be used only for professional, business or medical office purposes or for such other uses authorized and approved by the ACC. Notwithstanding anything provided in this Section 4.1 to the contrary, the Landscape Easement Area may be used and developed for any of the uses described in Section 3.2 above.

**Section 4.2    Plan Approval.** No Building or other Improvements of any nature whatsoever shall be constructed on any Lot unless the plans and specifications therefore have been approved by the ACC in the manner set forth in Article VII hereof.

**Section 4.3    Utilities.**

(a) All utility lines, pipes, conduits and wiring for electrical, gas, telephone, water, sewer, cable television, security and any other utility service for any portion of the Property shall be installed and maintained below ground.

(b) All electrical, gas, telephone and cable television meters, if any, shall be located at the rear of all buildings and shall otherwise be screened so as not to be visible from any public or private roadway within the Property. All Owners shall install and maintain landscaping around all such meters and all electrical transformers and junction boxes situated on any Owner's Lot in a manner to visually screen, to the greatest extent practicable, all such meters, transformers and junction boxes from view from any public or private roadway. All exterior heating, ventilating and air conditioning compressor units and equipment shall be located either within a wholly enclosed penthouse (equipment room) on top of the building or on the ground level of such building in such a location and with an appropriate screen of either walls or landscaping so that the same is not visible from any public or private streets within the Property.

**Section 4.4    Maximum Ground Coverage.** The maximum ground coverage ratio for each Lot shall not exceed the maximum ground coverage ratio, if any, established for that particular Lot under the Office and Institutional District ("O&I District") zoning classification set forth in the Shelby County, Alabama Zoning Ordinance, as may be amended from time to time (collectively, with any such amendments, the "Zoning Ordinance").

**Section 4.5    Minimum Building Setback Lines.** The minimum building setback lines for each Lot shall not be less than the minimum building setback lines, if any, established for that

particular Lot under the O&I District zoning classification set forth in the Zoning Ordinance. If the Zoning Ordinance does not establish minimum building setback lines for O&I Districts, then the minimum building setback lines for each Lot shall be established either by (a) the deed to such Lot, (b) the Subdivision Plat reflecting such Lot or (c) the ACC.

**Section 4.6 Height Limitations.** The maximum height limitations for any buildings to be constructed on each Lot shall be determined by the ACC, in its sole and absolute discretion; provided, however, that the maximum height limitations for any building shall not exceed the maximum building height limitations, if any, established for that particular Lot under the O&I District zoning classification set forth in the Zoning Ordinance.

**Section 4.7 Maximum Floor Area Ratio.** The maximum floor area ratio for each building on each Lot shall not exceed the maximum floor area ratio, if any, established for that particular Lot under the O&I District zoning classification set forth in the Zoning Ordinance. If the Zoning Ordinance does not establish a maximum floor area ratio, then the maximum floor area ratio for O&I Districts, then the maximum floor area ratio for each building to be situated on each Lot shall be established either by (a) the deed to such Lot, (b) the Subdivision Plat reflecting such Lot or (c) the ACC.

**Section 4.8 Landscaping and Mailboxes.** Each Lot shall be landscaped in accordance with landscaping plans to be submitted as part of the plans and specifications pursuant to Article VIII below. All exterior Improvements, including, without limitation, mailboxes, fountains, reflectors, flag poles, statutes, lawn sculptures, lawn furnishings, bird houses and all other fixtures and accessories of any nature must be approved by the ACC.

**Section 4.9 Exterior Lighting.** All exterior lighting for any building, including, without limitation, free standing lighting and accent lighting, must be approved by the ACC. The ACC may adopt rules and regulations requiring that all exterior lighting be turned off after a specific nighttime hour. All lighting shall, to the greatest extent practicable, illuminate only the Lot on which it is located, and shall be positioned in such a manner so as, to the greatest extent practicable, not to constitute a nuisance or hazard to any other Lots within the Property.

**Section 4.10 Approved Exterior Finishes and Roofing.** Unless otherwise approved by the ACC, the exteriors of all buildings within the Property shall be constructed of either brick, stone, stucco or dryvit (the colors and types of which must be approved by the ACC). No siding shall be allowed. All roofing must be metal roofing.

**Section 4.11 Off-Street Parking and Roadways.**

(a) Adequate off-street parking shall be constructed on each Lot as part of the construction of Improvements thereon. The size and location of all off-street parking on a Lot and the landscaping of all such parking areas shall be approved by the ACC in accordance with the provisions of Article VII hereof.

(b) No on-street parking or parking in or upon any of the Landscape Easement Areas.



All parking areas on each Lot shall (i) be paved to provide dust-free, all weather surfaces, (ii) be adequate in area and number of parking spaces provided in order to comply with the minimum standards required by any applicable provisions of the Zoning Ordinance, (iii) contain adequate driveways and space for movement of vehicles, (iv) meet at grade with connecting public or private streets, (v) be striped to designate parking spaces, (vi) contain concrete curbing, sidewalks and walkways as well as proper drainage and (vii) satisfy and comply with all applicable rules and regulations of all applicable governmental authorities. Each Owner shall maintain all parking areas and driveways on its Lot in a clean and good condition at all times and clear of all refuse, rubbish, trash or debris of any nature.

(c) All curb cuts providing access between any Lot and any public or private roadway within the Property shall be subject to the prior written approval of the ACC.

(d) No portion of any Lot and no drive or roadway constructed within the boundary lines of any Lot may be utilized to provide access, ingress to or egress from any property lying outside of the boundaries of the Property without the express prior written consent of the ACC, which consent may be withheld by the ACC in its sole and absolute discretion.

(e) Except as otherwise expressly provided in this Section 4.11(e), mobile homes, motor homes, trailers of any kind, campers, vans, motorcycles, bicycles, motorized carts and all-terrain vehicles, lawnmowers, tractors, tools, construction machinery and equipment of any nature, golf carts, boats and any other type of watercraft, including boat trailers, and any other similar type of vehicles, machinery or equipment shall not be permitted, stored or allowed to remain on any Lot unless the same is placed, stored and maintained within a wholly-enclosed structure, with roofing and doors, on such Lot, which structure must be approved by the ACC. Notwithstanding the foregoing provisions of this Section 4.11(e), the (i) temporary parking of automobiles, small pick-up trucks and motorcycles by employees, tenants or invitees of any Owner of any Lot during business hours or while working in any Building situated on any Lot, (ii) the use and temporary parking of golf carts, delivery trucks, vans and other vehicles which are making deliveries to any Lot or which are utilized in the maintenance or operation of any Improvements on any Lot or (iii) subject to the terms and provisions of Sections 4.21 and 4.22 hereof, the use and temporary parking of any construction-related vehicles, equipment or machinery which are utilized in the construction of Improvements on any Lot, shall, in each case, be permitted so long as such vehicles park in designated parking spaces and otherwise comply with the terms and provisions of this Declaration. Neither the Landscape Easement Areas nor any public or private streets within the Property shall be utilized for the parking or storage of any of the foregoing vehicles, recreational vehicles, machinery or equipment. Furthermore, any vehicle which is inoperable shall be immediately removed from the Property. No Owner shall repair or restore any vehicle, machinery or equipment of any kind upon or within any Lot (unless such repair work is conducted within a solely wholly-enclosed structure on any such Lot).

**Section 4.12 Fences.** No fences of any kind or material shall be permitted within the Property except as approved by the ACC.

**Section 4.13 Service and Storage Areas and Facilities.** No materials, supplies, equipment or machinery shall be stored on any Lot outside of a building without the prior written approval of the ACC; provided, however, that temporary storage of construction materials may be utilized during the construction of Improvements on a Lot so long as the same are removed upon completion of construction. Each building constructed on a Lot shall include a service area of adequate size and location to facilitate trash removal and for the loading and unloading of merchandise, materials and otherwise handling deliveries. All service areas shall be paved, be accessible to a public or private street, be enclosed on at least three (3) sides and be screened from view from any public or private streets within the Property by either walls, fencing or landscaping as may be approved by the ACC.

**Section 4.14 Satellite Dishes and Antennae.** No satellite dishes or radio, telephone (including cellular) or telecommunication antennae, receivers, aerials or other similar devices shall be attached to or installed on any Lot or building unless the same are approved by the ACC, which approval may be conditioned upon, among other things, that such dishes, antennae and other devices not be visible from any adjoining building or Lot. No radio or television signals or any other form of electromagnetic radiation or transmission shall be permitted to originate from any Lot or building which may interfere with the reception of radio or television signals within the Property or any other real property situated in close proximity with the Property.

**Section 4.15 Drainage.** Each Owner shall provide and maintain on its Lot adequate drainage facilities to accommodate any storm water runoff resulting from any Improvements being constructed on such Owner's Lot. Each Owner shall also insure that all storm water drainage is in compliance with all rules and regulations of applicable governmental authorities. Each Owner shall and does hereby indemnify, defend and agree to hold Developer and the ACC and their respective agents, employees, officers, directors, shareholders, members, trustees and representatives harmless from and against any and all fines, penalties, costs and expenses, including court costs and reasonable attorneys' fees, and all other amounts suffered, paid or incurred by any of them in connection with any action, suit or other proceeding (including the settlement of any suit or proceeding) to which any such person may be made a party by reason of the violation by such Owner of the terms and provisions of this Section 4.15.

**Section 4.16 Animals and Pets.** No animals, livestock, birds, poultry or pets of any kind shall be kept, raised or bred by any Owner upon any Lot or any other portion of the Property; provided, however, that animals which are trained in and are assisting persons with disabilities shall be authorized and allowed on the Property.

**Section 4.17 Trash, Rubbish and Nuisances.**

(a) No trash, garbage, rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property nor shall any nuisance or odors be permitted to exist or operate upon or arise from any Lot or Improvements which would render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using, occupying or owning any other Lots or Improvements within the Property. Each Owner shall refrain from any act or use of a Lot or building which could cause disorderly, unsightly or unkept conditions, result in the cancellation of



or increase in insurance coverage or premiums for any portion of the Property or be in violation of any law, statute, ordinance, rule, regulation or requirement of any applicable governmental authority. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than security and fire alarm devices used exclusively for such purposes, shall be located, used or placed upon any Lot or Improvements or other portion of the Property. Any Owner who dumps, places or allows trash or debris to accumulate on his Lot or Improvements or on any other portion of the Property shall be liable to the ACC for all costs incurred by the ACC to remove the same (although the ACC shall be under no obligation to remove the same).

(b) All outdoor refuse collection areas for each Lot shall be located in the service area for such Lot or building. No trash or refuse collection area shall be maintained within view of any public or private streets within the Property.

(c) Except during initial construction of Improvements to a Lot, no outdoor burning of trash, garbage, leaves, wood, shrubbery or other materials shall be permitted on any Lot.

(d) No noxious or offensive activities shall be carried on upon any portion of the Property nor shall anything be done or placed on any part of the Property which is or may become a nuisance or cause any unreasonable disturbance or annoyance to others, including, without limitation, smokestacks, incinerators, waste disposal ponds or lagoons, exterior waste or byproduct holding tanks, grain or feed mills or processing facilities, vegetable or animal oil mills or processing facilities, animal slaughter, packing or other processing facilities, animal byproduct packing or processing facilities, smelt or other mineral processing facilities, resource recovery or other recycling facilities, motor vehicle service or maintenance facilities (except as otherwise incident to other permissible uses) or heavy industrial facilities or manufacturing. No use shall be permitted to exist or operate upon any Lot or from any Improvement thereon which:

(i) Emits dust, sweepings, dirt, cinders, fumes, odors, radiation, gases or vapors or which discharges liquid or solid waste or any other harmful matter into the atmosphere or into any stream, river, or any other body of water;

(ii) Produces any intense glare or heat unless such use is performed only within enclosed or screened areas and then only in such manner that the glare or heat emitted will not be discernible from the boundary lines of such Lot;

(iii) Creates a sound pressure level in violation of any regulation of any of the applicable governmental authorities or which is offensive and creates a nuisance to any other Owner;

(iv) Allows the visible emission of smoke (outside of any building or Improvement) or allows emissions which would violate any regulation of any of the applicable governmental authorities;

(v) Creates a ground vibration that is perceptible, without instruments, at any point beyond the boundary lines of such Lot; or

(vi) Results in the production, generation, transportation, treatment, storage, discharge, disposable or use of any petroleum products or any toxic or hazardous chemical, material, substance, pollutant or waste in such quantities or concentrations which would be regulated by or violate the environmental or other rules, regulations, statutes, laws, ordinances or decrees of any of the applicable governmental authorities.

**Section 4.18 Signage.** All building and other signage (whether attached to a building or constructed as a freestanding sign) must be approved by the ACC. No signs or advertising posters of any kind shall be maintained or permitted within any windows or on the exterior of any Lot or building or elsewhere on any portion of the Property without the express written permission of the ACC. The approval of any signs and posters, including, without limitation, political campaign signs, name and address signs, building and monument signage and for-sale and for-lease signs, shall be upon such terms and conditions as may from time to time be determined by the ACC. Any signage which any Owner desires to place on its Lot at such time as such Owner is constructing Improvements thereon shall be considered a part of the Improvements which the plans and specifications therefore must be approved in writing by the ACC. Notwithstanding anything provided herein to the contrary, Developer shall have the right (but not the obligation) to construct, erect and maintain on any of the Property owned by Developer or within the Landscape Easement Area no trespassing signs, traffic control signage, parking regulation signage, signage identifying the Property, or any of the Lots.

**Section 4.19 Exterior Glass and Window Treatments.** No foil or other reflective material shall be installed on any windows or used for sunscreen, blinds, shades or other purposes on any buildings. Appropriate window treatments shall be used on all windows of all buildings.

**Section 4.20 Above Ground Tanks and Wells.** No exposed above-ground tanks for the storage of fuel, water or any other substances shall be located on any Lot, except as approved by the ACC, which approval may be conditioned upon such above-ground tanks being screened from view from any public or private streets within the Property by either walls, fencing and/or landscaping. No private water wells may be drilled or maintained and no septic tanks or similar sewage facilities may be installed or maintained on any Lot or building. Only public sewage systems shall be utilized for the discharge of sewage from any Lot or building.

**Section 4.21 Temporary Structures.** No temporary house, trailer, shack, tent, barn, shed, stable, poultry house or yard, rabbit hut, treehouse or other outbuilding or structure of any kind, shall be permitted, constructed, installed or allowed to remain on any Lot; provided, however, that the foregoing shall not be deemed to prohibit (a) temporary structures for social functions as may be permitted from time to time by the ACC or the rules and regulations of the ACC, (b) construction trailers and sales offices of Developer and (c) construction trailers utilized during the construction of any buildings. To the extent allowed by the terms and provisions of this Section 4.21, any construction trailers shall be located as inconspicuously as possible in locations approved by the ACC and shall be removed as soon as possible after completion of construction of all Improvements on such Lot.



#### **Section 4.22 Construction of Improvements.**

(a) During the construction of any Improvements, (i) all Lots shall be maintained in a clean condition, free of debris and waste material, (ii) all unused construction materials shall be stored, to the extent practicable, out of view from any public or private roadways providing access to the Property and (iii) all construction trash, debris and rubbish on each Lot shall be properly disposed of outside the Property at least weekly. Used construction materials may be burned on-site so long as such burning is conducted at the rear of such Lot and does not create a nuisance to other Owners or violate the laws, ordinances, codes, statutes, rules or regulations of any applicable governmental authority. In no event, however, shall any used construction materials be buried on or beneath any Lot or any other portion of the Property. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any public or private street providing access to the Property. Each Owner and each Owner's contractor, subcontractors, laborers and suppliers shall cause all such dirt, mud, gravel and other substances to be removed from the treads and wheels of all vehicles used in the construction of the Improvements on a Lot prior to such vehicles traveling on any of the public or private roadways within the Property.

(b) Upon completion of construction of any Improvements on a Lot, all construction machinery, tools and equipment, all unused construction materials and all trash, debris and rubbish shall be immediately removed from such Lot and such Lot and all Improvements thereto shall be kept and maintained in a clean and uncluttered condition.

(c) No construction trucks, equipment or machinery, including any trailers used for the transportation of construction equipment or machinery, shall be parked overnight on any streets or roads within the Property.

(d) All buildings and any other Improvements shall be constructed in compliance with all applicable laws, ordinances, rules, regulations and zoning and building code requirements of the applicable governmental authorities. Each Owner shall be solely responsible for obtaining from the appropriate governmental authorities all necessary permits and licenses and otherwise paying all required fees for the construction of any Improvements on such Owner's Lot. Each Owner shall also be responsible for strict compliance with all applicable watershed protection, soil erosion and other governmental requirements, both during and after completion of construction of any Improvements on such Owner's Lot.

**Section 4.23 Subdivision and Interval Ownership.** Except as otherwise provided to the contrary in Section 2.5 above, no Lot may be subdivided or resubdivided without the prior written approval of the ACC. No Lot or any Improvements thereto shall be sold or owned under any time-sharing, time-interval or similar right-to-use programs.

**Section 4.24 Variances.** The ACC, in its sole and absolute discretion, shall have the exclusive right to grant variances with respect to the provisions of this Article IV above and under Article VII with respect to any Lot or any Improvements thereto. Any variance request submitted to the ACC shall be in writing and, upon approval of the same by the ACC, shall be evidenced by a written variance executed by either the chairman or vice-chairman of the ACC.

**Section 4.25 Enforcement and Remedies.** In the event any of the provisions of this Article IV are breached or are not otherwise being complied with in all aspects by any Owner or the respective family members, guests, invitees, tenants agents, employees or contractors of any Owner, then the ACC shall have the right, at its option, to exercise any of the rights and remedies set forth in Article XI below.

## **ARTICLE V MAINTENANCE**

**Section 5.1 Exterior Maintenance by Owners.** Each Owner shall maintain his Lot, together with any Improvements thereon, in an overall condition compatible with other first-class office and commercial developments in the Inverness, Shelby County, Alabama area. Specifically, each Owner shall perform regular, routine maintenance on the Lot and the exterior of all Improvements thereon in a timely and expeditious manner in order to preserve the original improved condition and appearance thereof and to keep the Lot and Improvements thereon in good working order and repair, including, but not limited to, cleaning, painting, repairing and replacing exterior components of all Improvements as required; seeding, watering and mowing lawns; planting, pruning, and cutting trees and shrubbery; and other appropriate external care of all landscaping and improvements, in a manner consistent with first-class property management. Each Owner shall make diligent efforts to prevent and promptly correct any unclean or unsightly condition on its Lot. No Owner or Lot shall be exempt from these requirements merely because such Owner's Lot is unimproved.

**Section 5.2 Maintenance for Delinquent Owner.** If the ACC shall determine that any Owner is delinquent in discharging properly such Owner's obligations with regard to the maintenance, cleaning, repair or replacement of the Owner's Lot or the Improvements thereon, then the ACC shall give the delinquent Owner written notice of the ACC's intent to provide the necessary maintenance, cleaning, repair or replacement, at the delinquent Owner's sole cost and expense. The delinquent Owner shall have fifteen (15) days from receipt of such notice within which to complete such maintenance, cleaning, repair or replacement in a good and workmanlike manner, or in the event such maintenance, cleaning, repair or replacement is not capable of completion within such period, to commence such maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good and workmanlike manner. In the event of a failure of any Owner to comply with the provision hereof after such notice, the ACC may provide any such maintenance, cleaning, repair or replacement at the delinquent Owner's sole cost and expense. Such cost and expense shall be due and payable thirty (30) days after delivery of notice to the delinquent Owner of the amount thereof, and if such cost and expense is not paid when due, then the unpaid portion shall constitute an Individual Contribution (as defined in Section 6.5 below) which will be subject to the lien rights and foreclosure provisions set forth in Section 6.8 below.

## **ARTICLE VI BUDGETS AND CONTRIBUTIONS**

**Section 6.1 Budgets.** Each year, the ACC shall prepare an annual budget for the contemplated costs of operating, maintaining, repairing, improving and replacing the Landscape



Easement Area and any Improvements thereto and any other Improvements within the Property which are for the benefit of all Owners (such as, without limitation, street lights) and the payment of any Common Expenses, as defined in Section 6.3 below. Each annual budget must be approved by a majority of the Owners (subject to the terms and provisions of Section 8.2 below). If, for any reason, the Owners do not or cannot, by majority vote of the Owners entitled to vote thereon, approve an annual budget, then until such time as such annual budget has been approved by a majority vote of the Owners entitled to vote thereon, the budget from the immediately prior year shall continue in full force and effect and the Owners shall make annual contributions based on such preceding year's budget.

**Section 6.2    Lien and Personal Obligation.**    Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree with the Developer and all Owners to pay its pro rata portion of the cost and expense of operating, maintaining, repairing, improving and replacing the Landscape Easement Area and the Improvements therein, or any other Improvements within the Property which are for the benefit of all the Owners (such as, without limitation, street lights) such contributions to be fixed, established and collected from time to time as hereinafter provided. Such contributions, together with interest thereon, as hereinafter provided, and costs of collection, together with special contributions levied pursuant to Section 6.4 below and any Individual Contributions levied pursuant to Section 6.5 below, shall be an equitable charge and a continuing lien upon each Lot for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner set forth in Section 6.8 below. Each Owner shall be personally liable for the payment of all such contributions coming due while such person is the Owner of a Lot and such Owner's grantee shall take title to such Lots subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee which were the legal obligations of the grantor. All contributions (whether annual, special or Individual Contributions) 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 anticipation of the exercise of the right eminent domain, condemnation or by private purchase thereof with respect to any Lot, any of the Landscape Easement Area or any other portions of the Property or for any other cause or reason or reason of any nature whatsoever. All such contributions shall be paid into a fund for the benefit of the Owners at a financial institution with offices in the State of Alabama and disbursed for the Common Expenses, as hereinafter defined, authorized by the then applicable approved budget. Upon a majority vote of the Owners entitled to vote thereon (subject to the provisions of Section 8.2 below), the Owners shall be authorized to employ a professional management company for the Property, who may manage the same and disburse all funds collected for the common benefit and the Property. Any such budget approvals shall also authorize one or more of the Owners (or the ACC) or management company to draw on the funds for payment of all approved Common Expenses and budget items.

**Section 6.3    Purpose of Annual Contributions.**    The annual contribution shall be used exclusively for the purpose of promoting the health, safety, welfare and enjoyment of the Owners, including, without limitation, paying any and all of the following costs and expenses (collectively, the "Common Expenses"): all costs and expenses of maintaining, operating, repairing, improving and replacing the Landscape Easement Area and any other amenities and facilities serving the

Property; salaries, fringe benefits and other compensation paid and any out-of-pocket expenses incurred with respect to the maintenance of the Landscape Easement Area or the administration of the same; management fees and expenses of administration, including legal and accounting fees; utility charges for any utilities serving any portion of the Landscape Easement Area; the costs of any insurance policies purchased for the benefit of all Owners or the ACC, as provided for in any approved budget approved by the Owners pursuant to Section 5.1 above; any ad valorem real and personal property taxes assessed or levied upon the Landscape Easement Area; and the establishment and maintenance of a reasonable reserve fund to cover future Improvements to the Landscape Easement Area, to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds and unforeseen operating contingencies or deficiencies. Notwithstanding anything provided in this Section 6.3 to the contrary, and regardless of whether the then applicable annual budget contains budgeted amounts therefore, in the case of any emergency, any amounts then held in the bank accounts for the payment of annual contributions may be utilized to defer such emergency expenses.

**Section 6.4 Special Contributions.** On the affirmative vote of three-quarters (3/4) of the Owners entitled to vote thereon (subject to the provisions of Section 8.2 below), the Owners may levy for any calendar year a special contribution, applicable to that year only, for the purpose of paying any Common Expenses or any other costs and expenses relating to any capital improvement, repair or replacement of the Landscape Easement Areas or any other Improvements to the Property for the benefit of the Property as a whole. Special contributions shall be payable in the manner approved by the affirmative vote of three-quarters (3/4) of the Owners entitled to vote thereon (subject to the provisions of Section 8.2 below).

**Section 6.5 Individual Contributions.** Any costs or expenses incurred by the ACC as a result of any Owner's default in or failure to fully comply with the terms and provisions of Article IV hereof, Article V or Article VII hereof, shall constitute individual contributions ("Individual Contributions").

**Section 6.6 Uniform Rate of Annual and Special Contributions.** Each Owner of a Lot shall be subject to payment of the same annual contribution and special contribution, which amount shall be determined by dividing the total number of Lots within the Property by the total amount of the then applicable annual or special contribution.

**Section 6.7 Commencement and Payment of Contributions.** Annual contributions (and any then applicable special contributions levied pursuant to the provisions of Section 6.5 above) shall commence as to each Lot on the day on which such Lot is conveyed to a person other than Developer, subject to proration for the number of days remaining in the then applicable calendar year in which such Lot was conveyed to a person other than Developer. Subject to the foregoing and the other provisions of this Section 6.7, annual contributions shall be due and payable in full on or before January 31 of each year, in an amount fixed for each calendar year on the basis of the budget approved by a majority of the Owners entitled to vote thereon. Any special contribution shall be paid at the time or times as specified and approved by the Owners pursuant to Paragraph 6.5 above. Individual Contributions shall be paid within ten (10) days after notice of such Individual Contribution has been delivered to the affected Owner. Notwithstanding anything



provided herein to the contrary, Developer will not be responsible for the payment of any annual contributions or special contributions with respect to any Lots owned by Developer; provided, however, that until the Turnover Date, Developer will fund any deficits which exist between the total amount of annual contributions paid by other Owners and the actual amount of Common Expenses for any applicable year. From and after the Turnover Date, Developer will have no further obligation of any nature to pay any annual contributions or special contributions (other than for Lots then owned by Developer) and no further obligation to fund any of the foregoing described deficits.

**Section 6.8 Nonpayment of Contributions.** In the event any contribution (whether annual, special or an Individual Contribution) is not paid within ten (10) days after the due date of the same, then the unpaid portion thereof shall accrue simple interest at the lesser of 18% per annum or the highest rate which may be charged to such Owner by law (the "Applicable Rate") from and after the tenth day from the due date of the same until the same has been paid in full. In the event the ACC, the Owners or their respective designated agents employ an attorney or otherwise take any legal action in attempting to collect any amounts due from any Owner, then the Owner in default agrees to pay all attorneys' fees, court costs and all other expenses paid or incurred by the ACC or the non-defaulting Owners in enforcing the payment of contributions. There is hereby created a continuing lien on each Lot, with power of sale, which secures the payment of all contributions (annual, special and Individual Contributions) levied against or upon such Lot, interest at the Applicable Rate and all attorneys' fees, court costs and other expenses paid or incurred by the ACC or the non-defaulting Owners in collecting such contributions. If any portion of any contribution due from any Owner remains unpaid for more than thirty (30) days after the due date of the same, then in addition to the other rights and remedies specified herein, the ACC or the non-defaulting Owners may file a claim of lien and perfect their lien against the Lot of such delinquent Owner, which claim of lien shall be executed by the ACC or the non-defaulting Owners, contain the following information and be recorded in the Office of the Judge of Probate of Shelby County, Alabama:

- (a) The name of the delinquent Owner;
- (b) The legal description and street address (if any) of the Lot upon which the lien claim is made;
- (c) The total amount claimed to be due and owing, including 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
- (d) Contain a statement that the claim of lien is made by the Owners pursuant to this Declaration and is claimed against such Lot in an amount equal to that stated therein.

The lien provided for herein shall be in favor of the ACC and all non-defaulting Owners and may be foreclosed by either the ACC or the non-defaulting Owners 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 ACC and the non-defaulting Owners 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 of a delinquent Owner. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (i) grant to and vest in the ACC and all other Owners and their respective agents, the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (ii) grant to and vest in the ACC and all of the other Owners and their respective agents the rights and power to bring all actions against such Owner personally for the collection of all amounts due hereunder from such Owner, (iii) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (iv) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any suit or action for foreclosure.

**Section 6.9 Certificates.** Upon request, the Owners, or any designee of the Owners (including the ACC), shall furnish to any Owner upon request a certificate in writing setting forth whether any contribution has been paid, and such certificate shall be conclusive evidence of payment of any contribution therein stated to have been paid.

**Section 6.10 Subordination of Liens.** The lien for the contributions provided for herein shall be subordinate to the lien of any mortgage, deed of trust or deed to secure debt now or hereafter placed upon a Lot; provided, however, that such subordination shall apply only to contributions which have become due and payable prior to a sale or transfer of a Lot pursuant to a foreclosure, or any proceeding in lieu of foreclosure, and such sale or transfer shall not relieve the Lot from liability for any contributions thereafter becoming due, nor from the lien of any such subsequent contribution. The foregoing shall not relieve any Owner whose Lot has been foreclosed from the personal obligation to pay all contributions levied, assessed or incurred prior to the date of such foreclosure sale.

## **ARTICLE VII ARCHITECTURAL CONTROL COMMITTEE**

**Section 7.1 Membership.** Until the Turnover Date, Developer shall have the sole and exclusive right to appoint and remove, with or without cause, all members of the ACC. From and after the Turnover Date, the Owners, by majority vote of those Owners entitled to vote thereon, shall have the right to appoint and remove, with or without cause, at least three (3) persons to serve as members of the ACC. The ACC shall function by majority vote and shall have the right to establish such rules and regulations concerning procedure, notice of meetings, quorums and all other matters which may come before the ACC.

**Section 7.2 Prior Approval of Plans and Specifications.** No Improvements shall be commenced, erected, placed upon, moved onto or be permitted to remain on any Lot, nor shall any existing Improvement be altered, remodeled, replaced, renovated or restored in any way which would materially change or alter the exterior appearance of any Improvement, or add square footage or "density" to any building, nor shall any new use of any Improvement be commenced unless plans and specifications (including a description of any proposed new use) therefore shall have been submitted to and affirmed in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be required by said ACC, but in any event shall



include (i) a site plan of the Lot (including proposed front, rear and side setbacks of all Improvements), the location thereof with reference to Improvements on adjoining portions of the Property, and the number and location of all parking spaces and driveways on the Lot; (ii) architectural plans showing the nature, exterior color scheme, kind, shape, height and materials of all proposed Improvements; (iii) a grading plan for the particular Lot; (iv) a drainage plan, (v) a landscaping plan for such Lot and (vi) a signage plan for such Lot and any Improvements thereto. Proposed plans should be transmitted to the address as set forth below:

CSG Construction Company, Inc.  
5104 Cyrus Circle  
Birmingham, Alabama 35242  
Attn: Charles S. Givianpour

**Section 7.3 Basis For Disapproval of Plans.** The ACC shall have the right, in its sole and absolute discretion, to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) failure of any such plans or specifications to comply with any of the restrictions or provisions contained in the Declaration;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;
- (c) objection to the exterior design, appearance and materials of any proposed structure;
- (d) incompatibility of any proposed Improvements or use with existing Improvements or uses upon other Lots in the vicinity;
- (e) objections to the location of any proposed Improvements upon any Lot or with reference to other Lots in the vicinity;
- (f) objection to the site plan, grading plan or drainage plan for any Lot;
- (g) objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed Improvements;
- (h) objection to parking areas proposed for any Lot on the grounds of (i) incompatibility of proposed uses and improvements on such Lots, or (ii) the insufficiency of the size of parking areas in relation to the proposed use of the Lot;
- (i) failure of plans to take into consideration the particular topography, vegetative characteristics, and natural environment of the Lot;
- (j) that the Improvements exceed the square footage or density allocated to the Owner by the Developer at the time the Lot was conveyed to the Owner;

(k) failure of the building location to meet applicable minimum setback requirements;  
or

(l) any other matter which, in the sole judgment of the ACC, would render the proposed Improvements or uses inharmonious with the general plan of improvement of the Property or with Improvements or uses located upon other Lots.

Approval of any such plans shall terminate and be rendered void if construction is not begun within six (6) months after such approval, unless such six (6) month period is extended by agreement with the ACC, in which event the extended time period shall be applicable.

Upon commencement of construction of any Improvements on a Lot, construction work thereon shall be prosecuted diligently and continuously and shall be completed within 12 months from the commencement date of construction, such completion to be evidenced by a certificate of occupancy issued by the appropriate governmental authorities.

In any case where the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a written statement setting forth the grounds upon which such action was based. In any such case, the ACC 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.

**Section 7.4 Retention of Copy of Plans.** Upon approval by the ACC of any plans and specifications submitted hereunder, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitted the same.

**Section 7.5 Rules of the ACC; Effect of Approval and Disapproval.** The ACC may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific Improvements on Lots, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and statements of policy may be amended or revoked by the ACC at any time, and no inclusion in, omission from, or amendment of any such rule or statement shall be deemed to bind the ACC to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the ACC's discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Lot of any plans or specifications shall not be deemed a waiver of the ACC's rights, in its discretion, to disapproval of such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any Lot or Lots. Approval of any such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided, (i) that the Improvements or uses shown or described on or in such plans and specifications do not violate any specific prohibitions or restrictions contained in this Declaration and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied



with in regard to all improvements on and uses of the Lot in question. In the event the ACC fails to approve or disapprove any plans and specifications as herein provided within 30 days after submission thereof, the same shall have been deemed to have been approved, as submitted, and no further action shall be required; provided, however, that (i) the 30-day period for approval or disapproval shall not be deemed to have commenced until all required plans and specifications as reasonably requested by the ACC have been submitted to the ACC, (ii) such approval shall apply only to the plans and specifications submitted and (iii) in the event the plans submitted were for the purpose of schematic or preliminary approval, such approval shall not relieve the Owner from its obligation to obtain the approval of the ACC for any subsequent plan submissions required pursuant to the rules and regulations promulgated by the ACC.

**Section 7.6 Failure to Obtain Approval.** If any Improvements shall be constructed, altered, erected, placed or maintained upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with plans and specifications approved by the ACC pursuant to the provisions of this Article VII, such construction, alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this Article VII, and without the approval required herein, and, upon written notice from the ACC, any such Improvements so constructed, altered, erected, placed, or maintained upon any Lot in violation hereof shall be removed or altered, and any such use shall be terminated, so as to extinguish such violation. If after fifteen (15) days' written notice of such violation, the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the ACC, on behalf of the remaining Owners of each Lot, 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 such violation and the costs thereof shall be an Individual Contribution enforceable by the non-defaulting Owners in the manner set forth at Section 6.8 above.

**Section 7.7 Inspection Rights.** Any agent of the ACC may, at any reasonable time or times, enter upon and inspect any Lot and any Improvements thereon for the purpose of ascertaining whether the maintenance of such Lot and the maintenance, construction, or alteration of Improvements thereon are in compliance with the provisions hereof, without being deemed to have committed a trespass or other wrongful act by reason of such entry of inspection.

**Section 7.8 Waiver of Liability.** Notwithstanding anything provided herein to the contrary, neither the Developer, the ACC, any Owner nor any agent, employee, representative, member, shareholder, partner, officer, trustee, or director thereof, shall have any liability of any nature whatsoever for any damage, loss or prejudice suffered, claimed, paid or incurred by any Owner on account of (a) any defects in the plans and specifications submitted, reviewed or approved in accordance with the terms and provisions of this Article VII, (b) any defects, structural or otherwise, in any work done according to such plans and specifications, (c) the failure of the ACC to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article VII, (d) the construction or performance of any work related to such plans, drawings and specifications, (e) bodily injuries (including death) or property damage suffered by any Owner or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or any damage to any Improvements or the personal property of any Owner or such Owner's family members, guests,

employees, servants, agents, invitees or licensees which may be caused by, or arise as a result of any defect, structural or otherwise, in any such buildings or other Improvements or the plans and specifications therefore, and (f) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Lot or any Improvements situated thereon.

**Section 7.9 Plan Review Fee.** The ACC shall establish and charge a plan review fee which shall be payable at the time any Owner submits any plans for Improvements to such Owner's Lot to the ACC for review and approval. Such plan review fee may be changed from time to time and may be utilized to compensate the ACC members or to pay the costs and expenses of any consulting architects, landscaping architects, designers, engineers, inspectors, attorneys or other personnel retained by the ACC to review and approve plans and specifications for any Improvements. The ACC may, in its sole discretion, require the Owner of any Lot to deposit a construction escrow with the ACC at the time the ACC approves the plans and specifications for any Improvements to an Owner's Lot. Such construction escrow shall be held by the ACC in a non-interest bearing account, shall serve as security for the full and faithful completion by such Owner of all Improvements to be made by such Owner to such Owner's Lot and the compliance with all of the terms and provisions of this Declaration and any other requirements imposed on such Owner by the ACC. Any such construction escrow shall be returned to the Owner who has deposited the same upon completion of all Improvements on such Lot and the determination by the ACC, in its sole and absolute discretion, that all of the terms and provisions of this Declaration have been satisfied and complied with in all respects by such Owner. If the ACC, in its sole discretion, determines that such Improvements have not been completed in strict accordance with the terms and provisions of this Declaration, then the ACC shall have the right, but not the obligation, to use any portion of such construction escrow to complete, correct or remedy any violation or breach by such Owner of any of the terms and provisions of this Declaration; provided, however, that the application of such construction escrow by the ACC shall not be deemed a release or waiver of any other rights and remedies set forth herein by the ACC.

## **ARTICLE VIII ACTION BY OWNERS**

**Section 8.1 Meeting of Owners.** Except as otherwise specifically provided for in this Declaration, any action by all Owners allowed and authorized by this Declaration shall be taken by a majority vote of the Owners, either at a meeting called to consider such action or in a written ballot vote held in lieu of a meeting. Notice of any meeting called to consider such action must be given to the Owners at least 14 days prior to the date of such meeting. A meeting of the Owners shall not require any sort of "quorum" in order to transact business. The notice shall state the nature of the action to be considered and establish a reasonable time, date and place for the meeting. Attendance at a meeting shall constitute a waiver of notice of such meeting and of all objections to the place or time of meeting, or the manner in which it has been called, except when an Owner attends a meeting solely for the purpose of stating, at the beginning of the meeting, any such objection. Notice need not be given to any Owner who signs a waiver of notice either before or after the meeting, and proxies to other Owners may be accepted from Owners who will be absent from a meeting.



**Section 8.2 Voting by Owners.** Each Owner shall have one vote for each Lot owned; provided, however, that any Owner who is delinquent in the payment of any contributions (whether annual, special or Individual Contributions) shall automatically have all voting rights hereunder suspended until such time as all delinquent amounts due and owing hereunder have been paid in full. As used herein, the term "majority vote of the Owners" shall mean at least 51% of the Owners entitled to vote on any such matter (but specifically excluding any Owner who has had his or its voting rights suspended). If a Lot is owned by more than one person or a corporation or partnership, a voting representative must be designated prior to the Owners' meeting. Any Owner may execute a written proxy designating a particular individual to cast the vote on any issue submitted to a vote of the Owners.

**Section 8.3 Consent to Action.** In lieu of a meeting, the Owners may vote on any matter required to be approved by the Owners hereunder in a ballot vote submitted to all Owners.

**Section 8.4 Rules and Regulations.** By majority vote of the Owners, the Owners may establish, abolish or amend reasonable rules and regulations concerning the Property. Such rules and regulations are specifically overruled, canceled or modified by a majority vote of the Owners.

## ARTICLE IX AMENDMENT OF DECLARATION

**Section 9.1 Amendment.** Prior to the Turnover Date, this Declaration may be amended at any time, and from time to time, by the written agreement of (a) a majority of the Owners entitled to vote thereon and (b) the Developer. After the Turnover Date, this Declaration may be amended at any time and from time to time by the written agreement of a majority of the Owners entitled to vote thereon. Any such amendment to this Declaration shall be executed by a majority of the Owners entitled to vote thereon and, to the extent such amendment is made prior to the Turnover Date, by Developer, which amendment shall be filed for record in the Office of the Judge of Probate of Shelby County, Alabama.

## ARTICLE X DURATION OF COVENANTS

**Section 10.1 Duration.** The covenants, conditions, limitations, restrictions, reservations, easements, liens, charges, rights and privileges set forth in this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the ACC and the Owners as provided in this Declaration for a period of ninety-nine (99) years from the date on which this Declaration is filed for record in the Office of the Judge of Probate of Shelby County, Alabama. Upon the expiration of such period, this Declaration shall be automatically extended for successive periods of five (5) years unless, within the last year of the original or any extended period, 100% of all Owners execute and file for record with the Judge of Probate of Shelby County, Alabama, a document evidencing their intent to terminate this Declaration.

## ARTICLE XI ENFORCEMENT OF DECLARATION

**Section 11.1 Enforcement Rights.** In addition to the other rights and remedies set forth herein, in the event any covenant, condition, limitation, restriction, reservation or other provision of this Declaration is violated by any Owner or such Owner's agents, employees, invitees or licensees, then, in addition to the provisions of Article VI hereof, the ACC or the remaining Owners may, by majority vote of the Owners entitled to vote thereon, exercise all rights and remedies available to any of them at law or in equity and the Owner which has violated any of the terms of this Declaration or who is in default hereunder shall be liable for all costs and expenses, including reasonable attorneys' fees and court costs incurred by the ACC or the other Owners in enforcing any of the terms and provisions of this Declaration.

**Section 11.2 Additional Remedies.** In addition to the rights and remedies described in Article VII and Section 11.1 above, in the event any Owner violates or is in default under any of the terms and provisions of this Declaration (other than the non-payment of contributions), then either the ACC or the non-defaulting Owners may do any one or more of the following:

- (a) Exercise any right or remedy provided under any provision of this Declaration;
- (b) File suit at law or in equity either to restrain the violation, or to recover damages, or both; or
- (c) Cure the violation by paying or causing to be paid, when due and payable, any item which may be paid to cure a violation, or do or cause to be done such acts or things as may be required, necessary or desirable to cure the violation, in which case the sums paid, and the entire cost and expense of such acts or things, shall be reimbursed to the person making payment or incurring the cost and expense, together with interest thereon, at the Applicable Rate and all costs of collection, including reasonable attorneys' fees.

**Section 11.3 Failure to Enforce.** The failure of the ACC or the non-defaulting Owners to enforce any provision of this Declaration as above provided shall in no event be deemed a waiver of the right to do so thereafter.

**Section 11.4 Arbitration.** In addition to the rights and remedies set forth in Sections 11.1 and 11.2 above, each Owner acknowledges and agrees that any controversy or claim arising under this Declaration or the breach thereof (other than the obligation to pay contributions in accordance with the requirements of Article VII above in which event the rights and remedies set forth in Article VII above shall at all times control) may be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, with the costs and expenses of the prevailing party in such arbitration proceeding being assessed to the non-prevailing party. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Each Owner, by acceptance of a deed to a Lot, shall be deemed to acknowledge and agree that this Declaration and the performance by each Owner, the ACC and Developer of their respective duties and obligations contemplated hereunder, which include the use



of interstate mails, roadways and commerce, involve interstate commerce, as that term is defined in the Federal Arbitration Act. The site of any arbitration will be Birmingham, Alabama.

## ARTICLE XII MISCELLANEOUS

**Section 12.1 Notices.** Any notice, demand, request, consent, approval or communication under this Declaration shall be in writing and shall be deemed duly given or made when deposited, postage prepaid in the United States mail, certified or registered mail with a return receipt requested, or when delivered personally to an Owner, at the address of such Owner to which ad valorem tax bills are sent by the Tax Collector of Shelby County, Alabama.

**Section 12.2 Headings.** The use of headings, captions and numbers in this Declaration is solely for the convenience of identifying and indexing the various provisions in this Declaration and shall in no event be considered otherwise in construing or interpreting any provision in this Declaration.

**Section 12.3 Exhibits.** Each and every exhibit referred to or otherwise mentioned in this Declaration is attached to this Declaration and is and shall be construed to be made a part of this Declaration by such reference or other mention at each point at which such reference or other mention occurs, in the same manner and with the same effect as if each exhibit were set forth in full and at length every time it is referred to or otherwise mentioned.

**Section 12.4 Defined Terms.** Capitalized terms used in this Declaration shall have the meaning ascribed to them at the point where first defined, irrespective of where their use occurs, with the same effect as if the definitions of such terms were set forth in full and at length every time such terms are used.

**Section 12.5 Pronouns.** Wherever appropriate in this Declaration, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

**Section 12.6 Binding Effect.** All provisions contained in this Declaration shall be binding upon, inure to the benefit of, and be enforceable by, the respective successors and assigns of the Owners and Developer to the same extent as if such successor and assign were named as a party hereto.

**Section 12.7 Severability.** If any term, covenant, condition or provision of this Declaration, or the application thereof to any person or circumstance, shall ever be held to be invalid or unenforceable, then in each such event the remainder of this Declaration or the application of such term, covenant, condition or provision to any other person or any other circumstance (other than those as to which it shall be invalid or unenforceable) shall not be thereby affected, and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

**Section 12.8 Applicable Law.** This Declaration shall be governed by the laws of the

United States (including, specifically, the provisions of the Federal Arbitration Act, 9 U.S.C. § 1, et seq.) and, to the extent not inconsistent therewith, the laws of the State of Alabama.

**Section 12.9 Annexation.** No annexation of the Property or Lots to any municipality shall occur without the written approval of each affected Owner.

**IN WITNESS WHEREOF**, the Developer has executed and sealed this Declaration the day and year first above set forth.

**DEVELOPER**

**CSG CONSTRUCTION COMPANY, INC.,** an Alabama corporation

By: C.S.V.  
Its: PRESIDENT

STATE OF ALABAMA )

SHELBY COUNTY )

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles S. Givianpave, whose name as President of **CSG CONSTRUCTION COMPANY, INC.,** an Alabama 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 the said instrument, he, as such officer and with full authority, executed the same voluntarily as the act of said corporation.

GIVEN under my hand and official seal of office, this 3rd day of August, 1999.

[NOTARIAL SEAL]

[Signature]  
Notary Public  
My Commission Expires: 6-5-2003

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**

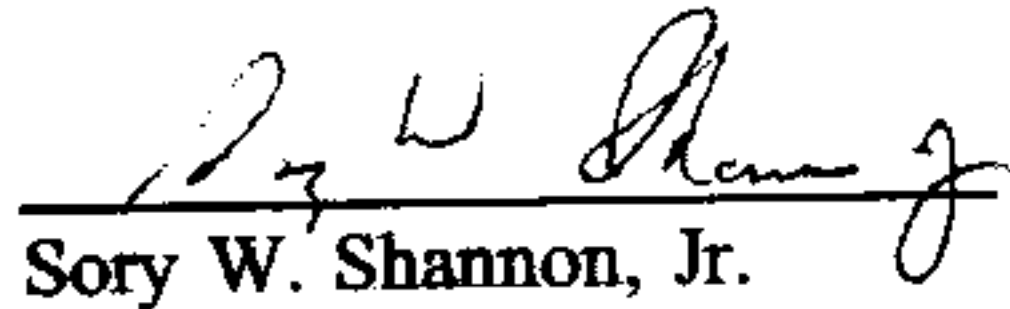
### **LEGAL DESCRIPTION OF PROPERTY**

Lots 1, 3, 4, 5 and 6 according to the Survey of Meadow Brook Professional and Medical Centre, First Sector, as recorded in Map Book 17, Page 21 in the Office of the Judge of Probate of Shelby County, Alabama.

## CONSENT OF OWNER

Sory W. Shannon, Jr., as the owner of the property described as Lot 3, according to the Survey of Meadow Brook Professional and Medical Centre, 1st Sector, as recorded in Map Book 17, Page 21, in the Probate Office of Shelby County, Alabama, made subject to the above and foregoing Declaration of Covenants, Conditions, Restrictions, Easements and Rights for the Meadowbrook Professional and Medical Centre Subdivision to be recorded in the Probate Office of Shelby County, Alabama, does hereby consent to the filing of the Declaration and does hereby agree that said property shall remain subject to the terms and conditions of the Declaration.

IN WITNESS WHEREOF, the undersigned has duly executed this consent on the 23rd day of April, 1998

  
Sory W. Shannon, Jr.

STATE OF ALABAMA}  
JEFFERSON COUNTY}

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that Sory W. Shannon, Jr., whose name is signed to the foregoing conveyance and who is known to me, acknowledge before me on this day that, being informed of the contents of the above and foregoing consent, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office this the 23rd day of April, 1998.

  
Notary Public

My commission expires: 5-27-99



## CONSENT OF LENDER

First Commercial Bank as the holder and owner of the mortgage securing the property described as Lot 3, according to the Survey of Meadow Brook Professional and Medical Centre, 1st Sector, as recorded in Map Book 17, Page 21, in the Probate Office of Shelby County, Alabama, made subject to the above and foregoing Declaration of Covenants, Conditions, Restrictions, Easements and Rights for the Meadowbrook Professional and Medical Centre Subdivision to be recorded in the Probate Office of Shelby County, Alabama, does hereby consent to the filing of the Declaration and does hereby agree that said property shall remain subject to the terms and conditions of the Declaration.

IN WITNESS WHEREOF, the undersigned has duly executed this consent on the 23rd day of April, 1998

FIRST COMMERCIAL BANK

by: [Signature]

Its: Vice President

STATE OF ALABAMA}  
JEFFERSON COUNTY}

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that Paul M. Schabacker, whose name as Vice - President of First Commercial Bank, and who is known to me, acknowledge before me on this day that, being informed of the contents of the above and foregoing consent, 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 official seal of office this the 23rd day of April, 1998.

[Signature]  
Notary Public

My commission expires: 5-29-99

Inst # 1999-32727

08/05/1999-32727  
08:25 AM CERTIFIED  
SHELBY COUNTY JUDGE OF PROBATE  
027 MMS 76.50