

MT LAUREL

A Traditional Neighborhood Development

THIRD AMENDMENT TO MASTER DEED RESTRICTIONS AND DECLARATION OF CHARTER, EASEMENTS, COVENANTS AND RESTRICTIONS

THIS THIRD AMENDMENT (this "Amendment") is made and entered into as of the 31 day of January, 2001 by EBSCO DEVELOPMENT COMPANY, INC., an Alabama corporation (the "Founder").

R E C I T A L S:

The Founder has heretofore submitted certain real property owned by Founder to the terms and provisions of (a) the Mt Laurel Master Deed Restrictions dated as of September 1, 2000 and recorded as Instrument #2000-35579 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), as amended by First Amendment thereto dated as of September 1, 2000 and recorded as Instrument #2000-36270 and re-recorded as Instrument # 2000-36270 in the Probate Office and Second Amendment thereto dated as of November 8, 2000 and recorded as Instrument #2000-38860 in the Probate Office (collectively, the "Master Deed Restrictions") and (b) the Mt Laurel Declaration of Charter, Easements, Covenants and Restrictions dated as of September 1, 2000 and recorded as Instrument #2000-35580 in the Probate Office, as amended by First Amendment thereto dated as of September 1, 2000 and recorded as Instrument #2000-36270 and re-recorded as Instrument # 2000-36270 in the Probate Office and Second Amendment thereto dated as of November 8, 2000 and recorded as Instrument #2000-38860 in the Probate Office (collectively, the "Declaration"). The Master Deed Restrictions and Declaration have been ratified and confirmed by the Founder, EBSCO Industries, Inc. and Town Builders, Inc. pursuant to Ratification and Confirmation Agreement dated as of November 30, 2000 and recorded as Instrument # 2000-41410 in the Probate Office. *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.*

The Founder desires to amend Sections 2.05(d) and 3.08 of the Declaration in the manner hereinafter provided.

NOW, THEREFORE, pursuant to Section 11.01(a) of the Declaration, the Founder does hereby amend the Declaration as follows:

1. **Amendment to Section 2.05(d).** Section 2.05(d) of the Declaration is deleted in its entirety and the following is substituted in lieu thereof:

“(d) Exterior Walls and Fences. An exterior wall which supports a Building on any one Lot or which encloses a courtyard on one Lot which has been constructed along the property line of such Lot (a “Side Yard Wall”) shall not be considered a party wall or subject to the provisions of Section 2.05(c) above unless and until the Owner of the adjacent Lot elects to construct and attach another Building thereto. To the extent the party wall easement created and granted pursuant to Section 2.05(c) above is not exercised by the Owner of the adjacent Lot, then the provisions of this Section 2.05(d) shall be applicable to the use of the Side Yard Wall. The Owner of any Building whose exterior wall constitutes a Side Yard Wall does hereby grant to the Owner of the adjacent Lot the permanent and perpetual right and easement to erect and maintain on and along the Side Yard Wall trellises, landscaping and other landscaping-related improvements as well as attaching to such Side Yard Wall additional walls or fencing subject to the following terms and conditions:

(i) If any such trellises, landscaping or other landscaping-related improvements or any additional walls or fencing are attached to such Side Yard Wall, then the Owner of the adjacent Lot installing the same shall (1) be responsible for any damage to the Side Yard Wall caused by or resulting from such landscaping or other landscaping-related improvements or any additional walls or fencing attached to such Side Yard Wall; (2) be solely responsible for routine, non-structural maintenance and repairs (including painting) of that portion of the Side Yard Wall which fronts any portion of such Owner’s Lot; and (3) any such landscaping or other landscaping-related improvements or additional fencing or walls installed on or adjacent to the Side Yard Wall shall not block the view from any windows of the Building which constitutes part of the Side Yard Wall or be allowed to grow along or onto any windows or roofing on any such Building which constitutes part of such Side Yard Wall; and

(ii) Notwithstanding anything provided to the contrary in this Section 2.05(d), in the event the Owner of any Building whose exterior wall constitutes a Side Yard Wall elects to make any structural alterations or repairs to the Building or to the Side Yard Wall, such Owner shall be entitled to make such alterations and repairs, and to otherwise enter upon the adjoining Lot to undertake the same including, if reasonably necessary or required for such structural repairs, removing any and all landscaping or other landscaping-related improvements and any additional fences or walls which the adjoining Owner may have constructed or installed on or attached to the Side Yard Wall.

Any fence, including the posts and any footings poured for the posts of such fence, which is constructed along the common property line of any two (2) Lots (a “Common Fence”) shall not be considered a party wall or subject to the provisions of Section 2.05(c) above. Except as specifically provided below, the reasonable costs and expenses of maintaining, repairing or replacing a Common Fence shall be shared equally by the Owners of each Lot on either side of the Common Fence. Notwithstanding the foregoing, if a Common Fence is damaged or

destroyed through the acts of the Owner of either Lot abutting the Common Fence or by such Owner's agents, employees, servants, tenants, guests, family members, invitees, licensees or pets, whether such act is willful, negligent or accidental, then such Owner shall forthwith proceed to rebuild, repair and replace the same to as good a condition as which such Common Fence existed immediately prior to such damage or destruction without the Owner of the adjoining Lot having any obligation to pay any such costs or expenses. To the extent any Common Fence is damaged or destroyed by fire or other casualty, then each adjoining Owner shall share equally in the costs to repair or replace the same regardless of whether insurance proceeds are available or are sufficient to pay for such restoration and repair. In the event of any disagreement between the Owners of any Lots on either side of a Common Fence with respect to their respective rights and obligations as to such Common Fence, then such dispute or disagreement shall be submitted to binding arbitration to the Mt Laurel Design Review Board (or any designee thereof) whose decision shall be final, conclusive and binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other with respect to the maintenance, repair and replacement of any Common Fence."

2. **Amendment to Section 3.08.** Section 3.08 of the Declaration is amended by adding the following at the end of said Section 3.08:

"Each Owner acknowledges and agrees that one of the many development guidelines which has been instituted for Mt Laurel by the Founder is the preservation of trees, which guideline will be beneficial to all Owners and Occupants and their respective heirs, executors, successors and assigns. However, as a result of the desire to implement such a guideline, each Owner acknowledges and agrees that trees within any of the nature areas, conservation areas or easements, parks, nature trails, pedestrian walkways, pedestrian areas, alleys, alleyways or private access easement areas which constitute part of the Commons or any trees situated on any other real property owned by the Founder or any of its successors or assigns which may be adjacent to or in close proximity with Mt Laurel (but which has not yet been developed by the Founder) may fall at any time and from time to time without any prior warning. Accordingly, each Owner (i) does hereby acknowledge and agree that (1) the Founder, the Association and their respective successors and assigns shall not be liable for any damage to person (including death) or property caused by or resulting from any such falling trees and (2) each Owner, at such Owner's sole cost and expense, shall be solely responsible for removing any trees (including limbs, roots, dirt and other debris) which may fall onto such Owner's Lot from any portion of the Commons or from any other undeveloped portions of the real property owned by the Founder or any of its successors and assigns and (ii) for such Owner and any Occupant of such Owner's Lot, does hereby waive, release and forever discharge the Founder, the Association and their respective successors and assigns of and from any claim, demand, liability, loss, damage or expense, suffered, paid or incurred by any such Owner or any Occupant of such Owner's Lot or any Improvements thereto resulting from any trees falling from any portion of the Commons or from any other undeveloped real property owned by the Founder or any of its successors and assigns situated adjacent to or in close proximity with Mt Laurel onto the Lot and any Improvements thereto of any such Owner or Occupant."

3. **Full Force and Effect.** Except as expressly modified and amended herein, all of the terms and provisions of the Master Deed Restrictions and Declaration shall continue in full force and effect.

IN WITNESS WHEREOF, Founder has executed this Amendment as of the day and year first above written.

FOUNDER:

EBSCO DEVELOPMENT COMPANY, INC., an Alabama corporation

By: _____

Its: _____

STATE OF ALABAMA)

:

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Elton B. Stephens, Jr. whose name as Vice President of EBSCO DEVELOPMENT 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 said instrument, he, as such officer with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 31 day of January, 2001.

Della M. Pender

Notary Public

My Commission Expires: MY COMMISSION EXPIRES SEPTEMBER 21, 2002

[NOTARIAL SEAL]

CONSENT OF OWNERS

Town Builders, Inc., an Alabama corporation ("TBI"), as the owner of a majority of the Lots subject to the Declaration and as the holder of a majority in interest of the votes in the Association, does hereby consent to and approve of the foregoing Amendment to the Master Deed Restrictions and the Declaration.

Dated as of the 31 day of Jan, 2001.

TOWN BUILDERS, INC., an Alabama corporation

By: [Signature]
Its: _____

STATE OF ALABAMA)
 :
COUNTY OF SHELBY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Elton B. Stephens, Jr., whose name as L.P. of Town Builders, 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 said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 31 day of January, 2001.

Della M. Pender
Notary Public

[NOTARIAL SEAL]

My commission expires: MY COMMISSION EXPIRES SEPTEMBER 21, 2002

Inst # 2001-03681

02/02/2001-03681

09:35 AM CERTIFIED

SHELBY COUNTY JUDGE OF PROBATE

005 MMB 23.00