

STATE OF ALABAMA     )  
                                      )  
SHELBY COUNTY         )

02/23/2001-06368  
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SHELBY COUNTY JUDGE OF PROBATE  
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## RECIPROCAL EASEMENT AGREEMENT

Inst # 2001-06368

23<sup>rd</sup> THIS RECIPROCAL EASEMENT AGREEMENT is made and entered into this day of February, 2001 by EQUINE PARTNERS, L.L.C., an Alabama limited liability company ("Equine").

### RECITALS:

**WHEREAS**, Equine is the owner and developer of certain real property situated in Shelby County, Alabama which is legally described in Exhibit A attached hereto and made a part hereof (the "Equine Property"); and

**WHEREAS**, Equine will be subdividing the Equine Property into five commercial lots (singularly, a "Lot", collectively, the "Lots") which are adjacent and contiguous to each other. Such Lots shall be known as Lots 2-A, 2-B, 2-C, 2-D and 2-E, according to the Resurvey of Lot 2, of The Narrows Commercial Subdivision, Sector 2, to be recorded in the Office of the Judge of Probate of Shelby County, Alabama (the "Resurvey"); and

**WHEREAS**, as shown on the Resurvey, each of the five Lots shall access Shelby County Highway #280 exclusively by means of two access points. The two access points are at each end of the twenty-two foot (22') wide asphalt private driveway situated within the Equine Property along the southwesterly boundary of each Lot and running parallel, more or less, to Shelby County Highway #280 in The Narrows Commercial Subdivision in Shelby County, Alabama (the "Driveway"); and

**WHEREAS**, Equine desires for the purchasers of each Lot (singularly, a "Lot Owner", collectively, the "Lot Owners") to share and maintain the Driveway so that each Lot Owner

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may access their Lot and Shelby County Highway #280 by means thereof; and

**WHEREAS**, Equine, as the current owner of each Lot, desires to reserve for the benefit of itself and each Lot Owner, as successors of Equine, a permanent and perpetual easement over, across, and upon the Driveway for purposes of vehicular and pedestrian traffic ingressing to and egressing from each of the five Lots.

**NOW THEREFORE**, in consideration of the premises, the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Equine hereby states as follows:

1.     **RESERVATION OF DRIVEWAY EASEMENT BY EQUINE.** Equine does hereby reserve for itself, the Lot Owners, and their successors, assigns, invitees, guests, licensees, employees, and agents, forever, a permanent and perpetual easement over, across, through, upon and under the Driveway now or hereafter constructed within the Equine Property for purposes of pedestrian and vehicular ingress to and egress from each Lot and for construction and maintenance of sewer lines or other utility lines, if any, under such Driveway (the "Driveway Easement"). The Driveway Easement reserved hereby is to be used and enjoyed in common with Equine, each Lot Owner and their successors, assigns, invitees, guests, licensees, employees, and any other parties having any rights or interest therein and for construction and maintenance of sewer lines or other utility lines, if any, under such Driveway.

2.     **NATURE OF DRIVEWAY EASEMENT.** The Driveway Easement reserved hereby is (i) for the mutual and common use and enjoyment of Equine, the Lot Owners, their successors, assigns, tenants, invitees, guests, employees, agents and any other parties having any rights or interest therein, (ii) the mutual and common benefit of Equine and the Lot Owners and shall not be unilaterally terminated or modified and may be terminated or modified only by the mutual consent of all Lot Owners, (iii) appurtenant to and shall be deemed to be covenants running with the land and (iv) binding upon and inure to the benefit of the Equine, the Lot Owners, and their

respective successors and assigns. Equine and the Lot Owners each hereby covenant and agree that no fences or other obstructions shall be erected, maintained or permitted on, across or upon the Driveway which would obstruct, interfere with, limit or otherwise deny the pedestrian or vehicular access of another Lot Owner over, across, through or upon such Driveway.

3.     **LOCATION OF DRIVEWAY EASEMENT.** The location and layout of the Driveway made the subject of the Driveway Easement reserved hereby is not specifically known at this time but is a blanket easement within the Equine Property. The approximate location and layout of the Driveway is shown on the Resurvey. The location and layout of the Driveway, and each portion thereof, shall be subject to the approval of the Architectural Review Committee in accordance with The Narrows Commercial Declaration of Covenants, Conditions and Restrictions recorded as Instrument # 2000-17137 (the "Declaration"). Upon construction and completion of the Driveway along the southwesterly boundary of each Lot and running parallel, more or less, to said Shelby County Highway #280, the description of the Driveway Easement shall be as-built and the Driveway Easement shall no longer be a blanket easement.

4.     **CONSTRUCTION AND MAINTENANCE OF DRIVEWAY.** Each Lot Owner is responsible for the construction and maintenance of the Driveway within the respective boundary lines of each Lot Owner's Lot and the payment of the costs therefor. All construction and maintenance of the Driveway shall be in a good and workmanlike manner comparable to the quality and standards of construction of other roadways within The Narrows Commercial Subdivision. In the event construction occurs on one Lot which affects the condition of the Driveway, or any portion thereof, the Lot Owner of the Lot undergoing such construction shall be obligated to repair the Driveway so that access to any other Lot is not adversely impacted or obstructed and, immediately upon substantial completion of such construction, shall be obligated to repair and restore the Driveway to the quality and standard of the original construction of the Driveway and of other roadways within The Narrows Commercial Subdivision. In the event damage to the Driveway occurs on one Lot which is caused by the Lot Owner of another Lot, the Lot Owner causing the damage shall be obligated to repair and restore the damaged portion of the Driveway to the quality and standard of the original construction of the Driveway. Each Lot Owner is responsible for the



payment of ad valorem taxes for the portion of the Driveway within the respective boundary lines of their Lot. Each Lot Owner, by acceptance of a deed to such Lot, is hereby deemed to covenant and agree to pay the maintenance and repair costs described in this Section 4 and such costs shall be an equitable charge and continuing lien upon each such Lot, which lien shall be for the benefit of the other Lot Owners of the Equine Property described herein and may be enforced in any manner and by any means available at law or in equity.

**5. MISCELLANEOUS PROVISIONS.**

(a) **Waiver and Extensions.** Any party may extend the time for or waive the performance of any of the obligations of the other parties or waive compliance by the others with any of the covenants or conditions contained in this Agreement. Any such extension or waiver shall be in writing and signed by all parties hereto.

(b) **Amendment.** This Agreement may be amended or modified at any time and in all respects by an instrument in writing executed by all parties.

(c) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute but one and the same instrument.

(d) **Benefits.** This Agreement shall inure to the benefit of and be binding upon the parties hereto, and their successors and assigns.

(e) **Governing Law.** It is the intention of the parties that the laws of the State of Alabama shall govern the validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties.

(f) **Construction.** The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

(g) **Attorney's Fees.** In the event of any litigation arising out of this Agreement, the court may award to the prevailing party all reasonable costs and expenses, including attorneys fees.

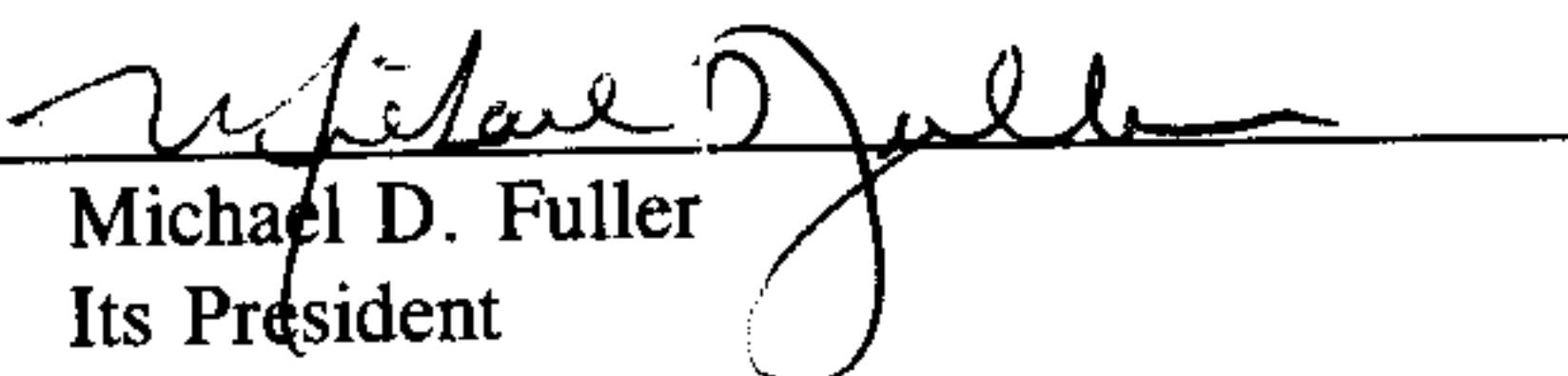
(h) **Entire Agreement.** This Agreement evidences the entire agreement

between the parties and no representation, understanding or agreement had between the parties, except as set forth herein, shall be binding on the parties hereto.

**IN WITNESS WHEREOF**, Equine has executed this Reciprocal Easement Agreement as of the day and year first above written.

**EQUINE PARTNERS, L.L.C.,**  
**an Alabama limited liability company**

By: **Tyrol, Inc., Its Manager**


By:   
Michael D. Fuller  
Its President

**STATE OF ALABAMA     )**

**JEFFERSON COUNTY    )**

I, the undersigned, a Notary Public, in and for said County in said State, hereby certify that Michael D. Fuller, whose name as President of Tyrol, Inc., an Alabama corporation, as Member of Equine Partners, L.L.C., 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 instrument, he, in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as Member as aforesaid.

Given under my hand and seal, this 23<sup>rd</sup> day of February, 2001.

  
Notary Public

[SEAL]

My commission expires: 7/24/2001

**EXHIBIT A**  
**TO RECIPROCAL EASEMENT AGREEMENT**

The Equine Property is legally described as Lot 2, according to The Narrows Commercial Subdivision, Sector 2, recorded in Map Book 27, page 73 in the Office of the Judge of Probate of Shelby County, Alabama.

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