


This Instrument Prepared By:
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Shelby Cnty Judge of Probate, AL
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AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS
FOR
OAK MOUNTAIN BUSINESS PARK

THIS AMENDED AND RESTATED DECLARATION is made this 16th day of Aug, 2002, by **OAK MOUNTAIN BUSINESS PARK, LLC**, an Alabama limited liability company (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, that certain Declaration of Protective Covenants for Oak Mountain Business Park was recorded on December 29, 1998, at Instrument No. 98-51856 in the Office of the Judge of Probate of Shelby County, Alabama (the "Initial Declaration"), thereby designating certain real property situated in Shelby County, Alabama known as the Oak Mountain Business Park Commercial Subdivision as a restricted subdivision, subject to certain restrictions, conditions, limitations and agreements more particularly set forth therein;

WHEREAS, pursuant to that certain Statutory Warranty Deed recorded at Instrument No. 1999-16173 in the Probate Office and that certain Quit Claim Deed recorded at Instrument No. 1999-16174 in the Probate Office, Oak Mountain Business Park, LLC purchased the Property less and except certain parcels dedicated to Shelby County as public rights-of-way and less and except certain subdivided lots that had been previously sold; in conjunction with said purchase and pursuant to that certain assignment of Declarant Rights under Declaration of Protective Covenants recorded at Instrument No. 1999-16176 in the Probate Office, Oak Mountain Business Park, LLC is the successor in interest to the Declarant and the Developer as referenced in the Initial Declaration;

WHEREAS, the Declaration was amended pursuant to that certain Amendment recorded in the Probate Office at Instrument Number 2000-17408 (the "First Amendment");

WHEREAS, according to **Article 7.7** of the Initial Declaration, the same may be amended at any time within a period of fifteen (15) years from the date the Initial Declaration is recorded by a duly recorded written instrument executed by the current record owners (including mortgagees and other lienholders of record, if any) of ninety percent (90%) of the number of Parcels of Oak Mountain Business Park;

WHEREAS, Oak Mountain Business Park, LLC and at least three (3) of the other record Owners of the Parcels represent the required ninety percent (90%) of the current record Owners of the number of Parcels of Oak Mountain Business Park in order to amend the Initial

Declaration in accordance with **Article 7.7**; and

WHEREAS, Declarant desires to amend and restate the Initial Declaration as follows in order to combine the Initial Declaration and the above-referenced First Amendment into one (1) document for clarity and further to delete that certain real property in Shelby County, Alabama known as Clayton's Addition to Oak Mountain Business Park with the acknowledgement and consent of the undersigned other record owners of the Parcels (as defined hereinbelow).

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, and conveyed subject to the following covenants, conditions, and restrictions, which shall attach to and run with the Property, and shall be binding on all parties having any right, title, or interest in any lot or Parcel contained within the Property or any portion thereof, their heirs, successors, and assigns, and which shall inure to the benefit of each Owner (defined hereinbelow) thereof.

ARTICLE I

DEFINITIONS

1.1 Amendment. The term "Amendment" or "Amendments" shall mean and refer to any and all amendments to this Declaration which may from time-to-time be adopted pursuant to the terms and provisions of **Article 7.4** and **7.7** hereof and which shall be recorded in the Probate Office.

1.2 Committee. The term "Committee" shall mean and refer to the Architectural Control Committee provided in **Article III** hereof.

1.3 Declaration. The term "Declaration" shall mean and refer to this Amended and Restated Declaration of Protective Covenants and Restrictions for Oak Mountain Business Park, which shall be recorded in the Office of the Judge of Probate of Shelby County, Alabama, together with all Amendments thereto from and after the effective date. The Initial Declaration and its First Amendment (described above) are hereby replaced in their entirety by this Amended and Restated Declaration which shall hereinafter be the "Declaration" for all purposes.

1.4 Deed. The term "Deed" shall mean and refer to any deed, mortgage, easement, lease, assignment or other instrument conveying any interest in or title to a Parcel, or any portion thereof.

1.5 Developer. The term "Developer" shall mean and refer to **Oak Mountain Business Park, LLC**, its successors and assigns.

1.6 Owner. The term "Owner" or "Owners" shall mean and refer to the record owner, whether one or more persons or entities (including the Developer), of a fee simple title to any Parcel, but excluding those having such interest merely as security for the payment of an obligation or debt.

1.7 Parcel. The term “Parcel” shall mean and refer to any subdivided lot within the Property and any other plot of land or parcel of real property within the Property.

1.8 Probate Office. The term “Probate Office” shall mean and refer to the Office of the Judge of Probate of Shelby County, Alabama.

1.9 Property. The term “Property” as used herein and in the Declaration is hereby amended and restated and shall mean and refer to that certain real property in Shelby County, Alabama which is more particularly described in **Exhibit “A”** attached hereto. In accordance with this Amended and Restated Declaration, the legal description of the Property is being amended and restated in **Exhibit “A”** of this instrument to: **(i) delete therefrom that certain real property known as Clayton’s Addition to Oak Mountain Business Park**, and **(ii) to clarify and restate the legal description of the remaining property that is known as the Oak Mountain Business Park Commercial Subdivision as a result of the platting and sale of certain lots therein since the Initial Declaration was recorded at the Probate Office.**

1.10 Structure. The term “Structure” or “Structures” shall mean and refer to the buildings and any other improvements erected or to be erected on each Parcel.

ARTICLE II

MUTUALITY OF BENEFIT AND OBLIGATION

2.1 Mutuality of Benefit and Obligation. The provisions of this Declaration and any Amendments hereto are made: **(a)** for the mutual and reciprocal benefit of each and every Parcel and are intended to create mutual, equitable servitudes upon and in favor of each Parcel; **(b)** to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of any Parcel or part thereof; and **(c)** to create a privity of contract and estate between the Owners, their heirs, successors and assigns.

ARTICLE III

ARCHITECTURAL CONTROL COMMITTEE

3.1 Membership. From and after the date of recording of this Declaration, the following three (3) individuals shall comprise the Committee: **(i)** W. Larry Clayton, **(ii)** Delton Lane Clayton, and **(iii)** Howard O’Neill. These three (3) members of the Committee shall serve until the first of the following to occur: **(a)** the sale of all Parcels owned by the Developer, or **(b)** ten (10) years from the date of filing of this Declaration. Thereafter, the Committee shall be composed of three (3) members to be elected by a majority vote of the Owners based upon ownership of the Parcels (where each Parcel shall count for one (1) voting unit). The Committee hereby designates W. Larry Clayton to act as the Committee’s designated representative. In the event of the death or resignation of any member of the Committee, a successor shall be elected

by a majority of the Owners as aforesaid. Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration. The Committee shall function and act by majority vote of the Committee members and shall have the right to establish such rules and regulations concerning procedure, notice of meetings and all other matters which may come before the Committee or which may be appropriate, according to the Committee, to enforce this Declaration including, without limitation, billing the Owners for monies needed to enforce this Declaration.

3.2 Prior Approval of Plans. No Structure, landscaping, fencing or any other improvement shall be constructed, erected, placed, moved onto or permitted to remain on any Parcel, nor shall any existing Structure upon any Parcel be altered in any way which materially changes the exterior appearance thereof, nor shall any use be commenced on any Parcel, unless plans and specifications (including a description of any proposed new use) therefor shall have been submitted to and approved in writing by the Committee in its sole discretion. Such plans and specifications shall be in such form and shall contain such information as may be required by said Committee, but in any event shall include (i) a site plan of the Parcel, (including proposed front, rear and side setbacks of all Structures, the location thereof with reference to Structures on adjoining portions of the Property, and the number and location of all parking spaces and driveways on the Parcel; (ii) architectural plans showing the nature, exterior color scheme, kind, shape, height and materials of all proposed Structures; (iii) a grading plan for the particular Parcel; (iv) an erosion control and drainage plan; and (v) a plan for landscaping. Proposed plans should be transmitted to the address as set forth below:

Oak Mountain Business Park, LLC
c/o W. Larry Clayton
P.O. Box 602
Pelham, Alabama 35080

3.3 Basis for Disapproval of Plans. The Committee shall have the right, but shall not be required, to disapprove any plans and specifications submitted hereunder in its sole discretion because of any of the following:

- (a) failure of any such plans or specifications to comply with any of the covenants, conditions or restrictions contained in this Declaration;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;
- (c) objection to the exterior design, appearance or materials of any proposed Structure or any proposed landscaping or any proposed storage, screening or fencing;
- (d) incompatibility of any proposed Structure or use with existing Structures or uses upon other Parcels in the vicinity;
- (e) objections to the location of any proposed Structure upon any Parcel or with

reference to other Parcels in the vicinity;

- (f) objection to the site plans, grading plans or drainage and erosion control plan for any Parcel;
- (g) objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed Structure or fencing or screening;
- (h) objection to parking areas proposed for any Parcel on the grounds of (i) incompatibility to proposed uses and Structures on such Parcels, or (ii) the insufficiency of the size of parking areas in relation to the proposed use of the Parcel;
- (i) failure of plans to take into consideration the particular topography, vegetative characteristics, and natural environment of the Parcel; or
- (j) any other matter which, in the reasonable judgment of the Committee, would render the proposed Structure, Structures, or uses inharmonious with the general plan of improvement of the Property or with Structures or uses located upon other Parcels within the vicinity; and
- (k) no building in Oak Mountain Business Park shall have metal siding on any side of such building which is facing any street in Oak Mountain Business Park.

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

In any case where the Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

3.4 Retention of Copy of Plans. Upon approval by the Committee of any plans and specifications submitted hereunder, one (1) copy of such plans and specifications, as approved, shall be deposited for permanent record with the Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

3.5 Rules of the Committee; Effect of Approval and Disapproval; Time for Approval. The Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Parcels, including, without limitation, exterior lighting, landscaping and planting, 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 Committee at any time, and no inclusion in, omission from, or amendment of any such rule or statement shall be deemed to bind the Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Committee's discretion as to any such matter; however, no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Parcel of any plans or specifications shall not be deemed a waiver of the Committee's rights, in its discretion, to disapprove 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 other Parcel or Parcels. Approval of any plans and specifications relating to any Parcel, however, shall be final as to that Parcel and such approval may not be revoked or rescinded thereafter, provided (i) that the Structures or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in the 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 Structures on and uses of the Parcel in question. In the event the Committee fails to approve or disapprove any plans and specifications as herein provided within thirty (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 the applicant shall have evidence of receipt of the required application package by the Committee.

3.6 Failure to Obtain Approval. If any Structure shall be constructed, altered, erected, placed or maintained upon any Parcel, or any new use commenced upon any Parcel, otherwise than in accordance with plans and specifications approved by the Committee pursuant to the provisions of this **Article III**, such construction, alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this **Article III**, and without the approval required herein, and, upon written notice from the Committee, any such Structure so constructed, altered, erected, placed, or maintained upon any Parcel in violation shall be removed or re-altered, and any such use shall be terminated, so as to extinguish such violation.

If within fifteen days (15) after the notice of such violation, the Owner of the Parcel upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the Committee, on behalf of the other Owners of each Parcel, shall have the right, through its agents and employees, to enter upon such Parcel and to take such steps as may be necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of such defaulting Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question. The lien provided in this **Article 3.6** shall not be valid as against a bona fide purchaser (or a bona fide mortgagee) of the Parcel in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County, Alabama, prior to the recordation of the deed (or mortgage) in the Office of the Judge of Probate of Shelby County, Alabama, conveying the Parcel in question to such purchaser (or subjecting the same to such mortgage). At its option, the Committee may request contributions of money from the other Owners in accordance with the relevant provisions of **Article 4.11** in order to pay for the cure of the violation in question, which amounts shall be secured by the aforesaid lien against the Parcel in default.

3.7 Inspection Rights. Any agent of the Committee may at any reasonable time or times enter upon and inspect any Parcel and any improvements thereon for the purpose of ascertaining whether the maintenance of such Parcel and the maintenance, construction, or alteration of Structures thereon are in compliance with the provisions hereof; and the Committee nor any such agent of the same shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

3.8 Waiver of Liability. The Committee, or any architect or agent of the foregoing, shall not be responsible in any way for any failure of any Structures to comply with requirements of this Declaration, any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

3.9 Administration. The Developer shall administer the payment and collection of all sums due from Owners pursuant to the provisions of this Declaration. Each Owner agrees to submit payments to the Developer for those obligations contained in this Declaration no later than twenty (20) days after invoice or, in the event of an emergency, within such sooner time as reasonably requested by the Developer under the circumstances. After more than fifty percent (50%) of the Parcels in Oak Mountain Business Park have been sold by the Developer, the Developer shall have the right, but not the obligation, to organize an Owner's association of the owners of the Parcels, which association shall assume all administrative responsibilities for the Property. The association shall also perform those duties and functions and shall have those powers that the standard owner's association shall perform in first-class industrial office parks in the Birmingham, Alabama area and as set forth in the association's articles of incorporation and by-laws, which shall include the entitlement to charge regular annual assessments as well as special assessments to pay for the costs and expenses of the association and which shall further include the entitlement to file liens against any Parcel(s) owned by an Owner who fails to pay such assessments when due. Said liens shall be foreclosable in the same manner as mortgages under the laws of the State of Alabama. In addition, overdue assessments shall accrue interest at twelve percent (12%) per annum. Each Owner of a Parcel shall be a member of the association and each member shall at all times comply with the provisions of the articles and incorporation of the association, its by-laws and all rules and regulations which may from time-to-time be adopted by its board of directors. Membership in the association shall be appurtenant to and may not be separated from the ownership of a Parcel; the transfer of the fee simple title to any Parcel, other than a transfer as security for a loan, shall include the membership rights of an Owner in the association. In addition to all other obligations, duties and responsibilities of the association as set forth in its charter and by-laws, the association shall operate, maintain, landscape and repair all common areas and common signage of the Property and the association will work jointly with the counterpart association for the adjacent development known as Clayton's Addition to Oak Mountain Business Park. The association for Clayton's Addition to Oak Mountain Business Park and the association for Oak Mountain Business Park shall equally share (50-50) the costs and expenses for the maintenance of the common facilities of each development (so long as the same are shared, common facilities).

ARTICLE IV

GENERAL COVENANTS AND RESTRICTIONS

4.1 Without the Prior Written Approval of the Committee.

- (a) no previously approved Structure shall be used for any purpose other than that for which it was originally designed;
- (b) no Parcel already subdivided shall be split, divided or subdivided for sale, resale, gift, transfer, or otherwise;
- (c) to the extent of the interest of the Owner of a Parcel, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Parcel and no external or outside antennas of any kind shall be maintained except on the rear portion of the Parcel; and
- (d) no boat, boat trailer, house trailer, trailer, motor home or any similar items shall be stored in the open on any Parcel for a period of time in excess of twenty-four (24) hours.

4.2 Animals. No birds, livestock, animals, or insects shall be kept or maintained on any Parcel without the express written consent of the Committee.

4.3 Signage Regulations. The signage regulations for the Property shall be as follows:

- (a) Single and multi-tenant building developments within the Property shall be allowed only one (1) free-standing ground sign or one (1) building sign facing the fronting street. All buildings in the Property which are designed to provide individual exterior entry/exit to the tenants shall be allowed to place tenant identification signage on the building wall no further than three feet (3') from the entrance to said tenant's space; provided, however, that said tenant identification signage shall be a wall plate or plaque (not free-standing letters affixed to the building wall) and shall not exceed twelve inches (12") by twenty-four inches (24") per tenant sign.
- (b) All free-standing signs must be within the property line and extend no higher than four feet (4') above the ground and no free-standing sign shall be larger than four feet (4') by eight feet (8').
- (c) Signs may be illuminated by non-flashing direct or indirect illumination and shall not contain moving parts.
- (d) Temporary signs shall be subject to the prior written approval of the Committee.

- (e) All signs shall be subject to review and approval of the Committee.
- (f) Notwithstanding the foregoing, the signage that fronts and faces Shelby County Highway 52 and Highway 11 for retail developments shall be subject to a separate set of rules and regulations to be established by the Committee.

4.4 No Temporary Structures. Except during the course of construction of a Structure and with the approval of the Committee, no temporary building, trailer, garage or other structure shall be used, temporarily or permanently on any Parcel at any time.

4.5 Accumulation of Refuse. No refuse or trash shall be kept, stored or allowed to accumulate, except between scheduled pick-ups and in accordance with the following: all refuse and trash shall be placed in dumpsters approved from time-to-time by the Committee, which dumpsters shall be fenced behind the Parcel's Structure and screened from street view.

4.6 Pipes. To the extent of the interest of the Owner of a Parcel, no water pipe, gas pipe, sewer pipe, or drainage pipe or any other utility pipe or line shall be installed or maintained above the surface of the ground on any Parcel, except hoses and movable pipes used for irrigation purposes.

4.7 Mining. To the extent of the interest of the Owner of a Parcel, and except for construction approved under **Article III** hereof, no Parcel shall be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel on earth.

4.8 Underground Utilities. To the extent of the interest of the Owner of a Parcel, the Owner of a Parcel will not without the prior written consent of the Committee, erect or grant to any person, firm, or corporation the right, license or privilege to erect or use or permit the use or erection of overhead wires, poles, or overhead facilities of any kind for electrical or telephone service on the Property (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the Parcel). Nothing herein shall be construed to prohibit overhead street lighting or ornamental yard lighting, where serviced by underground wires or cables.

4.9 Connection Points for Utility Service Lines. To the extent of the interest of the Owner of each Parcel, the Owners agree to connect utility service lines (including, but not limited to, gas, water, sewer and electricity) at points designated by the Committee.

4.10 Damage or Destruction. In the event of any damage or destruction to any Structure, landscaping or any other improvement on a Parcel, the Owner of such Parcel does hereby covenant and agree to promptly reconstruct, replace or repair the same in accordance with the provisions of **Article III** hereof and the requirements of the Committee.

4.11 Street Lights, Monuments Maintenance and Lighting. The Developer may, at the Owners' expense, elect to construct street lights and a monument sign with lighting and

landscaping near the entrances to the Property. In the event of such election(s), each Owner of a Parcel within the Property shall bear their prorata share of the periodic costs of maintaining and operating such street lights, monuments, monument lighting and landscaping. The collection of such periodic costs shall be administered by the Developer. In the event any Owner fails to pay within thirty (30) days the charges assessed by the Developer under this paragraph or any other Article of the Declaration, a lien shall be established on the Parcel of such defaulting Owner which may be foreclosed as mortgages are foreclosed (with power of sale) in the State of Alabama. Such lien shall not prime the lien of any bona fide mortgagees holding a mortgage on the Parcel of such delinquent Owner. Delinquent sums shall accrue interest at the rate of one and one-half percent (1.5%) per month and such delinquent Owner shall also pay all costs of collection including a reasonable attorney's fee.

4.12 Loading and Dock Doors. No Structure shall have its dock doors on any side that is facing a street in Oak Mountain Business Park except as approved by the Committee. Additional screening and/or beautification may be required by the Committee adjacent to any loading facility.

4.13 No Outside Storage. No bulk materials, lumber and other building materials or any other materials or items may be temporarily or permanently stored outside Structures on any Parcel, except for building materials to be used in connection with the approved construction or alteration of a Structure, which materials shall be kept in a neat and orderly manner subject to review and further requirements of the Committee.

4.14 Use. The Parcels in the Property shall be used in accordance with this Declaration and the City of Pelham, Alabama current zoning classification. Notwithstanding the foregoing, there shall be no radio or television or communications towers; no truck terminals; no railroad installation; no public garages; and no mobile home sales.

4.15 Maintenance. The Parcels in the Property shall be maintained in a neat and orderly manner that is consistent with other first-class office, warehouse, and light industrial commercial subdivisions in the Birmingham, Alabama area. The foregoing standard shall include the obligations on each Owner to maintain its Parcel and all Structures, improvements, screening, fencing and landscaping in good order and repair as required, in its sole discretion, by the Committee. In the event that the Committee determines that any particular Parcel in the Property is not being maintained in accordance with the foregoing standard, after a written notice and a fifteen (15) day cure right, the Developer or the Owner's association, if applicable, shall be entitled to enter upon such Parcel and perform such work as may be reasonably necessary to cause the Parcel to comply with the maintenance standards of this Declaration. The foregoing actions by the Developer or the Owner's association, if applicable, shall be at the defaulting Parcel Owner's expense and such defaulting Owner shall pay for the reasonable costs of such work within fifteen (15) days of invoice. If the defaulting Parcel Owner fails to pay the invoice amount, then a lien shall be established on all of the Parcels of such defaulting Owner and such lien may be foreclosed as mortgages are foreclosed (with power of sale) in the State of Alabama. In addition, the delinquent invoice amount shall accrue interest at the rate of one and one-half percent (1.5%) per month and the delinquent or defaulting Owner shall also pay all costs of collection including a reasonable attorney's fee.

ARTICLE V

ZONING AND SPECIFIC RESTRICTIONS

5.1 Zoning Laws. The restrictions set forth in this Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning law, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, leases or the restrictions shall be taken to govern and control. No Owner of a Parcel shall apply for a change in zoning or a variance without the prior written consent of the Committee.

5.2 Building Codes. All buildings shall comply with requirements of the Standard Building code, the City of Pelham Building Inspection Department and the Shelby County Health Department.

5.3 Setbacks. No Structure shall be located on any Parcel nearer than thirty-five feet (35') to the front line of a Parcel and as otherwise required in the City of Pelham's Zoning Regulations for the M-1 zoning classification. For the purpose of this covenant, eaves, steps, and open porches shall not be construed to permit any portion of a building on a Parcel to encroach upon another Parcel. The Committee shall have the authority to grant variances from the above established setback requirements.

5.4 Parking. Each Parcel Owner shall provide adequate off street parking to accommodate all existing and future needs for employees, visitors and company vehicles. Parking spaces shall meet the City of Pelham's off street parking requirements. Each space shall be a minimum of nine feet (9') wide unless designated as handicapped parking. Areas designated for automobile use shall not be used for trucks, commercial vehicles and/or material storage. No parking will be permitted in open fields or vacant lots. Inoperative or junk vehicles will be towed away at Owner's expense. Any parking lot on any Parcel in Oak Mountain Business Park shall be required to have striping, curbs and gutters.

5.5 Landscaping. Landscaping treatment shall be required on all Parcels. A minimum of twenty percent (20%) of each Parcel shall be landscaped for green treatment in a balanced mixture of grass lawns, ground cover, shade trees, plantings, evergreen hedge and flowers. General landscaping shall also include the use of walls, screening terraces and berms. Landscaping can be used to mark entrance points, parking areas, define service areas and property divisions as well as to enhance building scale and forms. Landscaping or Beautification Plans must be approved by the Committee. Each Parcel, as approved by the Committee in accordance with **Article 3.2**, shall be landscaped for green treatment in a balanced mixture of grass lawns or sod, ground cover, shade trees, plantings, evergreen hedges, and flowers; provided, however, that the Committee shall, as a part of the approval process set forth in **Article 3.2** of the Declaration, have the binding authority to increase said requirement in its sole discretion, in which case the Parcel shall be required to maintain that certain minimum percentage established by the Committee upon its approval of the Parcel's plans and specifications, including, without limitation, the landscaping plan. Each Parcel in Oak Mountain

Business Park shall be required to have an in-ground sprinkler system.

No landscape treatment shall interfere with the line of sight regarding vehicular entry onto the public roadways or obstruct needed views of buildings or their means of identification from the public street providing access thereto.

Each Parcel Owner will be responsible for the implementation and maintenance of landscaping or Parcel within the normal right-of-way line of adjacent public streets. Landscaping materials shall generally consist of sod as prescribed by the Committee. Each Parcel in Oak Mountain Business Park shall be required to utilize an iron post mailbox, the style and location of which shall be approved in writing by the Committee.

ARTICLE VI

EASEMENTS

6.1 Drainage. Except with prior written permission from the Committee, drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record of Oak Mountain Business Park. The Developer shall have an easement across any Parcel for access and to cut drainways for surface water drainage wherever and whenever such action may appear to Developer to be necessary in order to maintain reasonable standards of health, safety and appearance; provided, however, that the Developer's right to cut and establish drainways shall terminate when the principle Structure and landscaping on a Parcel shall have been completed. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health and appearance. The provisions hereof shall not be construed to impose any obligation upon the Developer to do any of the foregoing.

6.2 Grading. The Developer shall have an easement for access at any time and to make such cuts and fills upon any Parcel or other part of Oak Mountain Business Park and to drain surface waters therefrom; and may assign such rights to Shelby County, Alabama or the City of Pelham, Alabama, or to any municipal or public authority; provided, however, that after plans for the principal Structure upon a Parcel shall have been approved by the Committee as provided herein, the easement rights of the Developer under this **Article 6.2** shall terminate with respect to all parts of such Parcel other than the easement area thereof, except that the Committee or any municipal or public authority having jurisdiction shall thereafter have the right to maintain existing streets and drainage structures.

6.3 Filings. The Developer shall be entitled, at its cost, to file instruments of record at the Probate Office to clarify the locations of any of the easements as provided for in this **Article VI**.

6.4 Dedication. Nothing herein shall act as a public dedication of any road. Only the Developer shall be entitled to elect to dedicate the subdivision's roads to the City of Pelham,

Alabama in its sole discretion.

ARTICLE VII

GENERAL

7.1 Grantee's Acceptance. The grantee of any Parcel subject to this Declaration, by acceptance of a Deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchaser thereof, whether from the Developer or a subsequent Owner of such Parcel, shall accept such Deed or other contract upon and subject to each and all of the provisions of this Declaration herein contained.

7.2 Indemnity for Damages. Each Parcel Owner and/or future Parcel Owner, in accepting a Deed or contract for any Parcel subject to this Declaration, agrees to indemnify the Developer, and the Committee for any damage caused by such Owner, or its contractor, agent, or employees of such Owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by the Developer, or for which the Developer or the Committee has responsibility, at the time of such damage.

7.3 Severability. Every one of the provisions and restrictions contained in this Declaration is hereby declared to be independent of, and severable from, the rest of the provisions and restrictions and of and from every combination of the provisions and restrictions in this Declaration. Invalidation by any court of any provision or restriction in this Declaration shall in no way affect any of the other provisions or restrictions, which shall remain in full force and effect.

7.4 Right of Developer to Modify Restrictions with Respect to Unsold Parcels. With respect to any unsold Parcel, Developer may include in any contract or Deed hereinafter made or entered into, such modifications and/or additions to this Declaration as the Developer, in its discretion desires.

7.5 Effect of Violation on Mortgage Lien. No violation of any of the provisions of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property provided, however, that any mortgage in actual possession, or any purchaser at any mortgagee's or foreclosure sale shall be bound by and subject to the provisions of this Declaration as fully as any other Owner of any portion of the Property.

7.6 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

7.7 Duration and Amendment. This Declaration shall run with the land and may be changed, modified, amended, altered or terminated only in accordance with the provisions hereof. This Declaration may be changed, modified, amended, altered or terminated at any time until December 31, 2015 by a duly recorded written amendment executed by the then record Owners (including mortgagees and other lien holders of record, if any) of ninety percent (90%)

of the number of Parcels of the Property. After December 31, 2015 and until December 31, 2020, this Declaration may be changed, modified, amended, altered or terminated by a duly recorded written amendment executed by the then record Owners (including mortgagees and other lien holders of record, if any) of seventy-five percent (75%) of the number of Parcels of the Property. From and after January 1, 2021, this Declaration may be changed, modified, amended, altered or terminated by a duly recorded written amendment executed by the then record owners (including mortgagees and other lien holders of record, if any) of sixty-five percent (65%) of the number of the Parcels of the Property. Notwithstanding the foregoing, this Declaration shall terminate on January 1, 2051, except for any easements created hereunder which shall run with the land.

7.8 Enforcement. In the event of a violation or breach of any of the provisions of this Declaration or any Amendments hereto, by any Parcel Owner, or employee, agent, or lessee of such Owner, the Owner(s) of Parcel(s), their successors and assigns, or any business party to whose benefit these covenants and restrictions inure, the Committee or an Owner shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said covenants and restrictions, to sue for and recover damages or other dues or to take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of any aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence of continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof shall be entitled specifically to relief by way of injunction as well as any other available relief at law or in equity.

Any party to a proceeding who succeeds in enforcing the provisions hereof, or enjoining the violation of any provision of this Declaration against a Parcel Owner, may be awarded a reasonable attorney's fee against such Parcel Owner.

All remedies under this Declaration are cumulative and shall be deemed additional to any and all other remedies to which any party may be entitled in law or in equity.

7.9 No Waiver. The failure of any party entitled to enforce any provision of this Declaration to do so shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto; provided, however, that approval of plans pursuant to **Article III** shall be binding on any and all parties as a conclusive determination that such plans are in conformity with the requirements of this Declaration.

7.10 Liability of Owners. The Owners shall be liable for the performance of their respective obligations under this Declaration, and injunctive and other relief, including specific performance, shall be available to enforce such obligations. However, upon any sale or conveyance of a Parcel to a third party, the Owner who shall have sold its respective Parcel, shall

be forever released of any of its obligations hereunder (except for any obligation which shall have accrued at or before the transfer of such title), and such obligations arising thereafter shall be enforceable only against the party who shall acquire title to such respective Parcel.

7.11 Negation of Partnership. None of the terms or provisions of this Declaration shall be deemed to create a partnership between the parties and their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each party shall be considered a separate Owner, and no party shall have the right to act as an agent for another, unless expressly authorized to do so herein or by separate written instrument.

7.12 No Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no rights, privileges or immunities of any party hereto shall inure to the benefit of any third party, nor shall any third party be deemed to be a beneficiary of any of the provisions of this Declaration except as expressly set forth herein.

7.13 Time. Time is of the essence of this Declaration.

7.14 Applicable Law. This Declaration shall be governed, construed and applied and enforced in accordance with the laws of the State of Alabama.

7.15 Declaration Shall Continue Notwithstanding Default. It is expressly agreed that no breach or default of this Declaration shall entitle any Owner to cancel, rescind or other otherwise terminate this Declaration.

7.16 Entire Agreement. This Declaration, including the exhibits, sets forth the entire understanding and agreement of the Owners with respect to the Property. No modification or amendment of this Declaration shall be binding unless in writing and in compliance with the provisions of **Article 7.7**.

[Signatures appear on the following page(s)]

Owner of Lot 12 according to Map Book 24, Page 150; Lot 15 according to Map Book 25, Page 57; Lot 16A according to Map Book 25, Page 73; Lot 17 according to Map Book 25, Page 73; Lot 18 according to Map Book 24, Page 149; Lot 19 according to Map Book 24, Page 149; and Lot 23 according to Map Book 25, Page 9 all as recorded in the Probate Office of Shelby County, Alabama

OAK MOUNTAIN BUSINESS PARK, LLC

By: [Signature]
 Name: [Signature]
 Its: [Signature]

STATE OF ALABAMA)
Shelby COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that LARRY CLAYTON, whose name as Manager of OAK MOUNTAIN BUSINESS PARK, LLC, an Alabama limited liability company, is signed to the foregoing Amended and Restated Declaration and who is known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, he/she, in his/her capacity as such member and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

Given under my hand this the 14 day of August, 2002.

[NOTARIAL SEAL]

[Signature]
 Notary Public
 My Commission Expires: 5/8/06

CONSENT OF MORTGAGEE

W. LARRY CLAYTON, as Mortgagee of Lot 12 according to Map Book 24, Page 150; Lot 15 according to Map Book 25, Page 57; Lot 16A according to Map Book 25, Page 73; Lot 17 according to Map Book 25, Page 73; Lot 18 according to Map Book 24, Page 149; Lot 19 according to Map Book 24, Page 149; and Lot 23 according to Map Book 25, Page 9 pursuant to that certain Mortgage recorded in the Probate Office of Shelby County, Alabama, does hereby consent to and subordinate its Mortgage to the foregoing Amended and Restated Declaration.


W. LARRY CLAYTON


Date of Execution: 8-14-02

STATE OF ALABAMA)

Shelby **COUNTY**)

I, the undersigned, a Notary Public, hereby certify that **W. LARRY CLAYTON**, whose name is signed to the foregoing Consent of Mortgagee, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Consent of Mortgagee, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 14 day of August, 2002.


 Notary Public
 My Commission Expires: 5/8/05

[NOTARIAL SEAL]

Owner of the Property Less and Except
 Lot 9 according to Map Book 25, Page 74;
 Lot 13 according to Map Book 24, Page
 150; Lot 14 according to Map Book 25,
 Page 57; and Lot 20 according to Map
 Book 24, Page 149 all as recorded in the
 Probate Office of Shelby County,
 Alabama.

OAK MOUNTAIN BUSINESS PARK, LLC

By: [Signature]
 Name: LARRY CLAYTON
 Its: Manager

STATE OF ALABAMA)

Shelby COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby
 certify that LARRY CLAYTON, whose name as Manager of OAK
 MOUNTAIN BUSINESS PARK, LLC, an Alabama limited liability company, is signed to the
 foregoing Amended and Restated Declaration and who is known to me, acknowledged before me
 on this day that, being informed of the contents of the Amended and Restated Declaration, he/she, in
 his/her capacity as such member and with full authority, executed the same voluntarily for and as
 the act of said limited liability company on the day the same bears date.

Given under my hand this the 14 day of August, 2002.

[NOTARIAL SEAL]

[Signature]
 Notary Public
 My Commission Expires: 5/8/05

CONSENT OF MORTGAGEE

W. LARRY CLAYTON, as Mortgagee of the Property less and except Lot 9 according to Map Book 25, Page 74; Lot 13 according to Map Book 24, Page 150; Lot 14 according to Map Book 25, Page 57; and Lot 20 according to Map Book 24, Page 149 pursuant to that certain Mortgage recorded in the Probate Office of Shelby County, Alabama, does hereby consent to and subordinate its Mortgage to the foregoing Amended and Restated Declaration.

W. Larry Clayton
W. LARRY CLAYTON

Date of Execution.

8-14-02

STATE OF ALABAMA)

Shelby COUNTY)

I, the undersigned, a Notary Public, hereby certify that W. LARRY CLAYTON, whose name is signed to the foregoing Consent of Mortgagee, and who is known to me, acknowledged before me on this day that, being informed of the contents of the Consent of Mortgagee, he executed the same voluntarily on the day the same bears date.

Given under my hand this the 14 day of August, 2002.

[NOTARIAL SEAL]

Hoval
Notary Public
My Commission Expires: 5/8/05

Lot 9 of Oak Mountain Business Park, according to Map Book 25, Page 74, as recorded in the Probate Office of Shelby County, Alabama.

OWNERS

By: [Signature]
Name: FRANK S. BRUSH D.U.M.
Its: OWNER

By: _____
Name: _____
Its: _____

STATE OF ALABAMA)

SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that FRANK BRUSH D.U.M. and _____ whose names are signed to the foregoing Amended and Restated Declaration and who are known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, they executed the same voluntarily on the day the same bears date.

Given under my hand this the 30th day of ~~May~~ ^{July}, 2002.

[NOTARIAL SEAL]

[Signature]
Notary Public
My Commission Expires: 5-8-05

Lot 14 of Oak Mountain Business Park, according to Map Book 25, Page 57, as recorded in the Probate Office of Shelby County, Alabama.

OWNERS:

By: Grady R. Andrews
Name: Grady R. Andrews
Its: President

By: Catherine M. Andrews
Name: CATHERINE M. Andrews
Its: _____

STATE OF ALABAMA)
)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Grady R. Andrews and Catherine M. Andrews whose names are signed to the foregoing Amended and Restated Declaration and who are known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, they executed the same voluntarily on the day the same bears date.

Given under my hand this the 26th day of July, 2002.

[NOTARIAL SEAL]

Jeanine J. Worley
Notary Public
My Commission Expires: 5-1-06

CONSENT OF MORTGAGEE

SouthTrust Bank NA, as Mortgagee of Lot 14 pursuant to that certain Mortgage recorded in the Probate Office of Shelby County, Alabama, does hereby consent to and subordinate its Mortgage to the foregoing Amended and Restated Declaration.

SouthTrust Bank NA

By: _____

Name: David Nolen

Its: Vice President

Date of Execution: 7/30/2002

STATE OF ALABAMA)

Shelby COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that DAVID NOLEN, whose name as VP of SOUTHTRUST BANK, a(n) AL BANKING CORP, is signed to the foregoing Amended and Restated Declaration and who is known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, he/she, in his/her capacity as such officer and with full authority, executed the same voluntarily for and as the act of said MORTGAGEE on the day the same bears date.

Given under my hand this the 30 day of July, 2002.

[NOTARIAL SEAL]

Doranne N. Brema
Notary Public

My Commission Expires: MAY 14, 2004 (VB)
2004

Lot 16 of Oak Mountain Business Park, according to Map Book 25, Page 73, as recorded in the Probate Office of Shelby County, Alabama.

OWNERS:

By: [Signature]
Name: Clayton
Its: Mandy

By: _____
Name: _____
Its: _____

STATE OF ALABAMA)
)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that CLAYTON and _____ whose names are signed to the foregoing Amended and Restated Declaration and who are known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, they executed the same voluntarily on the day the same bears date.

Given under my hand this the 14 day of May, 2002.

[NOTARIAL SEAL]

[Signature]
Notary Public
My Commission Expires: 5/8/02

CONSENT OF MORTGAGEE

W. R. C. / 5, as Mortgagee of Lot 16 pursuant to that certain Mortgage recorded in the Probate Office of Shelby County, Alabama, does hereby consent to and subordinate its Mortgage to the foregoing Amended and Restated Declaration.

W. R. C. / 5

By: W. R. C. / 5

Name: _____

Its: _____

Date of Execution: 8-14-02

STATE OF ALABAMA)

Shelby COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that CHUCK CLAYTON, whose name as Mortgagee of LOT 16, a(n) _____, is signed to the foregoing Amended and Restated Declaration and who is known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, he/she, in his/her capacity as such officer and with full authority, executed the same voluntarily for and as the act of said _____ on the day the same bears date.

Given under my hand this the 14 day of AUG, 2002.

Howard

Notary Public

My Commission Expires: 5/8/05

[NOTARIAL SEAL]

Lot 20 of Oak Mountain Business Park, according to Map Book 24, Page 149, as recorded in the Probate Office of Shelby County, Alabama.

OWNERS:

By: [Signature]
Name: Kevin C Phillips
Its: President

By: [Signature]
Name: Tien M. Le
Its: Sec. Tres.

STATE OF ALABAMA)
)
SHELBY COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Kevin C Phillips and Tien M. Le whose names are signed to the foregoing Amended and Restated Declaration and who are known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, they executed the same voluntarily on the day the same bears date.

Given under my hand this the 23rd day of ^{July}~~May~~, 2002.

[NOTARIAL SEAL]

[Signature]
Notary Public
My Commission Expires: _____
My Commission Expires 10/20/04

CONSENT OF MORTGAGEE

Regions Bank, as Mortgagee of Lot 20 pursuant to that certain Mortgage recorded in the Probate Office of Shelby County, Alabama, does hereby consent to and subordinate its Mortgage to the foregoing Amended and Restated Declaration.

Regions Bank

By: [Signature]

Name: Brook Balogh

Its: Senior U.P.

Date of Execution: 7/19/02

STATE OF ALABAMA)

Shelby COUNTY)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Brook Balogh, whose name as Senior Vice President of Regions Bank, a(n) _____, is signed to the foregoing Amended and Restated Declaration and who is known to me, acknowledged before me on this day that, being informed of the contents of the Amended and Restated Declaration, he/she, in his/her capacity as such officer and with full authority, executed the same voluntarily for and as the act of said _____ on the day the same bears date.

Given under my hand this the 19th day of July, 2002.

Joanne R. Luwin

Notary Public

My Commission Expires: 10/20/03

[NOTARIAL SEAL]

EXHIBIT "A"

AMENDED AND RESTATED PROPERTY DESCRIPTION FOR OAK MOUNTAIN BUSINESS PARK

Begin at the NE Corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec 19, Township 20 South, Range 2 West, said point being the POINT OF BEGINNING; thence S 89deg-36'47" E a distance of 48.84' to a point on the southeasterly right-of-way line of Shelby County Highway No. 52 (R.O.W. Varies), said point lying on a curve to the right having a radius of 1472.05' and a central angle of 19deg-26'07"; thence along said right-of-way line and the arc of said curve a distance of 499.33', said arc subtended by a chord which bears S 83deg-42'-25" W a distance of 496.94', to the end of said arc; thence S 17deg-32'-44" W and leaving said right-of-way line a distance of 221.28'; thence N 64deg-17'28" W a distance of 149.95' to a point on a curve to the right having a radius of 154.80' and a central angle of 69deg-09'13"; thence along the arc of said curve a distance of 186.84', said arc subtended by chord which bears N 29deg-42'-51" W a distance of 175.70', to a point on a compound curve to the right having a radius of 30.40' and a central angle of 80deg-18'-35"; thence along the arc of said curve a distance of 42.61', said arc subtended by a chord which bears N 45deg-01'-03" E a distance of 39.21', to the end of said curve and a point on the southwesterly right-of-way line of said highway; thence N 80deg-19'-19" W along said right-of-way line a distance of 108.49', to a point on a curve to the right having a radius of 30.00' and a central angle of 73deg-51'-27"; thence along the arc of said curve a distance of 38.67', said arc subtended by a chord which bears S 30deg-14'-19" E a distance of 36.05', to a point on a reverse curve to the left having a radius of 217.52' and a central angle of 71deg-05'-50"; thence along the arc of said curve a distance of 269.92', said arc subtended by a chord which bears S 28deg-51'-31" E a distance of 252.93', to the end of said curve; thence S 55deg-04'-43" W a distance of 310.75'; thence N 80 deg-40'-50" W a distance of 223.78'; thence S 1deg-11'-00" W a distance of 922.80' to a point on the southerly boundary of said $\frac{1}{4}$ - $\frac{1}{4}$ section; thence S 89deg-34'-06" E along said southerly boundary a distance of 1264.73' to the SE Corner of said $\frac{1}{4}$ - $\frac{1}{4}$ section; thence S 89deg-29'-10" E a distance of 65.48'; thence S 1 deg-34'-33" W a distance of 281.15'; thence S 53deg-05'-17" E a distance of 310.74 to a point on the northwesterly right-of-way line of Shelby County Highway No. 11 (80' R.O.W.); thence N 36deg-54'-40" E along said right-of-way line a distance of 160.87'; thence N 37deg-33'-02" E along said right-of-way line a distance of 133.07' (203.07' deed); thence N 37deg-36'25" E along said right-of-way line a distance of 176.87' (106.87' deed) to a point on a curve to the right having a radius of 25.00' and a central angle of 89deg-38'-48"; thence leaving said right-of-way line and along the arc of said curve a distance of 39.12, said arc subtended by a chord which bears N 89deg-11'-26" W a distance of 35.25', to a point on a compound curve to the right having a radius of 230.51' and a central angle of 34deg-30'-26"; thence along the arc of said curve a distance of 138.83', said arc subtended by a chord which bears N 27deg-42'-30" W a distanced of 136.74', to the end of said curve; thence N 10deg-30'-02" W a distanced of 265.26'; thence N 37deg-38'-42" E a distance of 1296.67' to the northerly boundary of the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 19; thence N 89deg-27'-39" W along the northerly boundary of said $\frac{1}{4}$ - $\frac{1}{4}$ section a distance of 1236.41' to the Point of Beginning.

LESS AND EXCEPT the following described parcels:

1. Oak Mountain Business Park Right of Way dedication as recorded in Map Book 24, Page 148 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.
2. Oak Mountain Business Park Sector 1, Right of Way dedication as recorded in Map Book 23, Page 84 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.
3. Lots 1, 2, 2-A, 3 and 3-A, according to the survey of Oak Mountain Business Park, Sector 1, as recorded in Map Book 23, Page 84 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.
4. Clayton's Addition to Oak Mountain Business Park described as follows:

Commence at the SE Corner of the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 19, Township 20 South, Range 2 West, said point being the POINT OF BEGINNING; thence S89°29'10"E and along the Section line, a distance of 65.48'; thence N21°49'43"W, a distance of 214.39' to a point lying on the Southerly R.O.W. line of Applegate Trace (50' R.O.W.); thence N58°19'45"W and leaving said R.O.W., a distance of 78.95' to a point lying on the Northerly R.O.W. line of above mentioned Applegate Trace; thence N28°08'36"W and leaving said R.O.W., a distance of 164.45'; thence N61°51'24"E, a distance of 16.77'; thence N28°11'03"W, a distance of 347.83'; thence S39°13'32"W, a distance of 412.69'; thence N43°35'14"W, a distance of 202.03'; thence N58°53'15"W, a distance of 350.17'; thence N04°55'08"W, a distance of 189.60'; thence N80°40'50"W, a distance of 223.78'; thence S01°11'00"W, a distance of 922.80'; thence S89°34'06"E along the Section line, a distance of 1,264.73' to the POINT OF BEGINNING.

It being understood that the below described parcels are included in the Property that is subject to the Declaration:

Lot 9, according to the survey of Oak Mountain Business Park, Lot 9 as recorded in Map Book 25, Page 74 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama;

Lot 11 Oak Mountain Business Park as recorded in Instrument # 1998-26047;

Lots 12 and 13, as recorded in Map Book 24, Page 150 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama;

Lots 14 and 15, as recorded in Map Book 25, Page 57 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama;

Lots 16, 16-A, and 17, as recorded in Map Book 25, Page 73 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama;

Lots 18, 19 and 20 according to the survey of Oak Mountain Business Park, Lots 18, 19 and 20, as recorded in Map Book 24, Page 149 in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama; and

Lot 23 as recorded in Map Book 25, Page 9 in the Probate Office of Shelby County, Alabama.