

STATE OF ALABAMA     )  
                                 :  
COUNTY OF SHELBY     )

**AGREEMENT**

THIS AGREEMENT (this "Agreement") is made and entered into as of the 30<sup>th</sup> day of June, 2004 by and among DANIEL OAK MOUNTAIN LIMITED PARTNERSHIP, an Alabama limited partnership ("Developer"), GREYSTONE RESIDENTIAL ASSOCIATION, INC., an Alabama nonprofit corporation (the "Association"), and BARBARA M. TICKLE, a married woman ("Tickle").

**RECITALS:**

Tickle is the owner of that certain real property (the "Tickle Property") situated in Shelby County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference.

Developer is the "Developer", as defined in the Greystone Residential Declaration of Covenants, Conditions and Restrictions dated November 6, 1990 which has been recorded in Real 317, Page 260 in the Office of the Judge of Probate of Shelby County, Alabama (the "Probate Office"), which has been amended by (i) First Amendment thereto dated June 6, 1991 and recorded in Real Book 346, Page 942 in the Probate Office, (ii) Second Amendment thereto dated December 20, 1991 and recorded in Real Book 378, Page 904 in the Probate Office, (iii) Third Amendment thereto dated March 26, 1992 and recorded in Real Book 397, Page 958 in the Probate Office, (iv) Fourth Amendment thereto dated August 21, 1992 and recorded as Instrument No. 1992-17890 in the Probate Office, (v) Fifth Amendment thereto dated January 27, 1993 and recorded as Instrument No. 1993-03123 in the Probate Office, (vi) Sixth Amendment thereto dated April 13, 1993 and recorded as Instrument No. 1993-10163 in the Probate Office, (vii) Seventh Amendment thereto dated June 11, 1993 and recorded as Instrument No. 1993-16982 in the Probate Office, (viii) Eighth Amendment thereto dated July 16, 1993 and recorded as Instrument No. 1993-20968 in the Probate Office, (ix) Ninth Amendment thereto dated October 21, 1993 and recorded as Instrument No. 1993-32840 in the Probate Office, (x) Tenth Amendment thereto dated July 25, 1994 and recorded as Instrument No. 1994-23329 in the Probate Office, (xi) Eleventh Amendment thereto dated March 30, 1995 and recorded as Instrument No. 1995-08111 in the Probate Office, (xii) Twelfth Amendment thereto dated September 1, 1995 and recorded as Instrument No. 1995-24267 in the Probate Office, (xiii) Thirteenth Amendment thereto dated November 29, 1995 and recorded as Instrument No. 1995-34231 in the Probate Office, (xiv) Fourteenth Amendment thereto dated December 11, 1995 and recorded as Instrument No. 1995-35679 in the Probate Office, (xv) Fourteenth Amendment (sic) thereto dated June 18, 1996 and recorded as Instrument No. 1996-19860 in the Probate Office, (xvi) Fifteenth Amendment thereto dated November 12, 1996 and recorded as Instrument No. 1996-37514 in the Probate Office, (xvii) Sixteenth Amendment thereto dated December 3, 1996 and recorded as Instrument No. 1996-39737 in the Probate



Office, (xviii) Seventeenth Amendment thereto dated January 24, 1997 and recorded as Instrument No. 1997-02534 in the Probate Office, (xix) Eighteenth Amendment thereto dated May 14, 1997 and recorded as Instrument No. 1997-17533 in the Probate Office, (xx) Nineteenth Amendment thereto dated September 18, 1997 and recorded as Instrument No. 1997-30081 in the Probate Office, (xxi) Twentieth Amendment thereto dated November 26, 1997 and recorded as Instrument No. 1997-38614 in the Probate Office, (xxii) Twenty-First Amendment thereto dated January 25, 1999 and recorded as Instrument No. 1999-03331 in the Probate Office, (xxiii) Twenty-Second Amendment thereto dated February 12, 1999 and recorded as Instrument No. 1999-06309 in the Probate Office, (xxiv) Twenty-Third Amendment thereto dated November 22, 1999 and recorded as Instrument No. 1999-47817 in the Probate Office, (xxv) Twenty-Fourth Amendment thereto dated July 17, 2002 and recorded as Instrument No. 20020717000334280 in the Probate Office, (xxvi) Twenty-Fifth Amendment thereto dated September 8, 2003 and recorded as Instrument No. 200309090006044430 in said Probate Office, (xxvii) Twenty-Sixth Amendment thereto dated October 23, 2003 and recorded as Instrument No. 20031023000711520 in said Probate Office, (xxviii) Twenty-Seventh Amendment thereto dated October 31, 2003 and recorded as Instrument No. 20031105000735510 in said Probate Office and (xxix) Twenty-Eighth Amendment thereto dated May 21, 2004 and recorded as Instrument No. 20040521000271290 in said Probate Office (collectively, the “Declaration”). *Capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Declaration.*

The Association is the “Association”, as defined and referred to in the Declaration.

Developer, with the consent and approval of the Association, desires to grant to Tickle the right, at Tickle’s sole option, to cause any portions of the Tickle Property selected by Tickle to be subjected to and encumbered by the Declaration and otherwise become a part of the Development, subject to and upon the terms and conditions hereinafter set forth.

In consideration of the foregoing, Tickle has agreed to restrict the uses for which the Tickle Property may be used and developed, subject to and upon the terms and conditions hereinafter set forth.

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

1. **Use Restrictions.** Subject to the terms and provisions of Paragraph 2(b) below, Tickle does hereby covenant and agree that the Tickle Property shall be used solely for “Farm Uses” and “Single-Family Residential Uses”, as herein defined, and shall in no event be developed for office, retail or other commercial uses or other residential uses not specifically authorized in this Paragraph 1. As used herein, the term “Farm Uses” shall mean and include the construction, occupancy and use of any portion of the Tickle Property for any of the following purposes or uses: agricultural, farming, the keeping, raising and pasturing of cattle and horses, the raising of crops, lakes, Dwellings for detached single-family residential purposes, additional structures such as, but not limited to, barns, stables, guesthouses, servant quarters, attached and detached garages, pools, pool houses, cabanas, tennis courts, boat houses and similar buildings,



structures and improvements. As used herein, the term “Single-Family Residential Purposes” shall mean one (1) or more detached Dwellings for single-family residential use and occupancy and any and all other uses normally found in any single-family residential development.

2. **Partial Assignment of Developer Rights.**

(a) Subject to the remaining terms and provisions of this Paragraph 2, (i) Developer and the Association do hereby grant, bargain, sell, transfer, assign, set-over and convey to Tickle the permanent and perpetual right pursuant to Section 2.02 of the Declaration to add all or any portion of the Tickle Property as “Additional Property”, as defined in the Declaration, to the Declaration and (ii) Developer does hereby grant, bargain, sell, transfer, assign, set-over and convey to Tickle the permanent and perpetual right, in common with Developer, to exercise all rights of Developer established and reserved in Sections 2.08 and 3.05 of the Declaration as such rights apply to any portion of the Tickle Property which is added as Additional Property to the Declaration. The rights granted by Developer to Tickle pursuant to the terms and provisions of this Paragraph 1 may be exercised by Tickle at any time or from time to time by the execution of an amendment to the Declaration signed solely by Tickle (which need not be consented to, approved or executed by either Developer or the Association) and containing the information required by the terms and provisions of Section 2.02 of the Declaration.

(b) In the event Tickle desires to develop Dwellings on any portion of the Tickle Property, then, subject to the terms and provisions of Paragraph 2(e) below, Tickle, for herself and her heirs and assigns, covenants and agrees with the Association as follows:

(i) With respect to that portion of the Tickle Property then being developed with Dwellings (the “Affected Property”), Tickle agrees to cause the Affected Property to be subjected to all of the terms and provisions of the Declaration and agrees to execute an amendment to the Declaration adding the Affected Property as Additional Property to the Declaration as provided in Paragraph 2(a) above;

(ii) The Affected Property shall be utilized for Single-Family Residential Purposes only;

(iii) Any Dwellings to be constructed on any of the Affected Property shall be subject to the following minimum building setback requirements: (1) front and rear building setbacks: 50 feet; and (2) side building setbacks: 15 feet;

(iv) Any and all Dwellings to be constructed on the Affected Property shall contain the following minimum Living Space, as defined in the Declaration: (1) with respect to one-story Dwellings, a minimum Living Space of 2,600 square feet; and (2) with respect to any multi-story Dwellings, a minimum Living Space of 3,00 square feet;



(v) Subject to the foregoing requirements, any and all proposed Improvements, as defined in the Declaration, to any of the Affected Property must be approved by the ARC, as defined in the Declaration; and

(vi) Notwithstanding anything provided herein to the contrary, in no event shall there be more than twenty (20) Dwellings constructed on any portion of the Tickle Property which is added to the Declaration as Additional Property.

(c) The parties acknowledge and agree that the Tickle Property is **not** currently encumbered by the terms and provisions of the Declaration; however, subject to the terms and provisions of Paragraph 2(e) below, immediately prior to commencement of construction of a Dwelling on any portion of the Tickle Property, the Affected Property then being developed for Dwellings will be added to and encumbered by all of the terms and provisions of the Declaration, including, specifically, the obligation to pay Assessments, as defined in the Declaration. Subject to the terms and provisions of Paragraph 2(e) below, Tickle, for herself and her heirs and assigns, does hereby covenant and agree to cause the Affected Property then being developed with Dwellings to be added to the Declaration as Additional Property upon commencement of construction of any Dwellings on the Affected Property.

(d) To the extent any portion of the Tickle Property to be added to this Declaration constitutes roads or streets, then such roads and streets shall be constructed at no cost or expense to the Association and in accordance with the requirements of the City of Hoover, Alabama. Upon completion of construction of any such roads and streets, the Association covenants and agrees to accept the same as Common Areas and thereafter maintain the same in good repair and condition at all times. In no event shall the Association be obligated to accept any lakes on the Tickle Property as Common Areas to be maintained by the Association.

(e) Notwithstanding anything provided in this Agreement to the contrary, Tickle, shall have the right, in her sole and absolute discretion, to allow or cause additional Dwellings to be constructed on the Tickle Property which may be owned, occupied or used for Farm Purposes by any of the Tickle Descendants, as herein defined, without being required or obligated to subject or encumber such Dwellings or any portion of the Tickle Property to the terms and provisions of the Declaration. As used herein, the term "Tickle Descendants" shall mean and refer to Tickle, her husband, their respective parents, brothers, sisters, children, grandchildren and any entity created for the benefit of any of the foregoing (*e.g.*, a trust). The Association specifically acknowledges and agrees that to the extent any additional Dwellings are constructed on the Tickle Property which are owned, occupied or used for Farm Purposes by any of the Tickle Descendants, such additional Dwellings shall not be required to be submitted to the terms and provisions of the Declaration or any of the other terms and provisions set forth in Paragraph 2(b) above.

3. **Utility Connection Rights.** Developer and the Association do hereby grant, bargain, sell, transfer, assign, set-over and convey to Tickle the permanent, perpetual non-exclusive right and easement to connect to and otherwise utilize any and all underground utility lines, pipes, wiring, conduit and other apparatus which may be situated within any of the

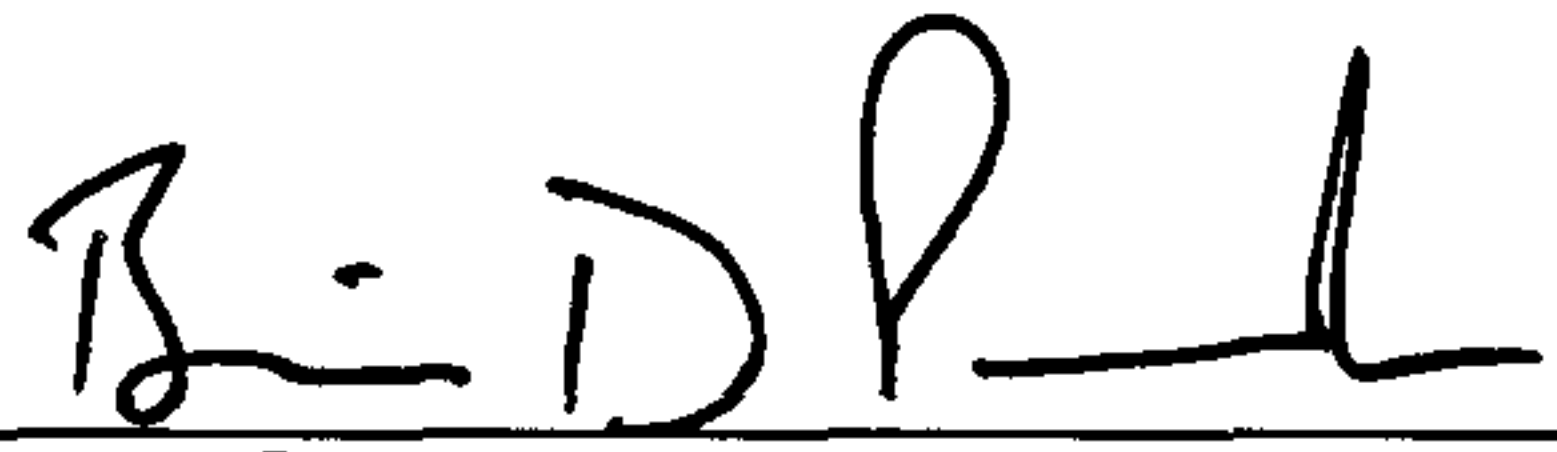
Common Areas which are abutting, adjacent to or in close proximity with the Tickle Property, which easement rights shall be exercised by Tickle, her heirs, successors and assigns, subject to and in accordance with the terms and provisions of Section 3.06 of the Declaration and in common with Developer, the Association and any of their respective successors and assigns.

4. **Binding Effect.** The terms and provisions of this Agreement shall be binding upon and inure to the benefit of Developer, the Association and Tickle and their respective heirs, executors, personal representatives, administrators, successors and assigns, forever. Any of the terms and provisions set forth in this Agreement may be amended by a written modification agreement executed by Developer (or any assignee of Developer to whom Developer has specifically assigned in writing any of Developer's rights under this Agreement), the Association (acting solely through its board of directors) and the then owner of that portion of the Tickle Property affected by such amendment or modification. In no event shall any adjacent property owner be deemed to be a third party beneficiary of the terms and provisions of this Agreement and no such adjacent property owner and no member of the Association shall be entitled to consent to or approve of any amendments to this Agreement.

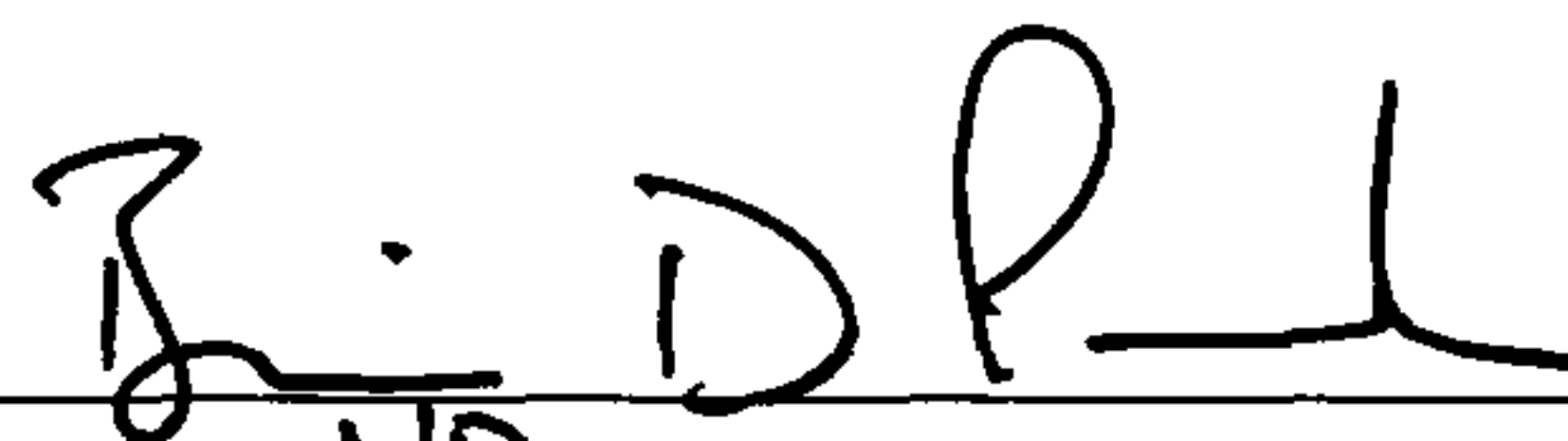
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

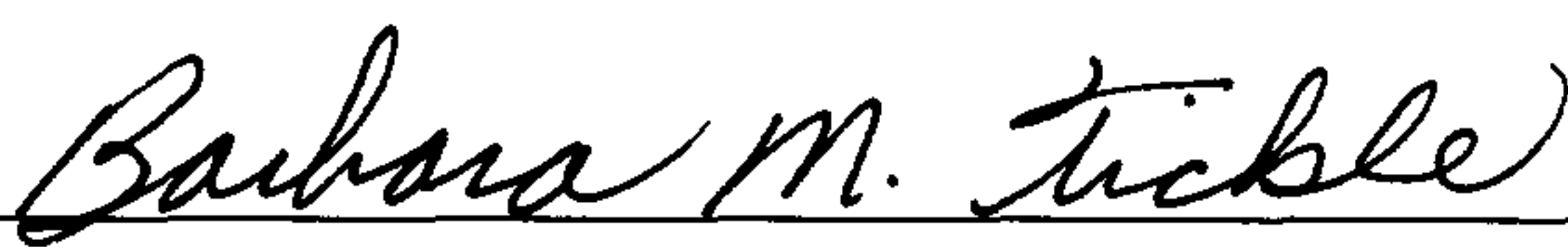
**DANIEL OAK MOUNTAIN LIMITED  
PARTNERSHIP, an Alabama limited partnership**

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

By:   
Its: VP

**GREYSTONE RESIDENTIAL ASSOCIATION,  
INC., an Alabama nonprofit corporation**

By:   
Its: VP

  
Barbara M. Tickle



STATE OF ALABAMA                    )  
   :  
COUNTY OF SHELBY                    )

I, the undersigned, a Notary Public in and for said county, in said state, hereby certify that Brian D. Parker, whose name as Vice President of Daniel Realty Investment Corporation – Oak Mountain, an Alabama corporation, as General Partner of Daniel Oak Mountain Limited Partnership, an Alabama limited partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation in its capacity as General Partner of the aforesaid limited partnership.

Given under my hand and official seal this the 30<sup>th</sup> day of June, 2004.

Chris Tortorelli

Notary Public

[NOTARIAL SEAL]

My Commission Expires: March 3, 2008

STATE OF ALABAMA                    )  
   :  
SHELBY COUNTY                        )

I, the undersigned, a notary public in and for said county in said state, hereby certify that Brian D. Parker, whose name as Vice President of Greystone Residential Association, Inc., an Alabama nonprofit 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 30<sup>th</sup> day of June, 2004.

Chris Tortorelli

Notary Public

[NOTARIAL SEAL]

My commission expires: March 3, 2008

STATE OF ALABAMA

)

:

SHELBY COUNTY

)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Barbara M. Tickle, whose name 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, she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 30<sup>th</sup> day of June, 2004.

Chris Tortorelli

Notary Public

[NOTARIAL SEAL]

My commission expires: March 3, 2008

THIS INSTRUMENT PREPARED BY AND UPON  
RECORDING SHOULD BE RETURNED TO:

Stephen R. Monk, Esq.  
Bradley Arant Rose & White LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
(205) 521-8429

## **EXHIBIT A**

### **Legal Description of Tickle Property**

See Attached.



## EXHIBIT A

### Parcel I

A parcel of land situated in Section 28, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of the Northwest Quarter of the Southeast Quarter of said Section 28, thence run South 89 degrees 01 minutes 47 seconds East along the North line of said Quarter-Quarter Section for a distance of 198.18 feet to an iron pin found at the point of beginning; thence run North 0 degrees 08 minutes 38 seconds East for a distance of 137.13 feet to an iron pin found; thence run ~~NORTH~~ 89 degrees 39 minutes 58 seconds West for a distance of 199.08 feet to an iron pin found; thence run South 0 degrees 48 minutes 41 seconds West for a distance of 508.03 feet to an iron pin found; thence run North 62 degrees 30 minutes 54 seconds West for a distance of 1,515.16 feet to an iron pin found; thence run South 3 degrees 59 minutes 07 seconds West for a distance of 203.13 feet to an iron pin found; thence run South 45 degrees 28 minutes 27 seconds West for a distance of 628.65 feet to an iron pin found; thence run South 69 degrees 00 minutes 59 seconds East for a distance of 514.18 feet to an iron pin found; thence run South 57 degrees 15 minutes 13 seconds East for a distance of 829.15 feet to an iron pin set; thence run South 32 degrees 43 minutes 01 seconds West for a distance of 278.98 feet to an iron pin set; thence run South 43 degrees 39 minutes 29 seconds East for a distance of 407.15 feet to an iron pin set; thence run South 36 degrees 01 minutes 28 seconds West for a distance of 247.70 feet to an iron pin found; thence run South 36 degrees 01 minutes 28 seconds West for a distance of 290.27 feet to an iron pin set, said iron being on a curve to the right having a central angle of 2 degrees 20 minutes 08 seconds and a radius of 510.49 feet and a chord bearing of South 78 degrees 30 minutes 03 seconds East; thence run in a Southeasterly direction along the arc of said curve for a distance of 20.81 feet to a point; thence run South 77 degrees 19 minutes 59 seconds East for a distance of 109.34 feet to a point on a curve to the left having a central angle of 46 degrees 35 minutes 10 seconds and a radius of 759.74 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 617.73 feet to a point; thence run North 56 degrees 04 minutes 51 seconds East for a distance of 88.17 feet to a point on a curve to the left having a central angle of 29 degrees 08 minutes 57 seconds and a radius of 546.91 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 278.24 feet to a point; thence run North 26 degrees 55 minutes 55 seconds East for a distance of 13.44 feet to a point on a curve to the right having a central angle of 49 degrees 30 minutes 31 seconds and a radius of 355.31 feet; thence run in a Northeasterly direction along the arc of said curve for a distance of 307.02 feet to a point; thence run North 76 degrees 26 minutes 26 seconds East for a distance of 74.59 feet to an iron pin set; thence run North 33 degrees 54 minutes 07 seconds West for a distance of 212.68 feet to an iron pin set; thence run North 89 degrees 06 minutes 26 seconds West for a distance of 171.58 feet to the point of beginning. Said parcel contains 51.848 acres, more or less.

## **PARCEL II**

A parcel of land situated in the Southwest Quarter of the Northeast Quarter of Section 28, Township 18 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at a 3" capped iron found locally accepted to be the Southeast corner of said Quarter-Quarter Section, thence run North 89 degrees 02 minutes 49 seconds West for a distance of 730.10 feet to the point of beginning; thence continue North 89 degrees 02 minutes 49 seconds West for a distance of 397.82 feet to an iron pin found; thence run North 1 degree 08 minutes 38 seconds East for a distance of 1317.13 feet to an iron pin found; thence run South 89 degrees 40 minutes 24 seconds East for a distance of 1133.42 feet to a 3" capped iron found locally accepted to be the Northeast corner of said Quarter-Quarter Section; thence run South 1 degree 22 minutes 36 seconds West for a distance of 487.63 feet to a point; thence run South 48 degrees 54 minutes 12 seconds West for a distance of 468.60 feet to a point; thence run South 73 degrees 58 minutes 55 seconds West for a distance of 215.91 feet to a point; thence run South 82 degrees 31 minutes 29 seconds West for a distance of 283.20 feet to a point; thence run South 17 degrees 50 minutes 29 seconds West for a distance of 162.85 feet to a point; thence run South 0 degrees 00 minutes 00 seconds West for a distance of 100.00 feet to a point; thence run South 39 degrees 41 minutes 21 seconds East for a distance of 221.01 feet to the point of beginning. Said parcel containing 23.63 acres more or less.