

THIS INSTRUMENT WAS PREPARED BY:

M. Beth O'Neill  
Maynard, Cooper & Gale, PC  
1901 Sixth Avenue North  
2400 AmSouth/Harbert Plaza  
Birmingham, Alabama 35203

STATE OF ALABAMA            )  
COUNTY OF SHELBY         )

## DRAINAGE EASEMENT

This Drainage Easement (this "Easement") is executed to be effective as of January 1, 2005, by and between **Baptist Health System, Inc.**, an Alabama non-profit corporation ("Baptist"), and **Shelby Ridge Properties, LLC**, an Alabama limited liability company ("Shelby Ridge"), each being referred to herein as a "Party" and collectively as the "Parties".

## RECITALS

Whereas, Baptist is the owner of the real property located in Shelby County, Alabama more particularly described on **Exhibit A** attached hereto (the "Baptist Property"), and Shelby Ridge is the owner of the real property located in Shelby County, Alabama, more particularly described on **Exhibit B** attached hereto (the "Shelby Ridge Property"); and

Whereas, pursuant to agreement between Baptist and Shelby Ridge, Baptist has agreed to provide to Shelby Ridge a non-exclusive easement for the sole purpose of discharging and draining surface water from the Shelby Ridge Property through a single twenty-four (24) inch underground pipe that runs under a portion of the Baptist Property the general location of which is shown on **Exhibit C** attached hereto and made a part hereof.

Now, therefore, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby declare and establish the following drainage easement:

1. **Grant of Easement by Baptist.** Baptist hereby grants, bargains, sells and conveys unto Shelby Ridge a perpetual, non-exclusive easement for drainage of surface water from the Shelby Ridge Property under, within and through the single twenty-four (24) inch underground pipe, the general location of which is shown on **Exhibit C** attached hereto and made a part hereof (the "Existing Pipe"), together with all rights and privileges necessary and convenient in connection therewith, said easement to be appurtenant to title to the Shelby Ridge Property. Baptist agrees that Shelby Ridge shall have the right of reasonable ingress and egress to and from the Existing Pipe for the purpose of maintaining, repairing and replacing the Existing Pipe if reasonably required to provide drainage to the Shelby Ridge Property. Shelby Ridge shall be responsible for the cost of such maintenance, repair and

replacement of the Existing Pipe, except to the extent maintenance, repair or replacement is necessitated solely by the acts or omissions (other than ordinary wear and tear) of Baptist.

2. **Right to Relocate Existing Pipe.** The Parties acknowledge and agree that the Existing Pipe is connected to the overall drainage system for the Baptist Shelby Hospital located on the Baptist Property. Nothing herein shall be construed as requiring Baptist to maintain the Existing Pipe in its current location, and Baptist shall have the right to relocate the Existing Pipe at Baptist's sole cost and expense to accommodate the development of the Baptist Property. Baptist shall provide temporary drainage facilities to serve the Shelby Ridge Property in the event the Existing Pipe is relocated by Baptist, and the parties shall execute and record a written amendment to this Easement in the event the relocation of the Existing Pipe is onto adjacent or other property owned by Baptist.

3. **Environmental Indemnity.** In consideration of the grant of this Easement, Shelby Ridge hereby releases and waives and agrees to indemnify, hold harmless, and defend Baptist and its affiliates and their respective agents, representatives, officers and employees (hereinafter "Baptist Indemnified Parties"), from and against, and agrees to reimburse the Baptist Indemnified Parties for, any and all claims, damages, liabilities, costs, fines, penalties, assessments, expenses (including without limitation attorneys' fees, court costs, expert fees, and litigation, investigation, consulting, sampling and claim preparation expenses of all kinds, and response, cleanup, corrective action, and remediation costs) (hereinafter, "Losses") imposed upon or incurred or paid by the Baptist Indemnified Parties arising from or related to any environmental condition (including without limitation the presence, release, leak, spillage, seepage, leach, discharge, injection, emptying, dumping, migration or filtration of any hazardous, toxic or regulated substance or material) (hereinafter, "Environmental Conditions") on, in or under the Baptist Property arising or occurring after the date hereof as a result of or related to drainage from the Shelby Ridge Property and Shelby Ridge's use of the Existing Pipe for drainage; provided that this provision shall not apply to an environmental condition arising or occurring after the date hereof caused by Baptist or any of the Baptist Indemnified Parties. This provision shall survive any termination of this Easement.

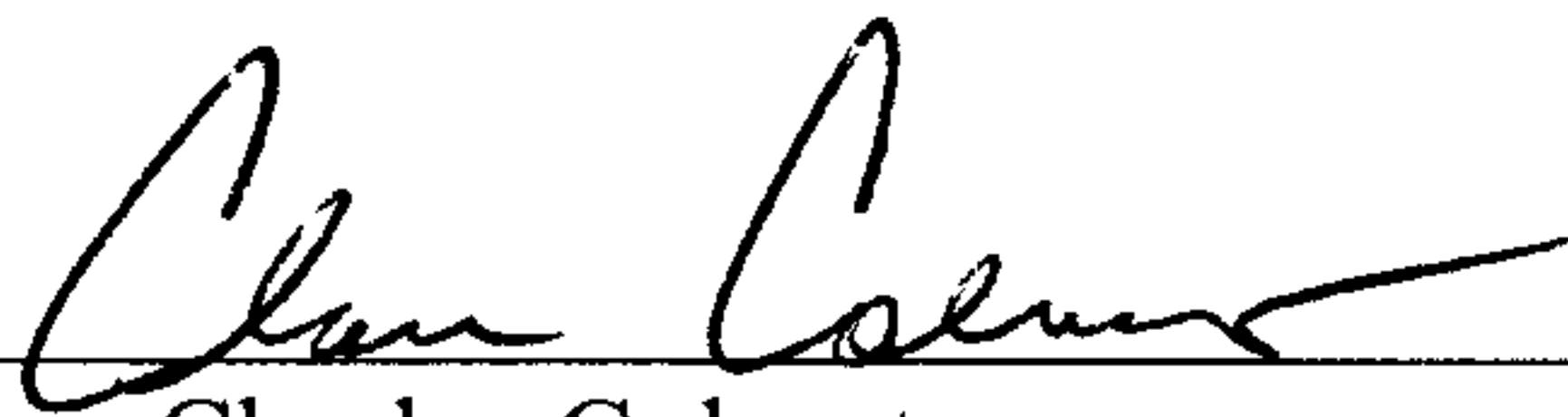
4. **Successors and Assigns.** The easement, rights and privileges hereby granted shall be appurtenant to, and run with title to, the Shelby Ridge Property and the Baptist Property and shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns.

5. **No Waiver.** The failure of any Party to at any time exercise any right or privilege or enforce any remedy or to insist upon any fulfillment of any condition shall in no way be evidence of any waiver of any such right, privilege, remedy or condition with respect to the same or any other occurrence.

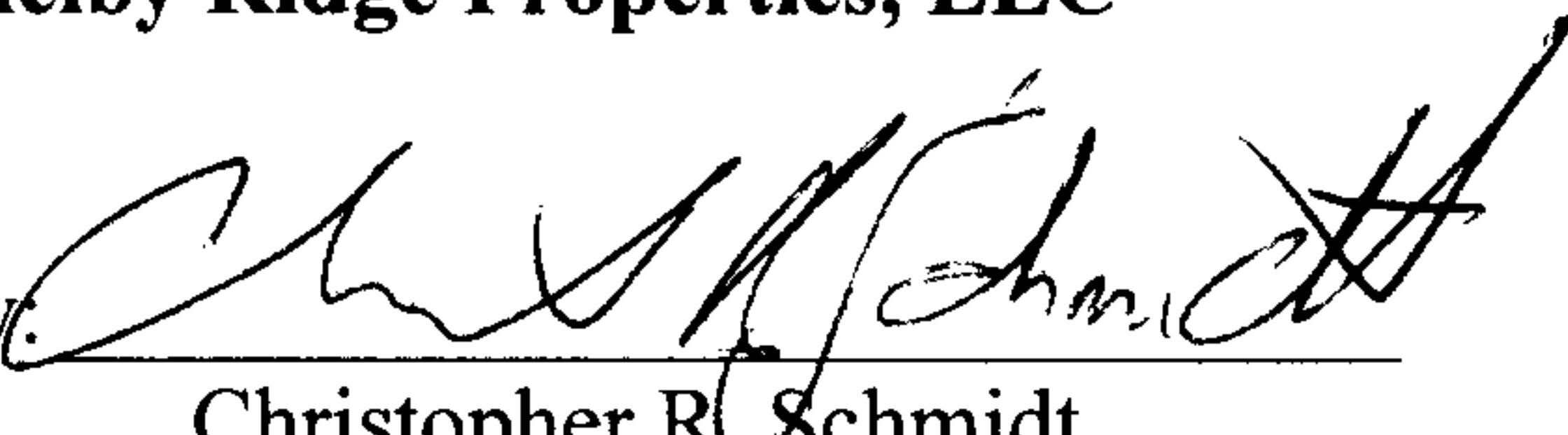
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Easement to be executed effective as of the date first written above.

**Baptist Health System, Inc.**

By:   
Charles Colvert  
President, Baptist Shelby

**Shelby Ridge Properties, LLC**

By:   
Christopher R. Schmidt  
Its Manager

STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles Colvert, whose name as President, Baptist Shelby, of Baptist Health System, Inc., an Alabama non-profit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the 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 this 5<sup>th</sup> day of January, 2005.

Donna S. Smucker  
Notary Public

[Notarial Seal]

My Commission expires: March 25, 2006

STATE OF ALABAMA)

COUNTY OF MONTGOMERY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Christopher R. Schmidt, whose name as Manager of Shelby Ridge Properties, LLC, an Alabama limited liability company, 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, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this \_\_\_\_ day of December, 2004.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

My Commission expires: \_\_\_\_\_



STATE OF ALABAMA)

COUNTY OF SHELBY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles Colvert, whose name as President, Baptist Shelby, of Baptist Health System, Inc., an Alabama non-profit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the 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 this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Notary Public

[Notarial Seal]

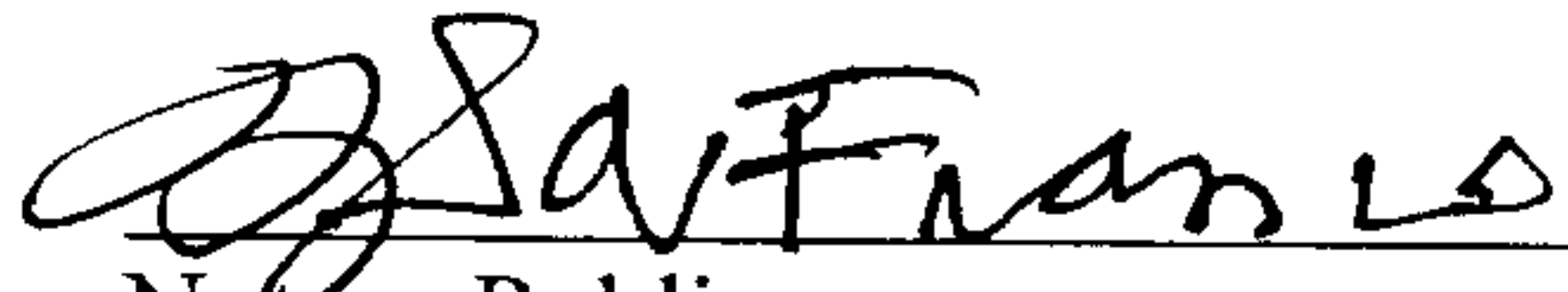
My Commission expires: \_\_\_\_\_

STATE OF ALABAMA)

COUNTY OF MONTGOMERY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Christopher R. Schmidt, whose name as Manager of Shelby Ridge Properties, LLC, an Alabama limited liability company, 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, as such manager and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand this 29<sup>th</sup> day of December, 2004.

  
Notary Public

MY COMMISSION EXPIRES  
AUGUST 6, 2006.

[Notarial Seal]

My Commission expires: \_\_\_\_\_

## **EXHIBIT A**

### **Baptist Property**

The campus of Baptist Shelby Hospital being described as follows:

#### Parcel I:

Lot 2, according to the Final Plat of Shelby Ridge Nursing Home Survey, as recorded in Map Book 34, Page 60, in the Probate Office of Shelby County, Alabama.

#### Parcel II:

A portion of the E  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 35, Township 20 South, Range 3 West, and a portion of the W  $\frac{1}{2}$  of the SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of Section 36, Township 20 South, Range 3 West of the Huntsville Principal Meridian, Shelby County, Alabama, being more particularly described as follows:

Begin at the SE corner of the E  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of said Section 35; thence in Westerly direction along South boundary line of E  $\frac{1}{2}$  of SE  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Section 35, 197.24 feet to the point of intersection with the arc of a curve turning to the left, which is Easterly boundary of right of way of U.S. Highway No. 31, said arc having a chord of 140.68 feet in length, said chord forming an angle of 96 degrees 04 minutes 19 seconds to the right from last mentioned course, having a length of 197.24 feet; thence along said arc of said curve 140.68 feet to the point of intersection with a straight line tangent to said arc; thence continuing along said straight line which is Easterly boundary of said Highway right of way 659.32 feet; thence turning an angle of 84 degrees 00 minutes 30 seconds to the right in an Easterly direction 94.68 feet to the point of intersection with East boundary line of said Section 35; thence continuing East into Section 36, Township 20 South, Range 3 West, along said last mentioned course which is a straight line 659.49 feet to the point of intersection with the East boundary of W  $\frac{1}{2}$  of SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of Section 36, Township 20 South, Range 3 West; thence turning an angle of 88 degrees 40 minutes 30 second to the right in Southerly direction along East boundary of said W  $\frac{1}{2}$  of SW  $\frac{1}{4}$  of NE  $\frac{1}{4}$  of said Section 36, 795.80 feet to the Southeast corner of W  $\frac{1}{2}$  of SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of said Section 36; thence turning an angle of 91 degrees 19 minutes 30 seconds to the right along South boundary of W  $\frac{1}{2}$  of SW  $\frac{1}{4}$  of NW  $\frac{1}{4}$  of said Section 36, 659.16 feet to the point of beginning; being situated in Shelby County, Alabama.

## **EXHIBIT B**

### **Shelby Ridge Property**

The campus of the Shelby Ridge Nursing Home being described as follows:

Lot 1, according to the Final Plat of Shelby Ridge Nursing Home Survey, as recorded in Map Book 34, Page 60, in the Probate Office of Shelby County, Alabama.

## **EXHIBIT C**

### **General Location of Existing Pipe**



### Exhibit "C"

Note: This Exhibit is for descriptive purposes only and is not to scale. It does not include the Legal Description of the property or the lot lines between parcels but is attached to the Drainage Easement for the sole purposes of showing the general location of the 24" drainage pipe described herein.

