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**DECLARATION  
OF  
PROTECTIVE COVENANTS,  
RESTRICTIONS, EASEMENTS,  
RIGHTS, AND LIENS  
  
FOR  
  
INVERNESS COVE**

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STATE OF ALABAMA     )  
  )  
SHELBY COUNTY         )

  
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**INVERNESS COVE**

**DECLARATION OF PROTECTIVE COVENANTS,  
RESTRICTIONS, EASEMENTS, RIGHTS AND LIENS**

This Declaration of Protective Covenants, Restrictions, Easements, Rights and Liens (this "Declaration") is made on this 4<sup>th</sup> day of October, 2005 by Investment Associates, LLC, the owner of the property described below (hereinafter referred to as the "Declarant") which property is to be developed as a residential subdivision known as "Inverness Cove".

**WITNESSETH**

WHEREAS, the Declarant is the fee simple owner of certain real property located in Shelby County, Alabama, which is more particularly described as follows (hereinafter referred to as the "Real Estate"):

**INVERNESS COVE**  
**as recorded in map book 35 page 57 in the**  
**Office of the Judge of Probate for Shelby County, Alabama.**

WHEREAS, the Declarant intends to develop the Real Estate pursuant to a general subdivision plan covering all of the Real Estate and subject to certain protective covenants, restrictions, easements, rights, equitable servitudes, liens and charges, all running with the land.

WHEREAS, the Real Estate consists of and is to be divided into (1) Lots (as hereinafter defined) on which single-family town house units will be constructed and (2) Common Areas (as hereinafter defined).

NOW, THEREFORE, in order to enhance and protect the value, attractiveness and desirability of the Lots and Common Areas, and in furtherance of a general plan for the development, protection, maintenance, improvement and sale of the Real Estate, the Declarant hereby declares that all of the Real Estate shall be subject to the following covenants, restrictions, easements, rights, equitable services, lien and charges.

**ARTICLE I**

**DEFINITIONS**

**1.1**     **"Articles"** shall mean or refer to the Articles of Incorporation of the Association.



- 1.2 **“Architectural Review Committee”** shall mean or refer to the Inverness Cove Architectural Review Committee established pursuant to section 4.1 of this Declaration.
- 1.3 **“Association”** shall mean or refer to the INVERNESS COVE RESIDENTIAL ASSOCIATION, INC., an Alabama nonprofit corporation, and its successors and assigns.
- 1.4 **“Board”** shall mean or refer to the Board of Directors of the Association.
- 1.5 **“Bylaws”** shall mean the Bylaws of the Association, as such Bylaws may be amended from time to time.
- 1.6 **“Common Areas”** shall mean and refer to all those portions of the Real Property (including improvements, sign easements, roads, storm water drainage easements and utility easements) that are to be owned by the Association for the common use and enjoyment of each Owner. The Common Areas are shown on the recorded plat maps of the Real Estate. The maintenance of the Common Area shall be the sole responsibility of the Association.
- 1.7 **“Community”** shall mean and refer to the Lots and the Common Areas collectively.
- 1.8 **“Declarant”** shall mean and refer to Investment Associates, LLC and its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.
- 1.9 **“Dwelling”** shall mean or refer to any structure built, existing or under construction on a Lot for human habitation.
- 1.10 **“Improvement”** shall mean or refer to any dwelling, building, structure, planting or device constructed, erected or placed upon any Lot or Common Area which in any way affects the exterior appearance of any Lot or Common Area. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, trees, shrubbery, landscaping, fences, screening, walls, signs, and any other artificial or man-made changes or alterations to the natural condition of any Lot.
- 1.11 **“Lot”** shall mean and refer to any subdivided plot of land in the Real Estate (with the exception of the Common Areas), together with any improvements thereon as shown upon any recorded map of the Real Estate.
- 1.12 **“Maintenance”** shall mean the exercise of reasonable care to keep the Lots and the Common Areas, including buildings, roads, easements of ingress, drainage easements, sign easements, utility easements, parks, landscaping, lighting and other related improvements and fixtures in a condition comparable to their original condition. All drainage structures shall be constructed and maintained according to the governing regulations of Hoover, Alabama.
- 1.13 **“Owner”** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.



- 1.14 **Termination of Declarant voting rights**” shall mean the date which is the earlier of (i) the expiration of one year during which Declarant does not own any of the Lots or (ii) the time when Declarant notifies the Association in writing that Declarant relinquishes and terminates Declarant’s control over the Association.

## ARTICLE II

### MEMBERSHIP AND VOTING RIGHTS

- 2.1 **Membership Required.** Every Owner of a Lot which is subject to an assessment described in Article III of this Declaration, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from fee simple ownership of any Lot which is subject to assessment.
- 2.2 **Voting.** The Association shall have one class of voting membership. Each Owner shall be entitled to one vote for each Lot owned. If more than one person owns fee simple title in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the Owners of a Lot may determine, but in no event shall more than one vote be cast with respect to any Lot.

## ARTICLE III

### COVENANT FOR MAINTENANCE ASSESSMENT

- 3.1 **Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Community and for the insurance, improvement and maintenance of the Common Areas.
- 3.2 **Creation of the Lien and Personal Obligation for Assessments.** The Declarant hereby covenants for each Lot, and each Owner upon acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association (a) annual assessments or charges and (b) special assessments for capital improvements, to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys’ fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys’ fees, shall also be the personal obligation of the person or persons (jointly and severally) who was the Owner of the Lot at the time when the assessment first became due and payable. The personal obligation for delinquent assessments shall not pass to an Owner’s successors in title unless expressly assumed by them.
- 3.3 **Maintenance Fund; Assessments.** The Board will set an amount in order to (i) provide a fund to maintain, landscape and repair the entranceway improvements, walkways, and other Common Areas, and in general, to provide those services important to the development and preservation of an attractive community appearance; and (ii) provide



additional funds for other purposes as may be deemed appropriate by the Board. The responsibility of the Association and Owners is as follows:

- A. The Association is responsible for routine landscape maintenance of each Lot in the areas not fenced including grass cutting, edging, and such other services as are specified in the maintenance contracts executed by the Association from time to time. No landscaping shall be changed pursuant to this Section 3.3.A without the approval of the Architectural Review Committee.
- B. The Association is responsible for maintaining a termite bond for all Dwellings. The Board will make decisions on the termite bond as required from time to time.
- C. The Association is responsible for exterior paint of all Dwellings and the Board will make decisions on exterior paint maintenance as required from time to time.
- D. The Association is responsible for replacement of the roof materials such as shingles, roof felt, and OSB/plywood for which the Association shall specifically establish and reserve a fund for replacement. The Association is NOT responsible for damage, repair or replacement due to weather, fire, casualty, accident, negligence, or neglect. Damages to interiors as a result of roof leaks are NOT the responsibility of the Association.
- E. No Owner shall modify the Dwelling on his or her Lot by adding a room or rooms, changing the roof lines, adding decks, materially changing or altering the color or making any other alteration in the exterior appearance of the Dwelling without the prior written approval of the Architectural Review Committee and any license or consent required from any governmental department or agency having jurisdiction of the Real Estate and the work proposed to be performed upon the Dwelling.
- F. Each Owner, in acquiring title to his or her respective Lot, acknowledges that the décor, color scheme, and design have been selected in such a manner to be consistent and harmonious with other Dwellings and Improvements within the Community and agrees to maintain his or her respective Lot and Dwelling in such a manner as to maintain and perpetuate visual harmony within the Community.
- G. Each Owner shall keep all of his or her Lots, and all Dwellings and Improvements on such Lots or appurtenant thereto, in good order and repair, in a manner and with such frequency as is consistent with good property management practices. There shall be no outside burning of wood, leaves, or trash except during construction of a Dwelling or with approval of the fire department having jurisdiction of the Real Estate. If, in the opinion of the Board, any Owner fails to perform the duties imposed by the preceding sentence within thirty (30) days after written notice from



the Association to the Owner to remedy the condition in question, the Association shall have the right, through its agents and employees, to enter upon the subject Lot (or upon the Dwelling or Improvements which may be appurtenant thereto) and to repair, maintain, repaint and restore the Lot, Dwelling or Improvement and the cost thereof shall be a binding, personal obligation of the Owner as well as a lien upon such Lot.

- 3.4 Uniform Rate Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or annual basis, as determined by the Board.
- 3.5 Subordination of Lien to Mortgages.** The lien of any fee, assessment or charge authorized by this Article with respect to any Lot shall be subordinate to the mortgage or other interest of any *bona fide* purchaser or mortgagee of the Lot in question **if and only if, all fees, assessments and charges levied against the Lot which are due and payable on or prior to the date the applicable deed or mortgage is recorded have been paid in full.** The sale or transfer of any Lot pursuant to either a power of sale contained in a mortgage, a deed in lieu of foreclosure, or a judicial foreclosure sale, shall extinguish the lien for any assessments due and payable prior to the date of the sale, transfer or foreclosure, but the Association shall have a lien on the proceeds of the sale that is senior to the equity of redemption of the mortgagor. The foregoing subordination shall not relieve an Owner whose Lot has been mortgaged of the Owner's personal obligation to pay all assessments and charges that are due and payable during the time the Owner is the owner of the Lot. The Board may at any time, either before or after the mortgaging of any Lot, waive, relinquish or quitclaim in whole or in part the right of the Association to assessments and other charges collectible by the Association with respect to a Lot that are due during the time a Lot is owned by a mortgagee or mortgagees pursuant to such a sale, transfer or foreclosure.
- 3.6 Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon any portion of the Common Areas, including fixtures and personal property related thereto.
- 3.7 Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the subject Lot. No Owner may waive or otherwise avoid liability for the assessments provided for herein by non-use of the Common Area or abandonment of his or her Lot.
- 3.8 Declarant's Exemption.** Unless specifically waived in writing by Declarant, Declarant and any Lot or other portion of the Real Estate owned by Declarant shall be exempt from the payment or levy of any and all assessments by the Association until the occurrence of the Termination of Declarant Voting Rights.



## ARTICLE IV

### **ARCHITECTURAL REVIEW COMMITTEE; ARCHITECTURAL CONTROL**

- 4.1 Architectural Review Committee.** There shall be established an Architectural Review Committee which shall be denominated as the “Inverness Cove Architectural Review Committee” and shall be composed of at least three and no more than five individuals who shall not be required to be Members and who shall be appointed by the Board. The Board shall have the right to terminate, with or without cause, any or all members of the Architectural Review Committee.
- 4.2 Promulgation of Policies, Rules, etc.** The Architectural Review Committee may establish and amend from time to time written policies, rules, regulations and standards governing construction, exterior remodeling, reconstruction, alteration or improvement of any Dwellings or other Improvements on any Lot, as well as the content and types of information required to be submitted to the Architectural Review Committee for its approval, each of which shall be in addition to the provisions and requirements set forth herein. The Architectural Review Committee is hereby authorized to promulgate and amend or modify from time to time written architectural standards, governing policies, guidelines and minimum requirements to be satisfied with respect to the construction, location, landscaping and design of all Dwellings and other Improvements on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Dwelling or other Improvements on a Lot to be submitted to and approved by the Architectural Review Committee, and any other matters affecting the construction, repair or maintenance of any Improvements on any Lot. Such standards, policies, guidelines, rules and regulations adopted by the Architectural Review Committee shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Lots and Owners. In the sole judgment of the Architectural Review Committee, each subdivision, sector or phase of the Subject Property may have different, identical, similar or dissimilar building standards.
- 4.3 Approval Required; Development Plan.** Before commencing the construction of, or any exterior remodeling, reconstruction, alterations or additions to any Dwelling or other Improvement, or any activity which would change or alter the exterior appearance of any dwelling, structure or other Improvement, the Lot Owner shall submit to the Architectural Review Committee a written application for approval with two (2) full and legible copies of the plans and specifications for such work (the “Development Plan”) and shall have received the Architectural Review Committee’s written approval of the Development Plan.
- 4.4 Application Process.**
- A. Each application under Section 4.3 shall comply with this Section 4.4. Two (2) copies of the Development Plan shall be submitted with the application , signed by the Lot Owner or the Lot Owner’s authorized agent, specifying which part of the Development Plan approval is requested for.



- B. In any case in which the Architectural Review Committee shall reject an application or disapprove a Development Plan, or shall approve an application or Development Plan only upon specified modifications or conditions, the disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action is based. Upon approval by the Architectural Review Committee of any application and Development Plan submitted hereunder, a copy of the Development Plan, as approved, shall be deposited with and retained by the Architectural Review Committee.
- C. If the Architectural Review Committee fails either to approve or to disapprove the Development Plan within thirty (30) business days after the Development Plan has been submitted in writing to the Architectural Review Committee, it shall be presumed conclusively that the Architectural Review Committee has disapproved the Development Plan, subject, however, to the covenants contained herein, and provided that the applicant Lot Owner provides conclusive proof that the Architectural Review Committee actually received the Development Plan. This proof may be provided only by an acknowledgment of receipt of the Development Plan signed by the Architectural Review Committee or by a return receipt for certified mail signed by the Architectural Review Committee, which certified mail forwarded the Development Plan to the Architectural Review Committee. Any member of the Architectural Review Committee may be designated to approve plans not requiring a variance.
- D. The Architectural Review Committee shall, in its sole discretion, determine whether the application and Development Plan and other data submitted by any Lot Owner for approval are acceptable. Any approval granted by the Architectural Review Committee shall be effective only if such approval is in writing. The Architectural Review Committee shall have the right to disapprove or conditionally approve any application or Development Plan upon any ground which is consistent with the objectives and purposes of this Declaration, including, without limitation, aesthetic considerations, failure to comply with any of the provisions of this Declaration, failure to provide requested information, objections to exterior design, appearances or material, incompatibility with the overall scheme of development for the Lot or for the Real Estate, objection to the location of any proposed Dwelling or other Improvement on any Lot, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Dwellings or other Improvements on any Lot or any other matter which in the sole and absolute judgment of the Architectural Review Committee would render the proposed Dwelling or other Improvement inharmonious with the general plan of development for the Real Estate. The approval of an application or Development Plan for any one Dwelling or other Improvement shall not be deemed an approval or otherwise obligate the Architectural Review Committee to approve a similar Development Plan for any other Dwelling or Improvement to be constructed or located on any other Lot.



- 4.5 Inspection Rights.** The Declarant, the Association, the Architectural Review Committee, and any agent or employee thereof, may at any reasonable time or times enter upon and inspect any Lot and any Dwelling or other Improvement thereon for the purpose of ascertaining whether such Lot and the maintenance, construction, or alteration of such Lot or any Dwelling or other Improvement thereon are in compliance with the provisions hereof and the policies, guidelines, standards and requirements of the Architectural Review Committee; and none of the Declarant, the Association, or the Architectural Review Committee, nor any agent, officer or employee thereof, shall be deemed to have committed a trespass or other wrongful act by reason of the entry or inspection. Any inspection shall be for the sole purpose of determining compliance with this Declaration and the policies, guidelines, standards or requirements of the Architectural Review Committee, and neither the making of any inspection, nor the failure to make any inspection, shall be relied upon by any Owner or any other person or entity for any purpose whatsoever; nor shall any inspection obligate Declarant, the Association or the Architectural Review Committee to take any particular action based on the inspection.
- 4.6 Condition of Property.** The Real Estate may be located in an area which includes underground mines, tunnels, sinkholes and subsurface conditions ("Property Conditions"). The approval of an application or a Development Plan by the Architectural Review Committee shall not be construed in any respect as a representation or warranty by the Architectural Review Committee, the Association, the Declarant, a builder of a Dwelling or other Improvement, or of any director, officer, employee or agent of any of them, to any Owner or any other person that the surface or subsurface conditions of any Lot or any other portion of the Real Estate are suitable for the construction of a Dwelling or other Improvement thereon. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and the subsurface conditions of his or her Lot. None of the entities or persons referred to in this Section 4.6 shall be liable or responsible for any damage or injury suffered or incurred by a Lot, Dwelling, Improvement, Owner or any other person as a result of surface or subsurface conditions affecting a Lot or any portion thereof, including, without limitation, any surface or subsurface drainage or underground mines, tunnels, sinkholes or other conditions or types of ground subsidence occurring on or under any Lot.
- 4.7 Scope of Review.** THE SCOPE OF REVIEW BY THE ARCHITECTURAL REVIEW COMMITTEE IS LIMITED TO APPEARANCE ONLY AND DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS.
- 4.8 Waiver of Liability.** None of the Architectural Review Committee, the Association, the Declarant, or any architect, agent, contractor, officer or employee of any of the foregoing, shall be responsible in any way for any property conditions or for any failure of any Dwelling or other Improvement to comply with requirements of this Declaration or any policies, guidelines, standards or requirements of the Architectural Review Committee, even if a certificate of compliance has been issued, nor for any defects in any Development Plan submitted, revised or approved, nor for any structural or other defects in any work done according to any Development Plan, and all persons relying thereon




agree not to sue or claim against the entities and persons referred to in this Section for any cause arising out of the matters referred to in this Section and further agree to and do hereby release each of these entities and persons from any and every such cause. **Each Owner, by acceptance of a deed to any Lot, hereby releases the Architectural Review Committee, the Association, the Declarant and their respective agents, contractors, officers, directors, members and successors and assigns, from all liability of every nature whatsoever arising from damage, loss or expense suffered, claimed, paid or incurred by any Owner or from any injury to property or injury or death to any person, related in any way to any property conditions or any defects in any Development Plan submitted to or approved by the Architectural Review Committee, any defects resulting in any work done under the Development Plan or other data submitted, or any action taken or not taken by the Architectural Review Committee, Declarant or the Association related thereto.**

- 4.9 Variances.** The Architectural Review Committee shall have the right, in its sole and absolute discretion, to grant any variances from any of the restrictions contained its policies, guidelines, standards and requirements upon written application to the Architectural Review Committee requesting a variance; provided, however, that the grant of a variance to one party shall not vest in any other party a right to receive the same or a similar variance. All approvals of requests for variances shall be in writing and shall be signed by any member of the Architectural Review Committee.
- 4.10 Charges for Review of Plans, Certificates.** The Architectural Review Committee shall have the right to establish from time to time reasonable charges and fees for the processing of applications and review of Development Plans, and for issuing any certificate or statement required by, or requested pursuant to, this Declaration. The Architectural Review Committee shall, upon request and at reasonable charges, furnish to any Owner a written certificate setting forth whether all necessary approvals have been obtained from the Architectural Review Committee in connection with any Dwelling or other Improvements on a Lot.
- 4.11 Declarant's Exemption.** Declarant and any Lot or other portion of the Subject Property owned by Declarant shall be exempt from the covenants and other requirements of this Article IV.

## ARTICLE V

### USE RESTRICTIONS

- 5.1 Land and Use.** The Lots shall be used exclusively for residential purposes. No building shall be constructed, placed or permitted to remain on any Lot other than one single-family dwelling not more than two stories in height. No part of the Community shall be used or caused to be used in any way, directly or indirectly, for any business, commercial, manufacturing, warehousing or other such non-residential purpose, except Declarant may use one or more model homes and may operate displays and sale offices in the Community for the purpose of selling Lots, for so long as Declarant continues to own at least one Lot.

  
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**5.2 General Standards.** Except as otherwise additionally approved or required by the Architectural Review Committee with respect to any particular Lot, each Lot and the Dwellings and other Improvements thereon shall be constructed and maintained in accordance with the following requirements and standards and the policies, guidelines, standards and requirements of the Architectural Review Committee:

- A. The exterior finish of each dwelling shall be brick, stone, cementous (such as Hardie-Plank) or wood siding or a combination thereof.
- B. Only wood frame, PVC frame windows or a combination thereof shall be used on Dwellings. No unpainted or unprimed windows shall be used.
- C. Each Dwelling shall contain a minimum of 1,500 square feet of heated and cooled living area, excluding porches, garages, basements and decks.
- D. No garage shall be enclosed and finished or used as living area.
- E. No open carports shall be allowed on any Lot.
- F. No concrete block work, including without limitation, foundations, concrete block steps, walkways and walls, whether painted or otherwise, shall show above ground or from the exterior of any Dwelling.
- G. All driveways shall be concrete and broom finished.
- H. No window or through-wall unit air-conditioning, heating, fan or other ventilation shall be placed on any Lot. No outside air-conditioning unit shall be located in the front yard of any Lot. Any units located on the side of yard adjacent to any street on corner lots will be screened by landscaping.
- I. The roof pitch on each Dwelling shall be approved in writing by the Architectural Review Committee. No solar or other energy collection device or equipment shall be maintained on any Lot or Dwelling. No projections of any type shall be allowed above the roof of any Dwelling except for chimneys, satellite dishes and vent stacks approved by the Architectural Review Committee.
- J. All utility services to the Dwellings shall be underground. No utility poles or above-ground wires shall be permitted except during the construction phase of a Dwelling and except for street lights installed by the Declarant or as approved by the Architectural Review Committee. No above-ground tanks or similar facilities shall be located on any Lot subject to the approval of the Architectural Review Committee.
- K. No individual water supply system shall be permitted on any Lot.
- L. No individual sewage disposal system shall be permitted on any Lot.



M. Upon the completion of a Dwelling, all front and side yards must be landscaped with sod and other landscaping approved by the Architectural Review Committee. If the rear yard is deeper than 20 feet from the rear of the Dwelling, the first 15 feet shall be sod and the remainder shall be hayed and seeded or sod.

N. No Owner shall dam any creek or any drainage water which flows through the Real Estate nor shall any Owner change the flow of any creek, drainage water, or any wet weather stream on the Real Estate.


**5.3 Set-Back Requirements.** Each Dwelling shall be constructed and placed on a Lot in conformance with the building set-backs indicated on the final survey or recorded plat for the Community. Each Dwelling will have a minimum front set-back of 20 feet from the property line to the garage door.

**5.4 Parking.** No truck, house trailer, camper, boat, dune buggy, ATV/motorcycle, inoperable vehicle, or any other type of vehicle shall be parked or maintained on any permanent basis on the right-of-way or in front of any Lot. Only vehicles used for day-to-day transportation of the Owners, their families or invitees may be kept or stored in the Community; provided, however, that automobiles, trucks, house trailers, campers, boats, dune buggies, ATV/motorcycles, inoperable vehicles, or any other type vehicles may be parked and/or stored in the garage. Nothing contained in this paragraph shall preclude owners, guests or invitees of any Owner from parking in driveways or in front of any Lot so long as such Owner, guest or invitee parks in a designated parking area and parks only on a temporary basis and sidewalks are not blocked. No tractor trailer trucks, panel vans or commercial vehicles shall be parked or stored on any Lot or Common Area, except during initial construction of a Dwelling on a Lot. The prohibitions in this Section shall not apply to temporary parking of trucks and other commercial vehicles providing commercial services to the Lot or to the efforts and activities of Declarant in connection with developing the Real Estate.

**5.5 Fences.** The Architectural Review Committee will select and approve one wrought iron fence design which will be the only fence design allowed in the Community. The Architectural Review Committee will approve placement of all fences.

**5.6 Mailboxes and House Numbers.** At the time of construction of a Dwelling on each Lot, there must be erected a mailbox bearing the house number. The design and materials of the mailbox must be approved by the Architectural Review Committee. All mailboxes and house numbers must be erected by the Owners in strict conformity with design criteria approved by the Architectural Review Committee, which shall be common for each Lot within a specific sector of the Community.

**5.7 Temporary and Auxiliary Structures.** Except for a temporary sales office for Declarant or its sales agents or construction personnel, no structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time. No auxiliary structures may be placed on a Lot unless same have been approved by the Architectural Review Committee.

  
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- 5.8 Certain Yard Restrictions.** Owners can fly one American flag no bigger than sixteen (16) square feet only so long as the flag is mounted to the front or rear façade of the Dwelling. Owners can hang one ornamental wreath on the front door for personal decorating. The following shall be located or maintained only at the rear of, or behind, a Dwelling: wood piles, children's toys, jungle gyms, trampolines and other outdoor recreational equipment and appurtenances, statues, water fountains, bird baths, bird feeders, wood carvings, plaques and other home crafts, furniture and other yard art. Barbecue grills and other outdoor cooking equipment and apparatus shall be covered when not in use and shall be located only at the rear of a Dwelling and shall not be visible from any public street. No above-ground swimming pools shall be located on any Lot. Outside clothes lines and other facilities for drying or airing of clothes are prohibited. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or wall. No rocks, rock walls, fencing or other substance shall be placed on any Lot as a front or side yard border or to prevent vehicles from parking on or pedestrians from walking on any portion of a Lot or to otherwise impede or limit access thereto.
- 5.9 Holiday Decorations.** Holiday decorations shall not be installed prior to thirty (30) days before the applicable holiday and shall be removed within fifteen (15) days after the holiday.
- 5.10 Nuisances.** No noxious or offensive activity or activity which is, or may become, an unreasonable nuisance or annoyance to the residents of the Community or any portion thereof shall be conducted or permitted in or around any portion of the Community. No loud noises or noxious odors shall be emitted or permitted in the Community.
- 5.11 Signs.** No "for sale", "for rent", or other similar signs, shall be erected or maintained on any Lot, except one sign advertising the Lot for sale may be placed in a lower front window of the Dwelling. No signs, regardless of size, may be used by Owner or any other person or entity other than Declarant to advertise the sale or rent of a Lot during the period in which Declarant is constructing Dwellings or selling Lots in the Community.
- 5.12 Antennas/Dishes.** No outside radio, television, ham broadcasting, or other electronic antenna, aerial or tower, or any satellite dish or similar structure, shall be erected or maintained on any Lot, except as may be required by applicable federal law or as may be approved in writing by the Architectural Review Committee.
- 5.13 Insect and Fire Control.** In order to implement effective insect and fire control, the Association and/or the Declarant and their respective agents shall have the right to enter upon any Lot on which a Dwelling has not been constructed and upon which no landscaping plan has been approved as set forth herein, such entry may be made by personnel with tractors or other suitable devices, for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of the Association or Declarant detracts from the overall beauty, setting and safety of the Real Estate. Entrance for these purposes shall not be deemed a trespass. The Association and/or Declarant and their agents likewise may enter upon any Lot to remove any trash which has collected on the Lot and such entrance and removal shall not be a trespass or conversion. The provisions in this Section 5.13 shall not be construed as an obligation on the part of the Association or Declarant to mow, clear, cut or prune any Lot or to provide garbage or trash removal service.



**5.14 Oil and Mining Operations.** No exploration, drilling, development or refining of or for hydrocarbons, or quarrying or mining operation of any kind, shall be conducted or permitted upon or under any portion of the Real Estate, and no wells, tanks, tunnels, surface mines or underground mines shall be permitted thereon or therein. No derrick or other structure designed for use in boring or drilling for water, oil or natural gas shall be erected, maintained or permitted upon the Real Estate.

**5.15 Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept upon Property, except the maximum of two (2) usual and ordinary household pets (e.g., dogs, cats, fish and birds) may be kept on a Lot, provided that such animals are not kept, bred or maintained for commercial purposes.

**5.16 Garbage and Refuse Disposal.** No portion of the Community shall be used or maintained as a dumping ground for wastes, rubbish or garbage. All refuse stored or kept in the Community must be placed in sanitary containers, and no noxious or foul odor shall be permitted to emanate. Containers shall be set out only on the day of pick-up; otherwise, containers are to be kept out of sight at all other times.

**5.17 Prohibition Against Changing Exterior or Landscaping.** Subject to 5.18 of this Declaration, each Owner will, from time to time, maintain the exterior of his or her Dwelling as needed. Such maintenance shall be done in a manner harmonious with the other Dwellings and shall not be completed in such a manner, color or design so as to disrupt the harmonious blending of the original architectural plans of the Dwellings. Each Owner shall be prohibited from making any changes to any of the landscaping on any Lot or any of the Common Areas, it being understood that all Dwellings and landscaping are designed to blend harmoniously with each other.

**5.18 Priority of Lien.** The lien provided in Section 5.21 hereof shall not be valid as against a *bona fide* purchaser or mortgagee of a Lot in question unless a notice of the lien shall have been recorded in the Office of the Judge of Probate of Shelby County, Alabama, prior to the recordation in such Probate Office of the deed or mortgage conveying such Lot to a purchaser (or subjecting the same to such mortgage).


**5.19 Damage or Destruction.** In the event of damage or destruction to any Dwelling or other Improvement on a Lot, the Owners thereof agree as follows:

- A. In the event of total destruction, the Owners shall, within sixty (60) days of such damage, clear the Lot of all debris and commence to rebuild and reconstruct the Dwelling or other Improvement in conformity with the colors, materials, plans and specifications of the original structure so destroyed, subject to any changes or modifications, as may be approved by the Architectural Committee.
- B. In case of partial damage or destruction, the Owner shall, promptly upon receipt of insurance proceeds, cause the damage or destruction to be repaired and restored in a first class condition in accordance with the plans and specifications of the original Dwelling or Improvement and in conformity with its original exterior painting and decor. Any changes or



alterations must be approved by the Architectural Review Committee. In no event shall any damaged Dwelling or Improvement be left unrepaired and unrestored in excess of sixty (60) days after the date of the damage or destruction.

- 5.20 Subdivided Lots.** No Lot shall be subdivided or its boundary lines changed except with the written consent of Declarant or, after the Termination of Declarant Voting Rights, the Architectural Review Committee; however, Declarant hereby expressly reserves to itself the right, without the approval of the Architectural Review Committee, (i) to combine any two (2) or more Lots in order to create a modified Lot or Lots; and (ii) to subdivide any Lot. Declarant may take such other steps as are reasonably necessary to make such replatted or subdivided Lots suitable and fit as building sites, including, but not limited to, the relocation of easements, walkways and rights-of-way to conform to the new boundaries of the said replatted Lots.
- 5.21 Changes to Roadways.** Declarant reserves the right to make or change any road or other improvements within the Real Estate, to extend roads and streets, and to change or extend the present road or any street grades, without liability to any Lot or Owner for any claims for damages. Except with the prior written consent of Declarant, no Lot shall be sold or used by an Owner for the purpose of extending any public or private road, street or alley or to provide a means of access to any other real property situated adjacent to or in close proximity with the Real Estate.
- 5.22 Application To Owner.** Notwithstanding any provisions herein to the contrary, nothing contained in this instrument shall prevent, hinder or limit Declarant in any manner whatsoever in connection with the development of the Real Estate and the construction and sale of Dwellings on the Lots, and any provision having any such effect shall be null, void and unenforceable against Declarant.
- 5.23 Consent of Owners.** Whenever the consent of the Owners is required with respect to any action described herein, the consent of the Owner or Owners of any Lot shall be deemed given if any record Owner of a Lot (whether one or more) shall evidence such consent in writing.
- 5.24 Modification By Declarant.** Declarant reserves the right to modify, release, amend, void, transfer or delegate all the rights, reservations, and restrictions herein set forth, or the right to modify, release, amend, void or transfer any one or more of such restrictions on the Lots.
- 5.25 Declarant's Exemption.** Declarant and any Lot or other portion of the Real Estate Subject Property owned by Declarant shall be exempt from the covenants and requirements of this Article.

  
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## ARTICLE VI

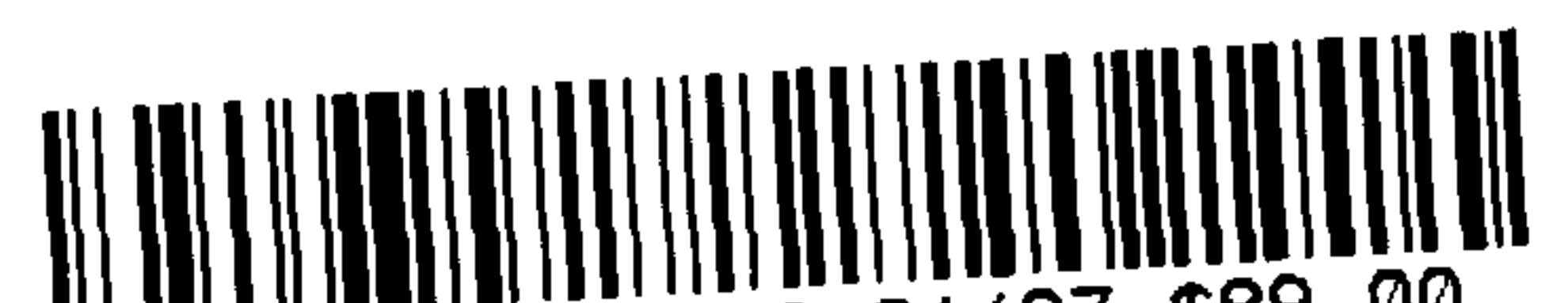
### SPECIAL RESTRICTIONS AFFECTING COMMON AREAS

- 6.1 Covenant with Respect to Maintenance of Common Areas.** The Association shall be responsible for routine maintenance of the landscaping of Common Areas. Any and all other real property deeded to the Association will be designated as Common Areas unless specifically designated otherwise.
- 6.2 Title to Common Areas.** Declarant shall have the option to retain fee simple title to the Common Areas so long as Declarant owns at least one Lot that is subject to this Declaration. On or before conveyance by Declarant of the last Lot owned by Declarant, Declarant shall convey the Common Areas to the Association subject to the taxes for the year of conveyance and to all then-existing restrictions, conditions, limitations, reservations and easements of record. Declarant expressly reserves the right to create additional non-exclusive common utility easements, easements of drainage, water retention easements, sanitary sewer easements, and ingress and egress easements in the Common Areas until such time as Declarant conveys the Common Areas to the Association, regardless of whether Declarant has conveyed any of the Lots within to individual Owners.
- 6.3 Natural Areas.** Certain parts of the Common Area may be designated by the Declarant or the Association as "natural" or "open". No structure may be placed on such "natural" or "open" areas without the consent of the Declarant or, after the Termination of Declarant Voting Rights, the Association.
- 6.4 Improvement of Common Areas.** DECLARANT SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO IMPROVE THE COMMON AREAS OR ANY PORTION THEREOF WITH SUCH AMENITIES AS DECLARANT, IN ITS SOLE DISCRETION, MIGHT DEEM APPROPRIATE. DECLARANT HAS NO PRESENT PLAN TO MAKE ANY SUCH IMPROVEMENTS, AND NO REPRESENTATION IS HEREBY MADE THAT SUCH WILL OR WILL NOT BE MADE.
- 6.5 Delegation.** Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Areas to the members of his immediate family, his tenants, or contract purchasers who reside in the Community.

## ARTICLE VII

### PARTY WALLS

- 7.1 General Rules of Law to Apply.** Each wall which is built as part of the original construction of the Dwellings in the Community and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article VII, the general rules of law regarding party walls and liability for property damage due to negligence of willful acts or omission shall apply thereto.

  
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- 7.2 Sharing of Repair and Maintenance.** The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.
- 7.3 Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall shall be required to restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.
- 7.4 Weatherproofing.** Notwithstanding any other provisions of this Article VII, an Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against the elements.
- 7.5 Right to Contribution Runs with the Land.** The right of any Owner to contribution from any other Owner under this Article VII shall be appurtenant to the land and shall pass to such Owner's successors in title.
- 7.6 Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article VII, each party shall choose one arbitrator, and such arbitrators shall choose an additional arbitrator, and the decision shall be by a majority of three arbitrators so selected. The costs and expenses of all of the arbitrators shall be divided equally among the Owners of the Lots participating in the arbitration proceedings.

## ARTICLE VIII

### EASEMENTS

- 8.1 General Construction and Drainage Easements.** The Real Estate is subject to and/or benefited by certain drainage, spillage and other easements, as set forth herein and as may be set forth in one or more other documents or plats applicable to the Real Estate recorded in the Probate Office of Shelby County, Alabama. The Declarant may develop additional residential subdivisions and/or commercial and retail improvements in the future on property adjacent or in close proximity to the Real Estate. Declarant reserves for itself, and its successors and assigns, an easement for ingress and egress over and across Real Estate as may be necessary for the construction and development of such additional residential subdivisions and/or commercial and retail improvements. There also is reserved an easement for drainage across the Real Estate as may be required resulting from the topography thereof or of the additional land. Easements for installation and maintenance of utilities and drainage facilities may, but are not required to be, shown on the record map.
- 8.2 Inspection Easement.** Declarant does hereby establish and reserve for itself, the Association, the Architectural Review Committee and their respective successors and assigns, a permanent and perpetual non-exclusive easement over, across, through and upon each Lot for the purpose of inspecting each Lot and any Dwelling or other




Improvement thereon in order to exercise their respective rights under Section 4.5 hereof or to determine compliance with the provisions of this Declaration and to otherwise perform any of their duties or undertake any of the action authorized or permitted to be taken by any of them pursuant to this Declaration.

**8.3 Owner's Easement of Enjoyment.** Declarant expressly reserves to itself, its successors and assigns, including the Owners, the reasonable use and enjoyment of the Common Areas in a manner not inconsistent with the provisions of this Declaration and subject to such limitations and rules and regulations as might be promulgated by the Association. Declarant shall be entitled to restrict the use of all or any portion of the Common Areas for environmental, conservation or other purposes as it may elect. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- A. All provisions of this Declaration, any plat of all or any part of the Real Estate, the Articles and the Bylaws;
- B. Rules and regulations adopted by the Association governing the use and enjoyment of the Common Areas;
- C. Restrictions contained on any and all plats of all or any of the Common Areas or filed separately with respect to all or any part or parts of the Real Estate.
- D. The rights of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by no less than the Owners of two-thirds of the Lots has been recorded and accepted by the public agency or utility;
- E. Easements for installation and maintenance of utilities, drainage facilities and sign easements as shown on the recorded plat of the Community in the Office of the Judge of Probate of Shelby County, Alabama, and any amendments thereto concerning the various types of easements which have been reserved by the Declarant.

**8.4 Common Areas.** Declarant does hereby establish and reserve for itself and its successors and assigns, a permanent and perpetual non-exclusive easement over, across, through, upon and under all portions of the Common Area for the purpose of installing, erecting, maintaining and using thereon above and below ground utility and cable television lines, pipes, poles, wires, cables, conduits, storm sewers, conveniences and other utilities. Without the consent of any Owner, Declarant may at any time and from time to time establish and reserve such environmental and conservation easements with respect to the Common Areas or any other portions of the Real Estate.

  
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**8.5 Additional Easements:** Any of the above easements and/or additional easements for installation and maintenance of utilities and private drainage and access may be reserved on any plat or replat of the Real Estate. Each easement area shall be maintained continuously by the Owner of the respective Lot, except for those improvements for which a public utility company is responsible. No object or Improvement may be placed or constructed, either partially or wholly, and no Owner shall otherwise do anything within the area of any drainage easement if it prevents, impairs or diverts, in any way, the free flow of water in through said drainage easement. No water shall be diverted to other lots other than on established drainage easements.

**8.6 Townhouse Easements.** Declarant intends to construct a townhouse on each Lot, and construction of such Dwellings may require that certain eaves, roof overhangs, brick veneers, siding and other architectural features and building materials encroach upon or hang over contiguous Lots. Accordingly, there is hereby created, granted and reserved as an appurtenance to each Lot, a perpetual easement over and across each Lot, contiguous thereto for all such encroachments and overhangs, as well as for all encroachments and overhangs resulting from any natural movement or settling of any such Dwelling. In addition, there is hereby created, granted and reserved to the Owner or Owners of each Lot a license and right of entry across contiguous Lots as may be reasonably needed to maintain and repair such encroaching or overhanging structures. If any Dwelling shall be damaged or destroyed, the Owner or Owners thereof shall be permitted to repair and reconstruct such Dwelling with encroachments and overhangs not more intrusive than those existing at the time of such damage or destruction and thereafter said license and right of entry shall continue in effect. In addition, should Declarant or any affiliate thereof develop additional residential subdivisions in the future on property adjacent to the Real Estate, there is hereby reserved to Declarant and its affiliates an easement for ingress and egress over and across the Real Estate as may be necessary for the construction and development of the adjoining property. There is also reserved an easement for drainage as may be required resulting from the topography or lay of the contiguous land. Easements for installation are shown on the record map for the Real Estate.

## ARTICLE IX

### GENERAL PROVISIONS


**9.1 Grantee's Acceptance.** The grantee of any Lot subject to this Declaration, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of a Lot, shall accept the deed or other contract upon and subject to each and all of these restrictions, liens, easements and provisions herein contained.

**9.2 Indemnity For Damages.** Each and every Owner and future Owner, in accepting a deed or contract for any Lot subject to this Declaration, agrees to indemnify Declarant and the Association from and against (i) any damage caused by the Owner, or the contractor, agent, or employees of the 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 Declarant or the Association, or for which Declarant or the Association has responsibility, at the time of such damage, and (ii) any loss damage, claim or liability that Declarant or the Association might suffer, including costs of defense and attorneys' fees, arising out of any breach or violation of the provisions of this Declaration.

- 9.3 Severability.** Every one of the provisions and restrictions hereof is hereby declared to be independent of, and severable from the rest of the provisions and restrictions hereof and of and from every other one of the provisions and restrictions and of and from every combination of the provisions and restrictions in this Declaration, and the invalidity of any one or more of the provisions or restrictions hereof shall in no way affect any of the other provisions or restrictions which shall remain in full force and effect.
- 9.4 Declarant's Right to Remove Portions of or Add to the Real Estate.** Other provisions herein to the contrary notwithstanding, Declarant shall have the right, at any time, in its sole discretion to (i) remove from the provisions of this Declaration, the Articles and the Bylaws, any portion or portions of the Real Estate as Declarant might determine, in its sole discretion, provided that, at the time of the removal, the portions of the Real Estate removed are owned by Declarant, and (ii) add to the provisions of this Declaration, the Articles and the Bylaws additional Lots of real property whether presently owned or subsequently acquired by Declarant. Any portions of the Real Estate so removed by Declarant shall no longer be affected or encumbered in any manner by the provisions of this Declaration, the Articles or the Bylaws. Declarant shall have and does hereby reserve unto itself the power and authority to execute and effectuate, without the approval of any other persons or entities, amendments to this Declaration, the Articles and the Bylaws as Declarant shall deem appropriate to amend the legal description of the Real Estate and to carry out and enforce the rights reserved unto itself under this Section 9.4.
- 9.5 No Development Scheme.** The size, configuration, style, location and any other of the characteristics of any particular Lots or Improvements thereto shall not in any manner bind or restrict Declarant with respect to the characteristics of the development of any other portion of the Real Estate. Declarant shall have the right to redesign and relocate the roads, drives and entrances on the Real Estate and to change the size, configuration, style, location and other characteristics of any lots or Lots to be created within the Real Estate in such manner as Declarant deems appropriate.
- 9.6 Captions.** The captions preceding the various sections, paragraphs and subparagraphs of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.
- 9.7 Effect of Violation on Mortgage.** No violation of any provision of this Declaration shall defeat or render invalid any mortgage made in good faith and for value upon any portion of the Real Estate; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' or foreclosure sale shall be bound by and subject to this Declaration as fully as any other Owner.

  
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- 9.8 Zoning and Similar Restrictions.** This Declaration shall not be construed to permit any action or thing prohibited by applicable zoning laws, rules or regulations of any governmental authority, or by specific restriction imposed by any deed or other conveyance. In the event of any conflict, the most restrictive provision shall govern.
- 9.9 No Reverter.** No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.
- 9.10 Duration and Amendment by Owners.** The restrictions and provisions contained in this Declaration shall run with and bind the Real Estate, shall inure to the benefit of and shall be enforceable by Declarant, the Association, the Architectural Review Committee, and each Owner, their respective legal representatives, heirs, successors and assigns for a period of twenty-five years from the date this instrument is recorded in the Probate Office of Shelby County, Alabama, after which time said restrictions and provisions shall be automatically extended for successive periods of ten (10) years. Except as provided in Section 9.11, this Declaration may not be amended in any respect (except with regard to the addition of other property) except by the execution of an instrument signed by not less than fifty-one percent (51%) of the Owners, which instrument shall be filed in the Probate Office of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument.
- 9.11 Amendment by Declarant.** Notwithstanding any provision to the contrary, but subject to the next sentence, at all times prior to the occurrence of a Termination of Declarant Voting Rights, Declarant, at Declarant's discretion, may amend any provision of this Declaration, the Bylaws and the Articles without consent or vote of any Owner or other person or entity including, without limitation, amendments adding or removing property to the Real Estate pursuant to Section 9.4 hereof and amendments intended to satisfy requirements of any governmental agency or mortgage lender to make and accept mortgages on any Lot. The Declarant may not amend any provision of this Declaration, the Bylaws or the Articles (i) in a manner which would adversely affect the rights specifically given in this Declaration to holders of mortgages upon any Lot without the mortgagee's prior written consent; (ii) to except a Lot from the fees, charges and assessments provided in this Declaration; (iii) to lessen or extend the voting and membership rights of Owners without the prior written consent of the percentage of Owners as set forth in Section 9.10; or (iv) in a manner which would materially and adversely alter an Owner's right to use the Lot for single family residential purposes. Until the occurrence of a Termination of Declarant Voting Rights, none of this Declaration, the Bylaws or the Articles may be amended without the prior written consent of the Declarant. Amendments by the Declarant may apply to all of the Real Estate or to any portion thereof.
- 9.12 Enforcement.** Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do thereafter.

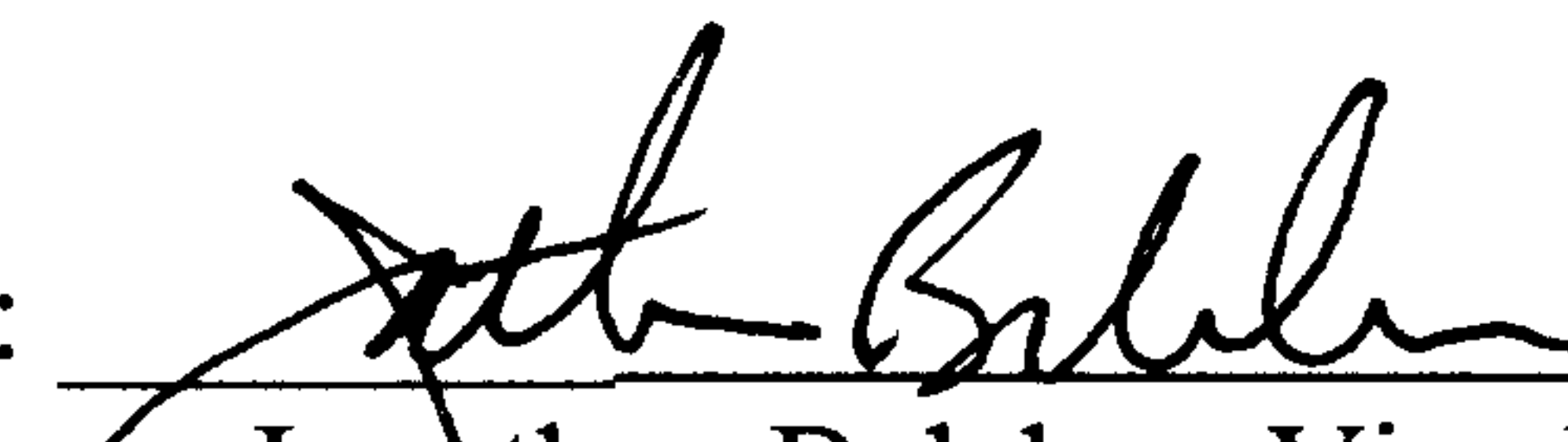
  
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- 9.13 Certificate of Violation.** In addition to any other rights or remedies available to the Association hereunder or at law or equity, the Association shall have the right to file in the Probate Office of Shelby County, Alabama, a Certificate or Notice of Violation of this Declaration (which violation shall include, without limitation, nonpayment of the fees, assessments or charges, or failure to comply with architectural guidelines) upon failure of an Owner to correct a violation of this Declaration within ten (10) days (unless a longer period of time is provided herein) after written notice of the violation has been given by the Association to the Owner.
- 9.14 Interpretation by Declarant and the Association.** The Declarant and the Association shall have the right to construe and interpret the provisions of this Declaration, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by this Declaration.
- 9.15 No Waiver.** The failure of any party entitled to enforce any of the provisions of this Declaration 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 Development Plan pursuant to Article II shall be binding on any and all parties as a conclusive determination that the Development Plan are in conformity with this Declaration.

IN WITNESS WHEREOF, the undersigned Investment Associates, LLC has hereunto set its hand and seal on this 4 day of October, 2005.

Investment Associates, LLC, by  
NSH Corp., its sole member

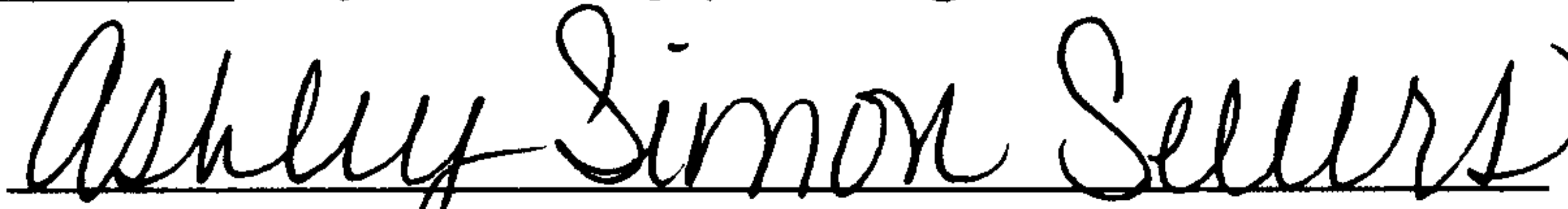
By:   
Jonathan Belcher, Vice President

STATE OF ALABAMA     )  
                                      )  
SHELBY COUNTY         )

  
20051006000521560 27/27 \$89.00  
Shelby Cnty Judge of Probate, AL  
10/06/2005 10:49:54AM FILED/CERT

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Jonathan Belcher, whose name as Vice President of NSH Corp., a corporation, as sole member of Investment Associates, LLC 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, acting in its capacity as sole member as aforesaid.

Given under my hand and seal this 4th day of October, 2005.

  
Notary Public

My commission expires: \_\_\_\_\_

**NOTARY PUBLIC STATE OF ALABAMA AT LARGE**  
**MY COMMISSION EXPIRES: Nov 15, 2008**  
**BONDED THRU NOTARY PUBLIC UNDERWRITERS**