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Shelby Cnty Judge of Probate, AL
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**IN THE CIRCUIT COURT
OF SHELBY COUNTY, ALABAMA**

HPH PROPERTIES, LLC.

Plaintiff,

v.

**SILVER CREEK DEVELOPMENT,
LLC; MICHAEL D. GREEN, et al.,**

Defendants.

CIVIL ACTION NUMBER:

CV-06-535

RELEASE OF LIS PENDENS

TO THE PROBATE JUDGE OF SHELBY COUNTY, ALABAMA

COMES NOW, HPH Properties, LLC and releases the Lis Pendens filed on May 16, 2006, and recorded in 20060516000230980 as regards the following property:

A parcel of land located in Shelby County, Alabama (See attached Exhibit A).

RECORDER'S NOTE: Index this Release of Lis Pendens under each of the following names: Silver Creek Development, LLC and Michael D. Green.



David B. Hall [HAL052]
Attorneys for Plaintiff, HPH Properties, LLC

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

HPH PROPERTIES, LLC,

Plaintiff,

v.

SILVER CREEK DEVELOPMENT, LLC,
and MICHAEL D. GREEN, et al.,

Defendants.

CV: 2006-535

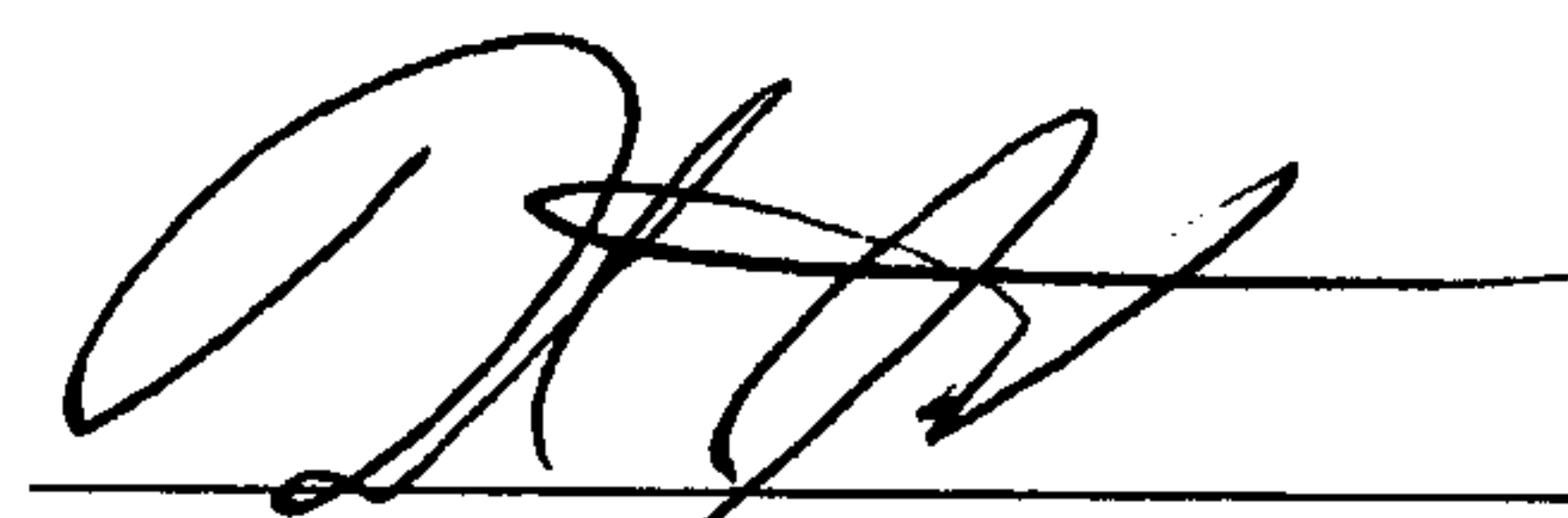
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NOTICE OF LIS PENDENS

TO THE PROBATE JUDGE OF SHELBY COUNTY, ALABAMA: Notice is hereby given that HPH Properties, LLC claims an interest in the following described real estate situated in Shelby County, Alabama;

SEE ATTACHED EXHIBIT A

All persons are notified by the filing of this notice that HPH Properties, LLC has an interest in this property and any conveyances by Silver Creek Development and/or Michael D. Green will be challenged as being voidable.




DAVID B. HALL (HAL 052)
DONALD J. NETTLES (NET 008)

Attorneys for HPH Properties, LLC

OF COUNSEL:

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.
1600 SouthTrust Tower
420 North 20th Street
Birmingham, Alabama 35203-5202
Telephone: (205) 328-0480
Facsimile: (205) 322-8007


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EXHIBIT A

IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

HPH PROPERTIES, LLC,

Plaintiff,

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v.

SILVER CREEK DEVELOPMENT, LLC,
And MICHAEL D. GREEN, individually; and
fictitious defendants A through F, being
those persons or entities whether
independently or in concert, that interfered
with the business relations of Plaintiff
and Silver Creek Development, LLC,

Defendants.

CV- 06-535

TRIAL BY JURY
IS DEMANDED

RECEIVED AND FILED
MARY H. HARRIS
MAY 02 2006
CIRCUIT & DISTRICT
COURT CLERK
SHELBY CO.

VERIFIED COMPLAINT

COMES NOW, Plaintiff HPH Properties, LLC and states the following against Defendants:

PARTIES

1. Plaintiff, HPH Properties, LLC (hereinafter "HPH" and/or "Plaintiff") is an Alabama Limited Liability Company with its principle place of business in Shelby County, Alabama.
2. Defendant Silver Creek Development, LLC (hereinafter "SCD") is an Alabama Limited Liability Company with its principle place of business in Shelby County, Alabama.
3. Defendant Michael D. Green ("Green") is an individual resident of Alabama over the age of nineteen (19). Upon information and belief, Green is a resident of Shelby County, Alabama.
4. Fictitious Defendants A through F, designated in accordance with Ala. R. Civ. P. 9(h), are those defendants, whether independently or in concert, that interfered with the contractual and business relations of Plaintiff and SCD. There may be entities whose true names

and identities are unknown to Plaintiff at this time who may be legally responsible for the claim(s) set forth herein and who may be added by amendment when their true names and identities are accurately ascertained by further discovery. Until that time, Plaintiff will designate these parties in accordance with Ala. R. Civ. P. 9(h). The word "entity" as used herein is intended to refer to and include any and all legal entities, including individual persons, any and all forms of partnerships, any and all types of limited liability companies, and any and all types of corporations and unincorporated associations.

5. The symbols by which the Fictitious Defendants are designated are intended to include more than one entity in the event that discovery reveals that these symbols apply to more than one "entity".

FACTS

6. On or about April 29, 2004, Plaintiff entered into a Lot Sales Contract with SCD (the "Contract"). In the Contract, SCD agreed to sell and Plaintiff agreed to purchase certain lots in the Silver Creek Subdivision (the "Subdivision"). The Contract is attached hereto as **Exhibit 1**. SCD did offer and Plaintiff did purchase certain lots for the prices stated in the Contract.

7. As a material inducement to Plaintiff to purchase lots, SCD covenanted in the Contract that it would offer any additional lots it intended to develop in the future in the Subdivision to Plaintiff at a stated price (the "Covenant"). The Covenant was a material term of the Contract. Plaintiff, to its detriment, relied upon the Covenant and spent time and money in reliance on the Covenant.

8. In or about 2005, SCD determined that it would develop additional lots (the "Developed Lots") in the Subdivision. On or about December 21, 2005, Plaintiff offered to purchase thirty-one (31) of the Developed Lots at the stated price, as well as any additional lots

SCD intended to develop at that time or in the future in the Subdivision, in accordance with the Covenant.

9. SCD failed and/or refused to offer the Developed Lots to Plaintiff at the stated price. Instead, SCD offered to sell the Developed Lots at the stated price to others without first making, let alone ever making, said offers to Plaintiff.

10. SCD entered into a contract for the sale of the Developed Lots at the stated price with Fictitious Defendant A without first offering to sell the Developed Lots to Plaintiff.

11. Defendant Green and Fictitious Defendants A through F did offer to sell and/or did sell or did offer to purchase and/or did purchase the Developed Lots in the Subdivision with knowledge of SCD's obligation to first offer said lots to Plaintiff at the stated price pursuant to the Contract, and with knowledge that SCD had not offered the Developed Lots at a stated price to Plaintiff.

12. Plaintiff was, and remains, ready, willing and able to purchase, according to the Contract, the Developed Lots and any future Developed Lots.

13. Plaintiff has satisfied all of its obligations under the Contract.

14. The Contract provides that in the event that either party institutes an action to enforce its rights under the Contract, that "the prevailing party shall be entitled to recover its litigation costs, including court costs and attorneys fees."

Count I

Breach of Contract/Breach of Covenant

15. Plaintiff realleges paragraphs 1 through 13 as if fully set forth herein.

16. SCD breached the Contract and Covenant with Plaintiff by failing to offer Plaintiff the opportunity to purchase the Developed Lots to Plaintiff.

17. SCD's breach of Contract/Covenant deprived Plaintiff of its opportunity to purchase specific real property, i.e. the Developed Lots, which it stands ready, willing and able to purchase at the stated price offered to Fictitious Defendants A through F. Plaintiff demands specific performance of the Contract and the offer of sale of the Developed Lots to it at the stated price in accordance to the terms of the Contract.

WHEREFORE, Plaintiff demands judgment against SCD for past and future specific performance of the Contract. Plaintiff demands that SCD offer the Developed Lots to it for the stated price in accordance with the terms of the Contract and all future Developed Lots at the stated price in accordance with the terms of the Contract. Plaintiff demands that SCD sell all lots to Plaintiff as required by the Contract. Additionally, Plaintiff demands judgment against SCD for its attorney's fees and costs of this action and any other such relief as determined by a jury.

Count II

Breach of Contract/Breach of Covenant

18. Plaintiff re-alleges paragraphs 1 through 16 as if fully set forth herein.
19. SCD breached the Contract and Covenant with Plaintiff.
20. Plaintiff pleads in the alternative to the relief requested in Count I that SCD's breach of Contract/Covenant caused Plaintiff damage in excess of two million dollars (\$2,000,000.00) in lost profits. SCD's breach of contract has caused Plaintiff to incur and or sustain incidental and consequential damages, including, but not limited to, lost profits, attorney's fees, interest and costs.
21. SCD's continued breach of Contract/Covenant will cause Plaintiff to suffer future damage. SCD's breach of the Contract/Covenant is ongoing.

WHEREFORE, Plaintiff demands judgment against SCD for its past and future compensatory damages, interest, attorney's fees and costs of the action in an amount to be determined by a jury and any other such relief as determined by a jury.

Count III

Declaratory Judgment

22. Plaintiff re-alleges paragraphs 1 through 16 as if fully set forth herein.
23. Plaintiff asks this Court to enter a declaratory judgment ordering Defendant to comply with the terms of the Contract/Covenant, to-wit:
 - a. That SCD offer the Developed Lots to Plaintiff at the stated price in accordance with the terms of the Contract;
 - b. In the event Plaintiff accepts SCD's offer, that SCD sell the Developed Lots to Plaintiff at the stated price in accordance with the terms of the Contract;
 - c. That SCD offer all future Developed Lots to Plaintiff at the stated price in accordance with the terms of the Contract; and,
 - d. That SCD pay to Plaintiff its attorney's fees, interests and cost of this action.

Count IV

Interference with Contractual/Business Relations

24. Plaintiff re-alleges paragraphs 1 through 16 as if fully set forth herein.
25. Green and Fictitious Defendants A through F intentionally interfered with the business/contractual relations of Plaintiff and SCD by causing SCD to fail and/or refuse to offer the Developed Lots to Plaintiff in accordance with the terms of the Contract.

26. Plaintiff was injured and damaged by the wrongful conduct of Green and Fictitious Defendants A through F. Plaintiff was caused to suffer lost profit in excess of two million dollars (\$2,000,000.00) as a proximate result of the wrongful conduct of Green and Fictitious Defendants A through F. The wrongful conduct of Green and Fictitious Defendants A through F proximately caused Plaintiff additional damage and will cause Plaintiff future damages.

WHEREFORE, Plaintiff demands judgment against Green and Fictitious Defendants A through F for compensatory and punitive damages in an amount to be determined by a jury, together with its court costs.

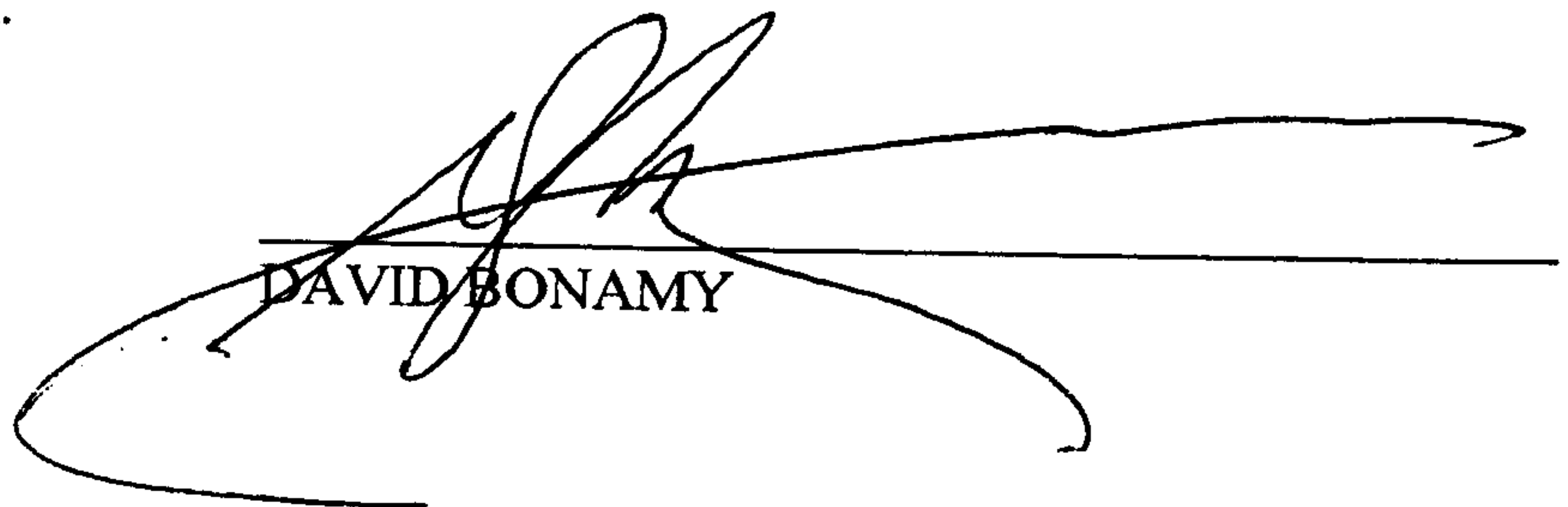
STATE OF ALABAMA)
)
SHELBY COUNTY)

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MARY H. HARRIS
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CIRCUIT & DISTRICT
COURT CLERK
SHELBY CO


VERIFICATION

I, the undersigned David Bonamy, being first duly sworn, depose and say:

I am the Chief Financial Officer of HPH Properties, LLC, the plaintiff in this action. I have read the Verified Complaint and the facts stated therein are true and correct according to my information, knowledge, and belief.


DAVID BONAMY

Sworn to and subscribed
before me this 2ND day
of ~~April~~, 2006.

May

Notary Public

My commission expires: February 8, 2010

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OF COUNSEL:

David B. Hall (HAL052)
Donald J. Nettles (NET008)
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DEFENDANTS TO BE SERVED
BY SERVICE OF PROCESS:

Silver Creek Development, LLC
c/o Michael D. Green, Registered Agent
2151 Old Rocky Ridge Road, Ste. 112
Birmingham, AL 35216

Michael D. Green
2116 Mountain View Dr.
Vestavia Hills, AL 35216-2024

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SHELBY COUNTY

BUILDER LOT SALES CONTRACT

April 29, 2004

The undersigned **HPH PROPERTIES, LLC** ("Purchaser"), an Alabama limited liability company, its successors and assigns hereby agrees to purchase and the undersigned **Silver Creek Development, LLC**, its successors or assigns, an Alabama limited liability company ("Seller"), hereby agrees to sell the following described real property situated in the City of Alabaster, Shelby County, State of Alabama (hereinafter sometimes referred to individually as a "Lot" and collectively as the "Lots"), on the terms stated below:

4-R1 lots, 4-R2 lots, and 39 R-3 lots located in the subdivision of Silver Creek in Alabaster, Alabama, as more particularly shown on the plat attached hereto as Exhibit A

The Lots shall be conveyed to Purchaser subject to all of the following (collectively, the "Permitted Exceptions"): real estate ad valorem taxes for the current and all subsequent tax years, all easements, restrictions, rights-of-way, building setback lines and other matters of record

1. **PURCHASE PRICE.** The purchase price for the Lots shall be as follows:

4-R1 Lots as follows: \$31,500

4-R2 Lots as follows: \$28,500

39-R3 Lots as follows: \$25,500

Total Purchase Price\$1,234,500.00

Earnest Money..... \$ 5,000.00

The Lot Purchase Price will be paid by Purchaser to Seller for each Lot purchased by Purchaser at each Closing in immediately available federal funds, subject to the credits, adjustments and pro-rations provided for in this Agreement and the Addendum.

2. **AGENCY DISCLOSURE.**

Purchaser represents and warrants that no real estate agent, broker or other sales person has represented them in this transaction as listing agent, selling agent or otherwise. Each does hereby indemnify, agree to defend and hold the other harmless from and against any and all claims, suits, demands, causes of action, judgments, liabilities, expenses, including attorneys' fees, and any other

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costs of any nature suffered, paid or incurred by either as a result of or in connection with any claims for brokerage commissions, fees or other compensation asserted by any real estate agent, firm, corporation, broker or sales person with respect to the purchase and sale transaction between Seller and Purchaser as contemplated in this Agreement. Seller represents that Green & Company Real Estate Inc. has represented them as selling agent. Any commissions due to Green & Company Real Estate, Inc. is agreed to be the burden of the Seller and Purchaser will have no liability and will be held harmless in any disputes arising between Seller and Green & Company Real Estate, Inc.

Purchaser's Initials

Seller's Initials


3. **EARNEST MONEY AND DEFAULT.** Purchaser shall provide the Earnest Money to Magic City Title who will act as the Escrow Agent and hold the money in an interest bearing account pending the fulfillment of this Agreement. In the event Purchaser fails to carry out and perform the terms of this Agreement, the Earnest Money shall be forfeited to and retained by Seller as liquidated damages, this Agreement shall be canceled and neither party shall have any further obligations hereunder. In the event Seller fails to carry out and perform Seller's obligations under this Agreement (other than as a result of any default hereunder by Purchaser), then Purchaser may seek specific performance of this agreement or terminate this Agreement and obtain a refund of the Earnest Money in which event neither party shall have any further obligation hereunder. If the Earnest Money is evidenced by a check and the check is returned by a financial institution as unpaid, then Seller shall have the right to unilaterally cancel and terminate this Agreement without further recourse on the part of Purchaser. The Earnest Money shall be refundable by Seller to Purchaser only as set forth in this Contract and the Addendum. Upon the Closing of lots the amount of the Earnest Money shall be credited toward payment of the purchase price as defined in the Addendum.

4. **TITLE INSURANCE.** On or prior to closing, Seller agrees to furnish to Purchaser a standard form owner's title insurance policy for the Lots, issued by a company selected by Purchaser and qualified to insure titles in Alabama, in the amount of the purchase price, insuring Purchaser against loss on account of any defect or encumbrance in the title, unless herein excepted; otherwise, the Earnest Money shall be refunded. The Lots are sold and are to be conveyed subject to all of the Permitted Exceptions, less and except any mineral and mining rights not owned by Seller, and subject to present Qualified R-1, R-2, and R-3 zoning classifications as evidenced by map in Exhibit A, and are not located in a flood plain. The cost of such policies shall be split between Seller and Purchaser.

5. **PRORATIONS.** Ad valorem property taxes (whether paid in arrears or advance) for the Lots, as determined on the date of closing, are to be prorated between Seller and Purchaser as of the date of delivery of the deed. All ad valorem taxes, except municipal taxes, are assumed to be paid in arrears for purposes of proration; municipal taxes, if any, are assumed to be paid in advance for purposes of proration.

6. **CLOSING AND POSSESSION DATES.** The Lot sales shall be closed and the deeds delivered as provided for in the attached **ADDENDUM A** except Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the Lots; provided, however, that in no event shall the closing occur (a) prior to the recordation of the final Subdivision Plat in the Probate Office. Possession is to be given on delivery of the deed.

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7. **CONVEYANCE.** Seller agrees to convey the Lots to Purchaser by general warranty deed free of all monetary liens and encumbrances, but subject to the Permitted Exceptions and Seller and Purchaser agree that any encumbrance not herein excepted or assumed may be cleared at the time of closing.

8. **SELECTION OF ATTORNEY, CLOSING COSTS AND DOCUMENTS.** Seller and Purchaser hereby agree to share equally the fees of closing attorney, to be mutually agreed upon by Purchaser and Seller. Seller and Purchaser acknowledge and agree that such sharing may involve a potential conflict of interest and each may be required to execute an affidavit at closing acknowledging their recognition and acceptance of the same. The parties further acknowledge and agree that they have a right to be represented at all times in connection with this Agreement and at the closing by an attorney of their own choosing at their own expense. All other closing costs, other than survey, title insurance and closing attorney's fees shall be paid by Purchaser. Seller and Purchaser agree to execute such other documents as may be reasonably required to consummate the closing contemplated by this Agreement.


9. **ROADS.** Seller represents and warrants that access to the Lots will be provided by Seller, at Seller's expense, via a public roadway which will abut the Lots, which roadway will be paved and constructed in accordance with the minimum requirements of the City of Alabaster, Alabama (the "City"). If the aforesaid street or roadway has not been completed by the closing, it will be bonded by Seller with the City pursuant to a surety bond or other financial guaranty required by and acceptable to the City. Further, Seller shall dedicate and the City of Alabaster shall accept such roadway as public pursuant to the recording of the final plat.

10. **UTILITIES.** Seller represents and warrants that water, sanitary sewer, underground electricity, and telephone lines will be constructed and installed to each Lot. Seller is responsible for all fees associated with underground power services and their subsequent connection to the residence as is customary in Residential development. Purchaser, at Purchaser's sole expense, shall be solely responsible for connecting water and sewer services to stubs and laterals provided to each Lot by Seller to any dwelling or other improvements to be located on the Lots.

Further, Seller agrees that Purchaser shall have and reserves the right to designate whether the Subdivision shall be an Alabama Power Good Cents product or an Alagasco product and Purchaser shall have the right to keep all incentives for marketing.

11. **PURCHASER'S WARRANTIES.** Purchaser represents and warrants to Seller that Purchaser is purchasing the Lots for the purpose of engaging in the business of constructing a residential dwelling thereon for resale in the ordinary course of business or is otherwise acquiring the Lots solely for residential purposes.

12. **OPTION OF FIRST RIGHT.** Seller covenants that any additional Lots developed in future phases or sectors would be offered to Purchaser at a stated price, prior to any other builder. Seller further agrees that in the event Purchaser elects to pass on the offer, it will not reduce the stated offer price of any lots without first offering the reduced lot price to Purchaser.


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13. MEDIATION/ARBITRATION.

Both Purchaser and Seller agree that any dispute arising pursuant to this agreement shall be submitted first to mediation and then to binding arbitration. In the event either party institutes an action to enforce its' rights under this Contract, the prevailing party shall be entitled to recover its' litigation costs, including court costs and reasonable attorney fees.

14. MARKETING. Purchaser reserves the right to use the marketing and sales team or brokerage of its choice. Purchaser and Seller agree that 1% of the base selling price of a finished home will be split 1/2% each and will be collected upon sale of a home.

15. MISCELLANEOUS. This Agreement shall be binding upon and, subject to the terms and provisions of the immediately preceding sentence, shall inure to the benefit of Seller and Purchaser and their respective heirs, executors, successors and assigns. This Agreement and any addendum attached hereto constitutes the sole and entire agreement between the parties hereto and this Agreement may not be modified or amended except in a writing signed by both parties hereto. This Agreement supersedes all prior written or oral discussions, negotiations and agreements between Seller and Purchaser with respect to the purchase and sale of the Lots.

The paragraph headings of this Agreement are used for convenience of reference only and in no way define, limit or describe the scope or intent of this Agreement.

Time is of the essence of this Agreement.

This Agreement has been executed in the State of Alabama and shall be governed by the laws of the United States (including, specifically, the provisions of the Federal Arbitration Act, 9 U.S.C. § 1, et seq) and, to the extent not inconsistent therewith, the laws of the State of Alabama. If any provision of this Agreement should be invalid or unenforceable, then such provision only shall be held unenforceable and the validity and enforceability of the remaining provisions hereof shall not be affected thereby. All of the terms and provisions of this Agreement shall survive the closing and the conveyance of any of the Lots by Seller to Purchaser.

15. ADDENDUM. Check if attached.

X Additional terms are set forth on the Addendum attached hereto and made a part of this Agreement.

Seller's Initials  —


Purchaser's Initials —

THIS AGREEMENT IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS AGREEMENT, SEEK LEGAL ADVICE BEFORE SIGNING THIS AGREEMENT. SELLER AND PURCHASER ACKNOWLEDGE AND AGREE THAT EACH HAS THE RIGHT TO BE REPRESENTED AT ALL TIMES IN CONNECTION WITH THIS AGREEMENT BY AN ATTORNEY OF HIS, HER OR ITS CHOOSING, AT HIS, HER OR ITS SOLE COST AND EXPENSE.

SIGNATURES APPEAR ON NEXT PAGE

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11PH PROPERTIES, LLC


Witness to Purchaser's Signature

By: 
Its: Managing Member

Silver Creek Development, LLC


Witness to Seller's Signature

By: 
Its: Member

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**ADDENDUM TO
BUILDER LOT SALES CONTRACT
DATED April 29, 2004 (the "Agreement")
BY AND BETWEEN
Silver Creek Development, LLC. ("Seller")
AND
HPII PROPERTIES, LLC. ("Purchaser")**

DATE OF THIS ADDENDUM: April 29, 2004

THIS ADDENDUM (this "Addendum") is attached to and made a part of the Agreement to purchase 47 Lots in Silver Creek Subdivision in Alabaster, Alabama. To the extent of any conflict or ambiguity between the terms and provisions of the Agreement and this Addendum, the terms and provisions of this Addendum shall control. Seller and Purchaser further agree as follows:

1. Definitions. Capitalized terms not otherwise expressly defined in this Addendum shall have the same meanings given to them in the Agreement. In addition to the other defined terms set forth in the Agreement and this Addendum, the following defined terms shall have the meanings assigned to them as provided below and shall include the plural as well as the singular and *vice versa*:

(a) "Additional Lots" with respect to any R-1, R-2, or R-3 Lots purchased by Purchaser after the First Closing Lots.

(b) "City" means the City of Alabaster, Alabama, a municipal corporation.

(c) "Closing" shall have the meaning set forth in Paragraph 3(c) of this Addendum.

(d) "Final Subdivision Plat" means the final subdivision plat for all of the Lots or phases of the Lots which have been approved by the City's Planning Commission and City Council.

(e) "First Closing Lots" shall mean TWENTY (20) Lots (comprised of two (2) R-1 Lots, two (2) R-2 Lots, and Sixteen (16) R-3 Lots) from the Final Subdivision Plat.

(f) "Force Majeure" means acts of God, strikes, riots, fire, flood, war, casualty, material shortages, inclement weather, moratoriums imposed by any utility company or utility provider or governmental agency, interference or interruption of the Lot Development Work resulting from the acts or omissions of Purchaser, its agents, employees, contractors or invitees and any other matters beyond the control of Seller which prevents or otherwise limits Seller or its contractors in undertaking or completing any portion of the Lot Development Work.

(h) "Governmental Requirements" means all statutes, ordinances, laws, code provisions, regulations, rules and requirements of all applicable federal, state, county and local governmental agencies and authorities having jurisdiction over the Lot Development Work.

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2. Development of Lots.

Seller shall be solely responsible for the payment of all costs and expenses of the Lot Development Work, the preparation of the Plans and the preparation and recordation of the Final Subdivision Plat. Purchaser covenants and agrees not to take any action which would interfere or interrupt any of the Lot Development Work.

3. Purchase of Lots and Closing.

(a) Not later than fourteen (14) days following the recording of the Final Subdivision Plat and Lots are completed as defined by 'Substantial Completion' (the "First Closing"). Seller shall sell and Purchaser purchase the First Closing Lots at the Lot Purchase Price, as defined in accordance with all of the terms and provisions of the Agreement and this Addendum.

(b) Following the First Closing, Purchaser is obligated and required to: (i) start and maintain at all times ten (10) Homes Under Construction on Lots purchased and owned by Purchaser and during the first twelve months shall maintain in Purchaser's inventory five (5) unimproved lots (except as noted in item 3c) and comply with the terms and provisions of Paragraph 3(c) herein as to Subsequent Closings. (Following the closing of a home Under Construction, Purchaser will have a 30 day lead time to close an additional lot and start a new home to meet the definition of 'Under Construction').

(c) Following the First Closing, Purchaser shall guarantee the purchase of the remaining lots as follows: Purchaser shall close the remaining two (2) R-1 Lots, two (2) R-2 Lots, and Twenty Three (23) R-3 Lots not later than twelve months from the sale of the First Closing.



(d) In addition to the mandatory obligation of Purchaser to purchase Lots pursuant to Paragraphs 3(a), 3(b), and 3(c) of this Addendum, Purchaser may elect, in its sole discretion, to purchase any number of Additional R-1, R-2, or R-3 Lots at any time.

(e) The closing of each purchase and sale transaction pursuant to Paragraphs 3(b), 3(c), and 3(d) of this Addendum is hereinafter referred to as a "Subsequent Closing". The First Closing and each Subsequent Closing is hereinafter sometimes referred to as a "Closing".

(f) Should the number of home sales not reach a total of 20 at the time of the 12 month closing, seller agrees to extend the subsequent closing until the total home sales meets 20. Should the total number of home sales not exceed 20 in a 18 month period from the First Closing, purchaser may terminate this contract and be entitled to receive 75% of the then outstanding earnest money from seller.

4. Earnest Money and Purchaser's Default.

(a) The Earnest Money shall be applied at the rate of \$500.00 per Lot for the closing of


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the last 10 Lots as a credit on the Closing Statement.

(b) Purchaser shall be deemed in default ("Default") hereunder the event Purchaser defaults in the performance of any of its covenants or agreements set forth herein or fails to carry out and perform the terms and provisions of the Agreement or this Addendum, including, without limitation, the obligation to timely purchase the First Closing Lots and all of the Additional Lots in strict accordance with the terms and provisions of Paragraph 3 of this Addendum and the obligations set forth in the Agreement. Upon the occurrence of any Default hereunder by Purchaser, Seller shall have the right to cancel and terminate the Agreement and this Addendum, retain the Earnest Money as liquidated damages in which event the Agreement and this Addendum shall be deemed null and void and neither party shall have any further obligation or liability to the other hereunder. If the first closing occurs subsequent to August 31, 2004, Purchaser shall be entitled to a refund of one-half of the Earnest Money within 5 days. Purchaser remains obligated to the terms of this contract and addendum and will be required to meet the first closing in accordance with section 3 above. Should this occur, the remaining earnest money will be credited at the rate of \$250 per lot at closing of the last 10 lots.

5. Notices. Any and all notices requiring or permitted hereunder shall be in writing and shall be served on the parties hereto at the addresses set forth below their signatures on the Agreement. Any and all notices shall be deemed to be sufficiently given or served upon any party hereto when either (i) sent by personal delivery to the addresses set forth immediately below their respective signatures on the Agreement or (ii) deposited in the United States mail by first class, postage prepaid mail and addressed in accordance with the addresses set forth below the signatures of the parties on the Agreement. Either party may change its address by written notice to the other given in the manner set forth above. With respect to the delivery of the Plans to Purchaser for approval only, the Plans shall be deemed to have been received by purchaser on the day that the same have been personally delivered to Purchaser.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Addendum as of the day and year first above written.

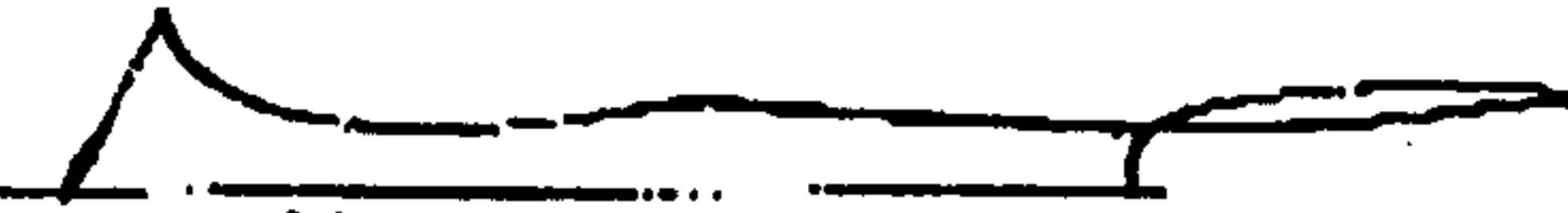

SIGNATURES APPEAR ON NEXT PAGE

20060510000230980 19/20 \$68.00
Shelby Cnty Judge of Probate, AL
05/16/2006 01:29:36PM FILED/CERT

20070510000219560 20/21 \$71.00
Shelby Cnty Judge of Probate, AL
05/10/2007 11:44:32AM FILED/CERT

HPH PROPERTIES, LLC.


Witness to Purchaser's Signature

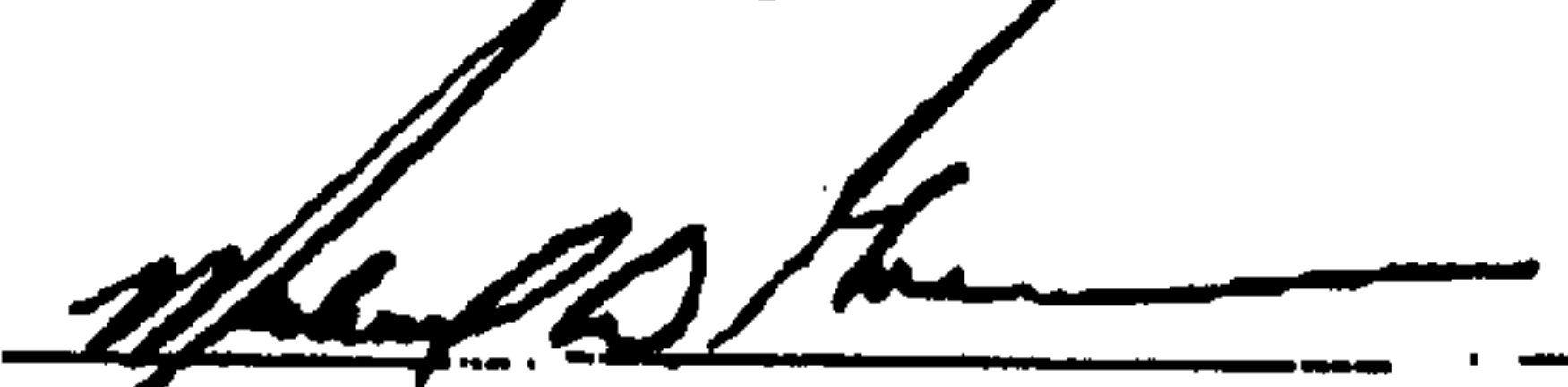

By: 
Its: 

Date of Execution by Purchaser

Purchaser's Address:
2236 Cahaba Valley Drive
Suite 100
Birmingham, Alabama 35242
Telephone: (205) 980-5350


Witness to Seller's Signature

Silver Creek Development, LLC

By: 
Its: 

4/30/04
Date of Execution by Seller

Seller's Address:
2151 Old Rocky Ridge Rd
Suite 112
Birmingham, Ala 35216

20060516000230980 20/20 \$68.00
Shelby Cnty Judge of Probate, AL
05/16/2006 01:29:36PM FILED/CERT

F A X



2151 Old Rocky Ridge Road; Hoover, AL 35216 Office 205.988.9500 Fax 205.985.7111 www.greensold.com

To: David Bonamy From: Mickey Green

Fax: 980-6034 Date: 4/30/04

Phone: 980-5350 Pages: _____

RE: Silver Creek CC: _____

URGENT: ☐ FOR REVIEW: ☐ PLEASE COMMENT: ☐ PLEASE REPLY: ☐

ILL be out of town Monday - Call my office if you need anything.

20070510000219560 21/21 \$71.00
Shelby Cnty Judge of Probate, AL
05/10/2007 11:44:32AM FILED/CERT

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