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Shelby Cnty Judge of Probate, AL
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**DECLARATION
OF
PROTECTIVE COVENANTS
FOR
CHELSEA PROMENADE**

THIS DECLARATION, made this 18th day of September, 2007, by S.N.O., Inc., hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the Owner of certain Property (defined below in Section 1.11) situated in Shelby County, Alabama; and

WHEREAS, Declarant desires to subject the Property to the following covenants, conditions, and restrictions for the benefit of the Property and its present and subsequent Owners;

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

ARTICLE I

DEFINITIONS

1.01 Amendment. The term "Amendment" or "Amendments" shall mean and refer to any and all amendments to this Declaration as may from time to time be adopted pursuant to the terms and provisions of **Sections 10.04 and 10.07** hereof.

1.02 Beneficiaries. The term Beneficiaries shall refer to any mortgagee, tenant, or occupant of the Owners of the Property and each Parcel thereof, their personal representatives, heirs, successors, and assigns, and when appropriate to the employees, invitees, customers, and suppliers of each.

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

1.04 Common Facilities The term "Common Facilities" shall mean all paved surfaces and parking areas which are easements for ingress, egress, parking, drainage and utilities as hereinafter provided, all drainage, storm and sanitary sewer facilities which benefit the Property and which are not otherwise maintained by a governmental entity, landscaping between the surface of U.S. Highway 280 and the property which serve all of the Property (utility service, drainage, storm and sanitary sewer serving only one Parcel shall be maintained by the Owner of such Parcel).

1.05 Declaration. The term "Declaration" shall mean and refer to this Declaration of Protective Covenants for Chelsea Promenade, which shall be recorded in the office of the Judge of Probate of Shelby County, Alabama, together with all Amendments thereto.

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

1.07 Developer. The term "Developer" shall mean and refer to S.N.O., Inc., its successors and assigns. All rights of Developer are assignable by S.N.O., Inc. Any such assignment of the rights of Developer herein shall only be effective if the rights of Developer herein are specifically assigned in such assignment.

1.08 Member. The term "Member" or "Members" shall mean and refer to every person or entity who holds membership in the Association, as hereinafter set forth in **Article III** of this Declaration.

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

1.10 Parcel. The term "Parcel" shall mean and refer to any plot of land or parcel of real property within the Property, including the areas marked "Future Development". It is expressly understood that Developer or its authorized assigns reserves the right to further subdivide the Parcels owned by Developer or authorized assigns located within the Property as shown on the Plat, subject to the terms of this Declaration. Any resulting parcels of real property resulting from such further subdivision shall become a Parcel for all purposes relating to the Declaration and the Association as hereinafter defined in **Article III** of this Declaration. At the time of this Declaration, the Parcels within the Property is Lot 1 as shown on map recorded in Map Book 29, Page 39, Probate Office of Shelby County, Alabama.

1.11 Property. The term "Property" shall mean and refer to all of that certain real property situated in Shelby County, Alabama, described as Chelsea Promenade attached hereto as Exhibit "A" and is shown on the Survey of Alabama Telco Credit Union Addition to Chelsea, as recorded in Map Book 29, Page 39, in the Probate Office of Shelby County, Alabama. The developer owns additional adjoining property which may, in developer's sole discretion, be added to the "property" by amendment of this declaration.

1.12 Structure. The term "Structure" or "Structures" shall mean and refer to the buildings to be erected on each Parcel.

ARTICLE II

MUTUALITY OF BENEFIT AND OBLIGATION

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

ARTICLE III

ASSOCIATION

3.01 Membership. Chelsea Promenade Association, Inc. (the "Association"), an Alabama Non-Profit Corporation has been created. Each Owner of a Parcel shall be a Member of the Association. Each Member shall at all times comply with the provisions of the Charter, the Bylaws and all rules and regulations which may from time to time be adopted by the Board of Directors of the Association (the Board). Membership in the Association shall be appurtenant to and may not be separated from ownership in any Parcel. The transfer of fee simple title to any Parcel, other than a transfer as security for the payment of an obligation, shall include the membership rights of an Owner in the Association.

3.02 Maintenance Responsibilities of the Association. In addition to all other obligations, duties and responsibilities of the Association provided herein or as may be provided in the Charter and Bylaws, the Association shall operate, maintain, landscape, repair and insure the Common Facilities and shall keep the same in a clean and sightly condition and in good order and repair in accordance with the standards set forth in Section 4.08. The Board shall be entitled to contract with any corporation, firm or other entity for the performance of any of the maintenance responsibilities provided herein. The Association shall maintain general comprehensive liability insurance on the Common Facilities in a company qualified to transact business in the State of Alabama, stipulating limits of liability of not less than One Million Dollars of "each event" coverage and

together with a general aggregate amount of not less than Two Million Dollars.

3.03 Authority. The powers and duties of the Association shall include those set forth in the Code of Alabama, this Declaration, and the Charter and Bylaws of the Association, as the same may be amended in the future.

ARTICLE IV

MAINTENANCE ASSESSMENTS; DAMAGE OR DESTRUCTION; GENERAL MAINTENANCE; ENVIRONMENTAL COVENANTS

4.01 Creation of the Lien and Personal Obligation of Assessments. The Developer, for each Parcel within the Property, hereby covenants, and the Owner of any Parcel by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges for the maintenance, insurance, upkeep and repair of the Common Facilities including a reasonable reserve for future major maintenance; and (2) special assessments for capital improvements, which assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on each Parcel and shall be a continuing lien upon each Parcel for all assessments made. Each assessment, together with interest, costs, and reasonable attorney's fees, if any, shall also be the personal obligation of the person who was the Owner of the Parcel at the time when the assessment was made. The costs of operating, maintaining, landscaping repairing, and insuring the Common Facilities shall be shared proportionately by all Owners based upon a fraction, the numerator of which is the number of square feet within a particular Parcel and the denominator of which is the number of square feet within the Property.

4.02 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote and protect the health, safety, welfare and general upkeep of the Property and the Common Facilities and for the benefit of the Owner of each Parcel, their respective agents, employees, guests, invitees and licensees and for the discharge of the Association's responsibilities pursuant to **Article III** hereof.

4.03 Special Assessments. Special assessments shall be determined upon the affirmative vote of a majority of the Board at a meeting called for that purpose. All annual and any special assessments must be made at a uniform rate per square foot contained in each Parcel situated on the Property.

4.04 Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to each Parcel on the conveyance of a Parcel by the Developer. The Developer shall be responsible for the assessments applicable to any Parcel until such Parcel is so conveyed. The first annual assessment shall be pro-rated and adjusted according to the number of days and months remaining in the calendar year after the conveyance of a Parcel by the Developer. The Board shall determine the amount of the annual assessment against each Parcel each year in advance

and written notice of such assessment shall be sent to each Owner. The due dates shall be established by the Board and, unless otherwise provided, the Association shall collect each month from the Owner of each Parcel one-twelfth (1/12th) of the annual assessment for each Parcel. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on any Parcel have been paid and such certificates shall be conclusive evidence of the payment of any such assessment.

4.05 Effect of Nonpayment of Assessments: Remedies of the Association. All assessments shall be due on or before the first day of each month or as may be otherwise provided in the notice to each Owner from the Association. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the prime rate as established by Regions Bank, its successors and assigns (the "Prime Rate"), the same to float and fluctuate with the Prime Rate, and the Association may either: after thirty (30) days prior written notice, (a) bring an action at law against the Owner obligated to pay the same; or (b) foreclose the lien against the property, subject to the interest of any such Owner's mortgagee(s), whereby all accrued interest, costs, and reasonable attorney's fees shall be added to the amount of such assessment. Should the Prime Rate exceed the maximum interest allowed under the Alabama Usury Act or amendments or changes thereto, the interest charged shall be the same as the maximum allowed to be charged under the laws of the State of Alabama. Each such Owner, by such Owner's acceptance of a Deed to a Parcel, hereby expressly vests in the Board or their agents the right and power to bring all actions against such Owner for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Parcel Owners. The Association, acting on behalf of the Parcel Owners shall have the power to bid at a foreclosure sale and to acquire and hold, lease, mortgage and convey the Parcel foreclosed. In the event an Owner becomes more than thirty (30) days in arrears in payment of any installment of such Owner's assessment, then the entire annual assessment may become due and payable immediately at the discretion of the Board.

4.06 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Parcel shall not affect the assessment lien. However, the sale or transfer of any Parcel pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer.

4.07 Damage or Destruction. In the event of any damage or destruction to any Structure, the Owner does hereby covenant and agree to promptly reconstruct, replace or repair any Structure on the Parcel caused by such damage and destruction in accordance with the provisions of **Article V** hereof.

4.08 General Maintenance.

a) Subject to the provisions of Section 3.02 relating to any Common Facilities located on any Parcel which are the responsibility of the Association, at all times during the term of this Declaration, each Parcel Owner shall keep and maintain such Owner's respective Parcel in a clean and sightly condition consistent with the character and quality of Structures and other improvements constructed on the other Parcels. The obligation of each Parcel Owner contained in this paragraph shall include, without limitation, the obligation to:

(1) Maintain any pavement on each Parcel Owner's respective Parcel in a level, smooth and evenly-covered condition;

(2) Remove all papers, debris, filth and refuse and thoroughly sweep the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(3) Keep in repair any directional signs, markers and lines hereafter located on each Parcel Owner's respective Parcel;

(4) Keep in repair such artificial lighting facilities as may hereafter be installed or located on each Parcel Owner's Parcel;

(5) Maintain all perimeter walls, if any, in a good condition and state of repair;

(6) Maintain all landscaped areas installed or located on each Parcel Owner's respective Parcel in a clean and orderly condition;

(7) During any period in which any Parcel is vacant, plant grass or other suitable ground cover and keep such grass or other cover mowed and trimmed in a clean and sightly condition; and

(8) Maintain in good operational order all sewer, electricity, natural gas, water, telephone and other utility lines, pipes and conduits serving such Parcel Owner's respective Parcel.

4.09 Environmental Covenants. Each owner of a Parcel represents and warrants to the owners of the Parcels that such owner will not during the term of this Agreement, cause or permit to be used, stored, generated or disposed of any Hazardous Substance, as hereinafter defined, in, on or about any Parcel except in accordance with applicable laws. "Hazardous Substance" includes, without limitation, any and all material or substances which are defined as "hazardous waste", "extremely hazardous waste" or a "hazardous substance" pursuant to applicable laws. "Hazardous Substance" includes, but is not limited to, asbestos, polychlorobiphenyls ("PCB's), chlorofluorocarbons, petroleum, and any substance for which any applicable laws require a permit or special handling in its use, storage, treatment, or disposal.

Each owner of a Parcel shall, at its sole cost and expense, take such action as is reasonable, prudent, or required by law as a result of any breach of the foregoing representations and warranties and shall indemnify, protect, and save the owners of the other Parcels, their tenants, officers, directors, shareholders, and employees ("Indemnified Parties") harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses (including, without limitation, attorneys', consultants' and experts' reasonable fees and disbursements) of any kind or nature whatsoever (collectively the "Indemnified Matters") which may at any time be imposed upon, incurred by or asserted or awarded against Indemnified Parties and arising from or out of any Hazardous Substances on, in, under or affecting all or any portion of the Parcel, provided, however, if the same was caused by or results from the act or neglect of the Indemnified Parties or such Indemnified Parties are otherwise liable therefor, then such Indemnified Parties shall not be protected or held harmless by this indemnity. This indemnification includes, without limitation, any and all costs incurred due to any investigation of the site or any cleanup, removal, or restoration mandated by a federal, state, or local agency or political subdivision.

Each owner of a Parcel shall provide to the owners of the other Parcels copies of any notices, letters, or requests for information concerning Hazardous Substances in connection with its Parcel or all of the Parcels which such owner receives from any governmental unit or agency overseeing environmental matters and copies received by such owner of any such notices, letters, or requests for information sent to any other owner or tenant of any Parcel.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

- 5.01 Membership.** Initially, the Committee shall be composed of the following individual: Steve Issis, who shall serve until the sale of all of the Property by the Developer or Developer's assigns, including any parcels adjoining lot 1. Thereafter, the Committee shall be composed of three (3) members to be elected by a majority vote of the Members of the Association at a duly constituted meeting thereof. The Committee may designate one (1) representative to act for it. In the event of the death or resignation of any Member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee or its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. The Committee shall function by majority vote and shall have the right to establish such rules and regulations concerning procedure, notice of meetings and all other matters which may come before the Committee.

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

Steve Issis
2858 Highway 31 South
Pelham, AL 35124

5.03 Basis for Disapproval of Plans. The Committee shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) failure of any such plans or specifications to comply with any of the restrictions contained in this Declaration;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;
- (c) objection to the exterior design, appearance or materials of any proposed Structure;
- (d) incompatibility of any proposed Structure or use with existing Structures or uses upon other Parcels in the vicinity;
- (e) objections to the location of any proposed Structure upon any Parcel or with reference to other Parcels in the vicinity;
- (f) objection to the site plans, grading plans or drainage plan for any Parcel;
- (g) objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any proposed Structure and other improvements;
- (h) objection to parking areas and other improvements proposed for any Parcel on the grounds of (i) incompatibility to proposed uses and Structures on such Parcels, or (ii) the

insufficiency of the size of parking areas in relation to the proposed use of the Parcel;

(i) failure of plans to take into consideration the particular topography, vegetative characteristics, and natural environment of the Parcel, or

(j) any other matter which, in the reasonable judgment of the Committee, would render the proposed Structure(s), other improvements, or uses inharmonious with the general plan of improvement of the Property or with Structures, other improvements, or uses located upon other Parcels within the vicinity.

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

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

5.04 Retention of Copy of Plans. Upon approval by the Committee of any plans and specifications submitted hereunder, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

5.05 Rules of the Committee; Effect of Approval and Disapproval;

Time for Approval. The Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Parcels, including without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and statements of policy may be amended or revoked by the Committee at any time, and no inclusion in, omission from, or amendment of any such rule or statement shall be deemed to bind the Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Committee's discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change. Approval for use on any Parcel of any plans or specifications shall not be deemed a waiver of the Committee's rights, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other Parcel or Parcels. Approval of any such plans and specifications relating to any Parcel, however, shall be final as to that Parcel and such approval may not be revoked or rescinded thereafter, provided, (i) that the Structures and other improvements or uses shown or described on or in such plans and specifications do not violate any specific

prohibition contained in the restrictions contained in this Declaration and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all Structures and other improvements on and uses of the Parcel in question. In the event the Committee fails to approve or disapprove any plans and specifications as herein provided within thirty (30) days after submission thereof, the same shall have been deemed to have been approved, as submitted, and no further action shall be required; provided, however, that the applicant shall have evidence of receipt of the required application package by the Committee.

5.06 Failure to Obtain Approval. If any Structure shall be altered, erected, placed or maintained upon any Parcel, or any use commenced upon any Parcel, otherwise than in accordance with plans and specifications and use approved by the Committee pursuant to the provisions of this **Article V**, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this **Article V**, and without the approval required herein, and, upon written notice from the Committee, any such structure so altered, erected, placed, or maintained upon any Parcel in violation shall be removed or re-altered, and any such use shall be terminated, so as to extinguish such violation. If fifteen days (15) after the notice of such violation the Owner of the Parcel upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same, the Association, on behalf of the other Owners of each Parcel, shall have the right, through its agents and employees, to enter upon such Parcel and to take such steps as may be necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question. The lien provided in this **Section 5.06** shall not be valid as against a bona fide purchaser (or a bona fide mortgagee) of the Parcel in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County, Alabama, prior to the recordation of the deed (or mortgage) in the Office of the Judge of Probate of Shelby County, Alabama, conveying the Parcel in question to such purchaser (or subjecting the same to such mortgage).

5.07 Inspection Rights. Any agent of the Committee may at any reasonable time or times enter upon and inspect any Parcel and any improvements thereon for the purpose of ascertaining whether the maintenance of such Parcel and the maintenance, construction, or alteration of Structures and other improvements thereon are in compliance with the provisions hereof; and neither the Committee nor any such agent of the same shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection.

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

ARTICLE VI

GENERAL COVENANTS AND RESTRICTIONS

6.01 Without the Prior Written Approval of the Committee:

(a) no previously approved Structure and other improvements shall be used for any purpose other than that for which it was originally designed;

(b) no Parcel shall be split, divided or subdivided for sale, resale, gift, transfer, or otherwise by an Owner other than the Developer or its authorized assigns subject to the terms of this Declaration;

(c) to the extent of the interest of the Owner of a Parcel, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Parcel and no external or outside antennas of any kind shall be maintained except on the rear portion of the Parcel; and

(d) no boat, boat trailer, house trailer, trailer, motor home or any similar items shall be stored in the open on any Parcel.

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

6.03 Signage Regulations. The signage regulations for Chelsea Promenade shall be as follows:

(a) generally, single and multi occupied building developments within the Property shall be allowed only one (1) free-standing ground sign and one (1) building sign to the fronting street. Multi occupied buildings which are designed to provide individual exterior entry to the tenants will be allowed to incorporate tenant identification signage on the exterior of each tenant's space and said signage shall not exceed the amount of square feet per tenant sign as authorized by the Committee.

(b) all free standing signs must be within the property line of the applicable Parcel and shall not exceed the height and area limitations as prescribed by the sign ordinance of the City of Chelsea, Alabama. Notwithstanding the foregoing, it is expressly understood that the height and area limitations of any free standing sign for a Parcel shall be that as approved by the Committee in the absolute discretion of the Committee.

(c) no building sign may extend above the face of the building nor project more than 18 inches from the wall.

(d) signs may be illuminated by non-flashing direct or indirect illumination and shall not contain moving parts.

(e) the permitted sign face area shall be approved on an individual basis by the Committee and will be based on the following criteria:

1. Size (acres of the subject Parcel)
2. Size (height and scale of the building)
3. The relationship of the subject sign to adjacent developments.

(f) Temporary signs shall be subject to the prior written approval of the Committee.

(g) All signs shall be subject to review and approval of the Committee and shall additionally comply with all applicable governmental regulations.

(h) Notwithstanding the foregoing requirements, the Committee may grant variances with respect to signage in the sole discretion of the Committee.

6.04 Temporary Structures. No temporary building, trailer, garage or building used in the course of construction or other structure shall be used, temporarily, or permanently as a residence on any Parcel.

6.05 Accumulation of Refuse. No lumber, metals, or bulk materials shall be kept, stored or allowed to accumulate on any Parcel, except building materials during the course of construction of any approved Structure and other improvements. No refuse or trash shall be kept, stored or allowed to accumulate, except between scheduled pick-ups and in accordance with the following:

During construction on a Parcel, such Parcel shall have (at the discretion of the Committee) a service yard adequate for the handling of waste and garbage. Such service yard shall be paved and shall be enclosed by a screening structure not less than 6 feet tall and adequate to conceal front view any waste materials and storage equipment.

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

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

6.08 Underground Utilities. To the extent of the interest of the Owner of a Parcel,

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

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

6.10 Architectural Compatibility. All Structures shall be of at least the same quality (in materials and construction) and architecturally compatible with (in color and design, provided exceptions may be made for trade dress requirements of franchised or chain business operations) with the other Structures on the Property. All store fronts and those sides exposed to Highway 280 shall be constructed of brick, stone, dryvit, glass, or any combination thereof.

ARTICLE VII

ZONING AND SPECIFIC RESTRICTIONS

7.01 Zoning Laws. The Restrictions set forth in this Declaration shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed, restrictive covenants, or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, restrictive covenants, leases or the Restrictions shall be taken to govern and control.

7.02 Building Codes. All Structures shall comply with requirements of the Standard Building Code, the City of Chelsea Building Inspection Department and the Shelby County Health Department.

7.03 Setbacks. All buildings and improvements shall comply with the set back requirements of the City of Chelsea.

ARTICLE VIII

EASEMENTS

8.1. Grant. Declarant hereby reserves unto itself, its successors and/or assigns, and establishes, gives, grants, bargains, sells, and creates for each Owner, and, where applicable, to Beneficiaries, the following reciprocal, joint, mutual, nonexclusive, and perpetual easement (more specifically described in Exhibit "B" attached hereto), appurtenant to the Property and each Parcel thereof which shall run with the land for the following purposes:

(a) Entranceway/Access. At all times the free and unimpeded access upon the Entranceway or access driveway from Highway 280 for ingress and egress over, across, between, to, and from each Parcel. Additional access easements may be established on adjoining property and will be added by future amendment.

(b) Utilities; Drainage. The right to drain surface waters over, across and under the Parcels and Property in accordance with the Site Grading Plan as the same may be amended subject to the approval of the Committee and to install, maintain, repair, remove and replace drainageways and utilities to serve the Property and Parcels, provided the same does not unreasonably interfere with the conduct of business operations on any Parcel and provided all costs associated with same and the cost of any damage to any Parcel by virtue thereof is borne by the Parcel Owner performing same.

(c) Emergency Maintenance. In the event that a condition exists on the Access Easement which, in the reasonable discretion of the Parcel Owner exercising such emergency maintenance easement, poses a threat or danger of property damage or personal injury, then such Parcel Owner shall have the right to repair or alleviate such emergency condition. The cost of any work performed pursuant to such emergency maintenance easement shall be borne by the Parcel Owner who otherwise would have been responsible for the payment thereof, pursuant to the terms of this Declaration, which payment shall be paid within thirty (30) days from demand thereof. All such work shall be performed in such a manner as not to interfere unreasonably with the conduct of business on any Parcel.

(d) Encroachment. For encroachment onto another Parcel of improvements or pavement over any common boundary line between Parcels, which arises out of, or is necessitated by normal construction deviations and tolerances.

8.2. Lawful Use. All easements contained in this **Article VIII** shall be limited for purposes connected with or incidental to lawful use of the Property.

ARTICLE IX

DRAINAGE; GRADING BY DEVELOPER

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

the Developer to cut such drainways.

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

ARTICLE X

GENERAL

10.01 Grantee's Acceptance. The grantee of any Parcel subject to the coverage of 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 the Developer or a subsequent Owner of such Parcel, shall accept such deed or other contract upon and subject to each and all of the provisions of this Declaration herein contained.

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

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

10.04 Right of Developer to Modify Restrictions With Respect to Unsold Parcels. The Developer specifically reserves unto itself and its assigns the right to further subdivide any Parcel owned by Developer or its assigns until all Parcels have been sold by Developer or its assigns.

Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Developer may deem necessary with regard to the Property, including without limitation, the locations and dimensions of all Lots, Common Areas, public or private roads, utility easements, drainage easements, access easements, setback line restrictions, retention

ponds and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into these Covenants. Notwithstanding anything provided to the contrary in these Covenants, Developer may at any time or from time to time divide and redivide, combine and resubdivide any Lots owned by Developer and change any easement description or relocate any roads affected thereby, subject to approval of any Governmental Authority having jurisdiction thereof.

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

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

10.07 Duration and Amendment. These covenants and restrictions shall run with the land and may be changed, modified, amended, altered or terminated only in accordance with the provisions hereof. These covenants and restrictions may be changed, modified, amended, altered or terminated at any time within a period of fifteen (15) years from the date this Declaration is recorded by a duly recorded written instrument executed by the then record Owners (including mortgagees and other lien holders of record, if any) of ninety percent (90%) of the number of Parcels constituting the Property. After fifteen (15) years from the date this Declaration is recorded, the same may be changed, modified, amended, altered or terminated by a duly recorded written instrument executed by the then record Owners (including mortgagees and other lien holders of record, if any) of seventy-five percent (75%) of the number of Parcels constituting the Property. After twenty (20) years from the date this Declaration is recorded, the same may be changed, modified, amended, altered or terminated by a duly recorded written instrument executed by the then record Owners (including mortgagees and other lien holders of record, if any) of sixty-five percent (65%) of the number of the Parcels constituting the Property.

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

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

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

10.09 Property and Parcels are Sold AS IS/WHERE IS. Each Parcel is sold in its AS IS/WHERE IS CONDITION. Other than its obligations as an Owner of Parcel(s) within the Property, Developer shall have no further obligation with respect to the improvements on the Property or the Common Facilities.

10.10 No Waiver. The failure of any party entitled to enforce any provision 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 plans pursuant to **Article V** shall be binding on any and all parties as a conclusive determination that such plans are in conformity with the requirements of this Declaration.

10.11 No Public Benefit. This Declaration is not intended to and does not dedicate any portions of the Property to the general public or create any rights for the general public.



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Shelby Cnty Judge of Probate, AL
09/19/2007 02:45:15PM FILED/CERT

IN WITNESS WHEREOF, S.N.O., Inc., has caused this Declaration to be properly executed by its duly authorized President as of the 18th day of September, 2007.

S.N.O., Inc.

By: [Signature]
Steve Issis, President

STATE OF ALABAMA)
SHELBY COUNTY)

ACKNOWLEDGMENT

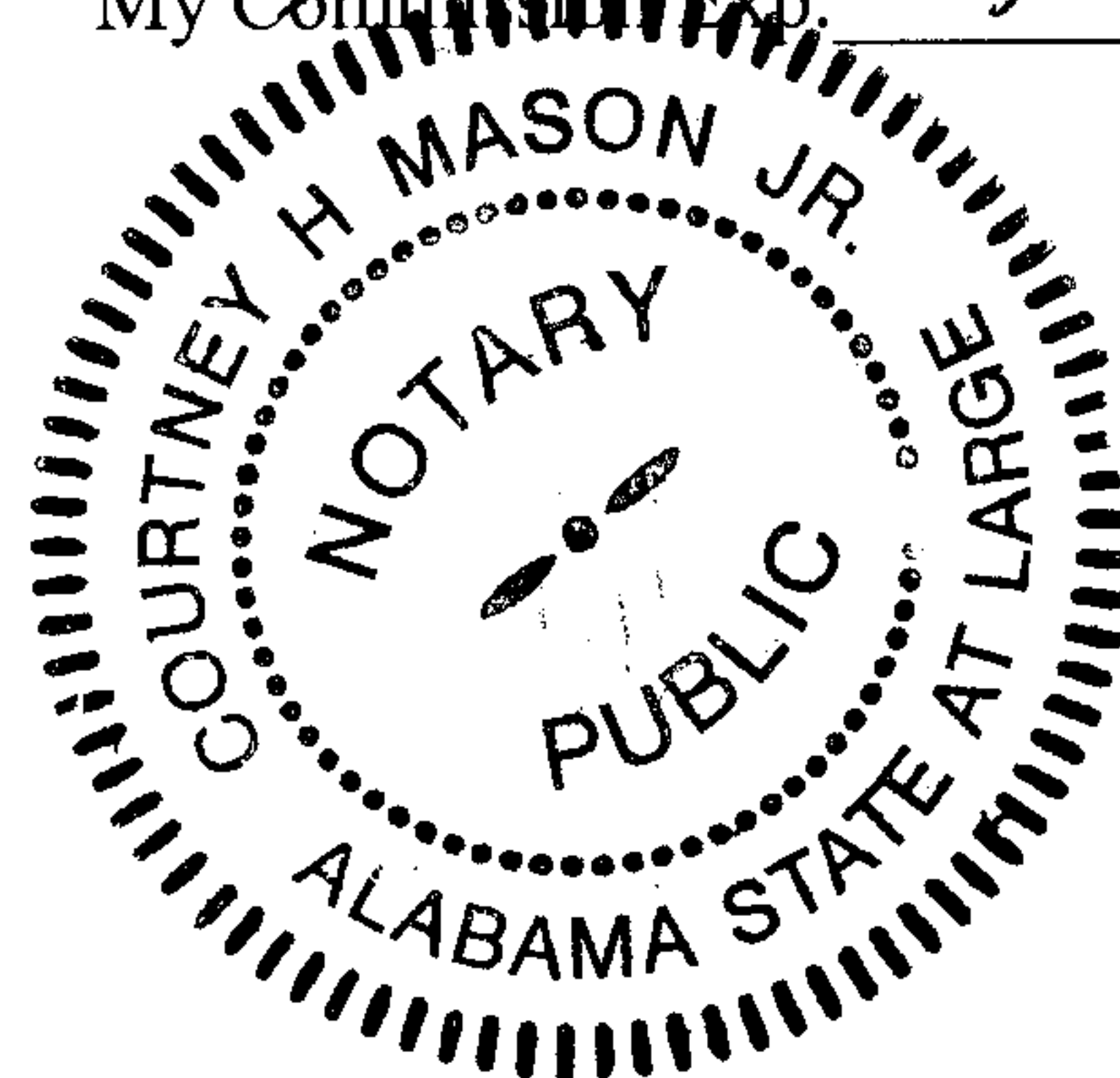
I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Steve Issis, whose name as President of S.N.O., Inc., an Alabama Corporation is signed to the foregoing instrument, and who is known to me, acknowledged before me this day that, being informed of the contents of the instrument, he, as such member and with full authority, executed the same voluntarily for and as the act of the Corporation.

Given under my hand and official seal this 18th day of September, 2007.

[Signature]
Notary Public
My Commission Exp. 3/5/11

This instrument prepared by:
Courtney H. Mason, Attorney at Law
1904 Indian Lake Drive
Birmingham, Alabama 35244

COURTNEY H. MASON, JR.
COMMISSION EXPIRES MARCH 5, 2011





20070919000440290 19/20 \$68.00
Shelby Cnty Judge of Probate, AL
09/19/2007 02:45:15PM FILED/CERT

Exhibit "A"

Lot 1, according to the Survey of Alabama Telco Credit Union Addition to Chelsea, as recorded in Map Book 29, Page 39, in the Probate Office of Shelby County, Alabama; being situated in Shelby County, Alabama.

ACCESS EASEMENT
LEGAL DESCRIPTION:

A parcel of land situated in the Southwest one-quarter of the Northeast one-quarter of Section 26, Township 19 South, Range 1 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of the Southwest one-quarter of the Northeast one-quarter of said section; thence run in a Southerly direction along the West line of said quarter-quarter section for a distance of 463.09 feet to a found 5/8" rebar, said point also being on the Southernmost right-of-way line of Old Highway 280 (80' ROW); thence continuing along last described course leaving said right-of-way line run in a Southerly direction for a distance of 575.63 feet to a set GSA capped rebar stamped CA-560-LS on the Northernmost right-of-way line of U.S. Highway 280 (ROW Varies), said point also being on a curve turning to the left, said curve having a radius of 11609.16 feet, a central angle of 00 degrees 20 minutes 57 seconds, an interior chord angle to the right of 85 degrees 05 minutes 27 seconds, and a chord distance of 70.75 feet; thence run in an Easterly direction along the arc of said curve and along said right-of-way for a distance of 70.75 feet to the POINT OF BEGINNING; thence turn an exterior angle to the right from the chord of said curve of 87 degrees 42 minutes 09 seconds and run in a Northerly direction for a distance of 55.64 feet; thence turn an interior angle to the left of 88 degrees 32 minutes 17 seconds and run in an Easterly direction for a distance of 157.28 feet; thence turn an interior angle to the left of 84 degrees 20 minutes 59 seconds and run in a Southerly direction for a distance of 29.14 feet; thence turn an interior angle to the left of 95 degrees 14 minutes 55 seconds and run in a Westerly direction for a distance of 101.99 feet; thence turn an interior angle to left of 226 degrees 49 minutes 53 seconds and run in a Southwesterly direction for a distance of 22.63 feet; thence turn an interior angle to the left of 225 degrees 01 minutes 50 seconds and run in a Southerly direction for a distance of 11.30 feet to a point on the Northernmost right-of-way line of U.S. Highway 280 (ROW Varies), said point also being on a curve turning to the right, said curve having a radius of 11609.16 feet, a central angle of 00 degrees 10 minutes 34 seconds, a chord distance of 35.69 feet, an interior chord angle to the left of 87 degrees 57 minutes 58 seconds; thence run in a Westerly direction along the arc of said curve and along said right-of-way for a distance of 35.69 feet to the POINT OF BEGINNING. Said easement contains 5549 square feet or 0.13 acres more or less.