

SECOND AMENDMENT TO
AMENDED AND RESTATED COVENANTS
(the "SECOND AMENDMENT")

Recitals

WHEREAS, Shelby Lake Corporation, an Alabama corporation ("Shelby"), was organized September 15, 1953, as a business corporation under Title 10, Code of Alabama 1940, as evidenced by a Certificate of Incorporation recorded at Inc. 93, Page 415 et. seq. in the Probate Office of Jefferson County, Alabama; and

WHEREAS, Shelby was formed for the purpose of serving as an association of purchasers of lots at "Smyer Lake", which was a lake then being constructed in Shelby County, Alabama on land owned by S.W. Smyer, Jr. ("Smyer"), and by the Mountain View Land company, an Alabama corporation ("Mountain View"); and

WHEREAS, by warranty deed dated January 1, 1954, and recorded at Book 172, Page 234 in the Probate Office of Shelby County, Alabama, Smyer conveyed to Shelby all of the bed of "Mountain View Lake" (now known as "Smyer Lake") as identified in the plat of Mountain View Lake Subdivision, 1st Sector, recorded at Map Book 3, Page 135, in the Probate Office of Shelby County, Alabama (the "1st Sector Plat": "Mountain View Lake" is also identified in the plat of Mountain View Lake Subdivision, 2nd Sector, recorded at Map Book 3, Page 150, the "2nd Sector Plat", the 1st and 2nd Sector Plats being herein collectively referred to as the "Lake Plats"); and

WHEREAS, by instrument dated March 25, 1955, recorded at Book 172, Page 236 in said Probate Office, Mountain View imposed certain restrictions, conditions and limitations upon the real property described in the 1st Sector Plat (the "Mountain View Covenants"); and

WHEREAS, by the following deeds recorded in said Probate Office in 1992 and 1993, Smyer and members of his family conveyed to Shelby the balance of the real property comprising the caretaker's house, roads, dam, spillway and other inholdings within the "Private Road" identified on the Lake Plats (now known as "Smyer Lake Road") which together constitute the common areas of the lake, lots and development identified in the Lake Plats (collectively, the "Smyer Lake Development"):

1. Warranty Deed recorded 9/1/1992 as Instrument # 1992-18637
2. Warranty Deed recorded 3/24/1993 as Instrument #1993-08108
3. Warranty Deed recorded 3/24/1993 as Instrument #1993-08109; and

WHEREAS, Shelby is the successor in title to all of the above-described common areas of the Smyer Lake Development (the "Common Areas"); and

WHEREAS, the stockholders of Shelby have elected to reorganize Shelby as an Alabama nonprofit corporation pursuant to Title 10, Chapter 3A, Sections 10-3A-1 through 225, inclusive, Code of Alabama (the "Alabama Nonprofit Corporation Act", or "Act"), and pursuant to a plan of reorganization adopted by the stockholders of Shelby

have organized Smyer Lake Homeowners Association, Inc., under the Act (the "Smyer Lake Association", or "Association") as evidenced by Articles of Incorporation and Bylaws of the Association recorded on July 10, 2006, at Bk. LR 2006, p. 19269 in the Probate Office of Jefferson County, Alabama, Birmingham Division as amended by instrument recorded on July 14, 2006, at Bk. LR 200611, p. 27695 (the "Articles" and Bylaws), and have caused Shelby to convey to the Association all of the Common Areas of the Smyer Lake Development as evidenced by deed recorded as Instrument #200688000382700 in the Probate Office of Shelby County, Alabama; and

WHEREAS, Smyer Lake Association is a membership corporation with its members ("Members") consisting of all record owners of fee title to each lot in the Smyer Lake Development, there being one (1) voting right for each such lot in accordance with the Bylaws of the Association; and

WHEREAS, the Association is currently engaged in the process of preparing a master plan to address needed improvements and guidelines for the further use and development of the Smyer Lake Development (the "Master Plan"); and

WHEREAS, the Association amended and restated the original Mountain View Covenants to reflect the above-referenced transactions and address other matters as evidenced by Amended And Restated Covenants dated as of July 26, 2006, recorded at

INSTRUMENT #20060808000 ^{3827 10 8/11} in the Probate Office of Shelby County, Alabama (the "Restated Covenants"); and

WHEREAS, by First Amendment to Amended and Restated Covenants dated as of May 20, 2007, recorded at 20070706000318420, as RECORDED in the Probate Office of Shelby County, Alabama, the date for amending the Restated Covenants under paragraph 11 thereof was extended until July 15, 2008, in order to provide the additional time needed for the development and approval of initial components of a Master Plan, including preparation of an architectural design guide and other planning materials; and

WHEREAS, the Members desire to further amend paragraph 11 of the Restated Covenants to provide that they may be amended on or before May 31, 2009, by a vote of sixty percent (60%) of the Members to address more comprehensive revisions that may be required to conform the Restated Covenants to the provisions of a Master Plan related design guide and other materials by the Members; and

WHEREAS, the Members further desire to address in this Second Amendment certain interim revisions to the Restated Covenants in order to address changes and/or additional areas that have been identified to-date in the Master Planning Process as matters that need to be addressed.

NOW, THEREFORE, be it resolved by the Members of the Association, as evidenced by a vote of the Board of Directors of the Association and of more than sixty percent (60%) of the Members taken as of May 4, 2008, as authorized by paragraph 11 of the Restated Covenants, the Restated Covenants are hereby amended, superseded and restated to read in their entirety as follows:

RESTRICTIVE COVENANTS

Smyer Lake Association hereby declares that the Common Areas, and all lots described in the Lake Plats, as the same may now or hereafter re-subdivided or amended, and all other lots or parcels, whether described by metes and bounds or otherwise, now or hereafter having a right of access to Smyer Lake and the Common Areas (collectively, the "Lots"), shall be held, owned, developed, used and operated, and sold, leased, mortgaged or otherwise conveyed, subject to the following described covenants and restrictions (collectively the "Covenants"), which shall run with the land, and be binding upon Smyer Lake Association and its Members, and upon all parties now or hereafter having any right, title or interest in or to any of the Lots or the Common Areas or any portion thereof:

1. Rules. The Association adopted Rules ("Rules") effective as of May 4, 2008, relating to the use and enjoyment of Smyer Lake and the surrounding areas by all Members of the Association, a copy of which are attached to this Second Amendment as Exhibit A, and all provisions of the Rules are hereby incorporated herein by reference.

2. Use and Occupancy Restrictions. The Common Areas and Lots within the Smyer Lake Development (together, the Lots and Common Areas may be referred to herein as the "Property") shall not be used for any commercial purpose, and no kennels or the raising, breeding, or keeping of any animals or fowls having the potential to create

environmental problems or be noxious or otherwise dangerous or offensive to neighbors or others shall be permitted on the Property; provided, however, that the foregoing provision shall not be construed to prohibit the stabling and raising of horses for personal use on those Lots that were not identified in the original Lake Plats if appropriate measures are taken to ensure that the Lake is protected from the introduction of pollutants. It is contemplated that the use of the Lots shall be for either permanent or vacation residences for use by Members and their guests and invitees as provided for in the Rules, and any use thereof which shall be inconsistent with these uses shall be prohibited. No Lot shall be leased, either gratuitously or for a monetary consideration, unless the written consent of the Board of Directors of the Association (the "Board") has been first obtained.

3. Construction. All construction, including any material renovations of the exterior of existing structures, must be approved by the Architectural Review Committee (the "ARC") and be otherwise designed and completed in conformity with Section 9 of the Rules (including the Design Guide provided for in paragraph 17 of that Section), and shall also meet the following requirements:

- (a) No structure shall exceed 35 feet in height.
- (b) New residential construction shall contain not more than seven thousand, five hundred (7,500) square feet for any configuration unless the prior written consent of the Board has first been obtained. For the purpose of calculating square footage under this Covenant, only heated/cooled space shall be considered and garages, basements, carports and open decks or terraces shall not be considered.

The provisions of this Section 3 and Section 9 of the Rules shall apply to all structures, including boathouses and out-buildings, erected on any Lot or over adjoining areas of Smyer Lake, commenced after the effective date of this Second Amendment.

THESE COVENANTS SHALL NOT BE CONSTRUED OR INTERPRETED TO PROHIBIT THE CONTINUED EXISTENCE OR MAINTENANCE OF ANY PRE-EXISTING STRUCTURE.

4. Assessments. The Articles and Bylaws of the Association provide that the Association has the power to fix and determine sums necessary to pay the Common Expenses of the Association and to make and collect Assessments (as such capitalized terms are defined in the Bylaws) against Members for the payment of the same, including the power to levy and enforce liens against Lots for unpaid Assessments and related charges owned by the Member owners thereof in the manner provided for in the Bylaws. Each Member owning a Lot, by acceptance of a deed or other instrument conveying an interest therein, regardless whether such deed or instrument contains a reference to these Covenants, is deemed to covenant and agree to pay the Association all Assessments (whether annual or special) made in accordance with the Bylaws, together with all late charges, interest, court costs and attorneys' fees incurred by the Association to enforce and collect the same, which shall constitute an equitable charge and lien upon each Lot for which the Member owner(s) thereof are responsible for the payment of the same, which lien may be enforced in the manner provided for in Section 4 of the Bylaws, including any amendments thereto.

5. The provisions of these Covenants, including any amendments hereto, shall be binding upon and apply to all Lots and other Property of the Smyer Lake Development, and shall constitute covenants running with the land with respect to all of the Lots and Property of the Smyer Lake Development, and inure to the benefit of and be enforceable by Smyer Lake Association, and its successors and assigns for a period of ninety nine (99) years from the date hereof, after which time these Covenants shall be automatically renewed and extended for successive and continuous periods of ten (10) years each, unless terminated by action taken by the affirmative vote of two thirds (2/3rds) of the voting Members of the Association in the manner provided in paragraph 10 of these Covenants.

6. The provisions of these Covenants may be amended on or before May 31, 2009, to address revisions that may be required to conform the Covenants to the provisions of a Master Plan following its approval by the Members. An amendment to these Covenants pursuant to this paragraph (which amends paragraph 11 of the Restated Covenants) shall require the vote of the Board of Directors of the Association and of sixty percent (60%) of the Members, and shall be evidenced by an instrument executed and recorded in the manner provided for in paragraph 7 of these Covenants.

7. Subject to the provisions of paragraph 6 above, the provisions of these Covenants may be amended from time to time or terminated by the Association upon a vote by its Board of Directors and a two thirds (2/3rds) majority of its voting Members as evidenced by an instrument executed by the Association, and containing a certificate by

the Secretary of the Association to the effect that the written consent of all voting Members whose consent to the same is required has been obtained, upon the recording of the same in the real property records in the Probate Office of Shelby County, Alabama.

IN WITNESS WHEREOF, Smyer Lake Association, Inc. has caused these Covenants to be duly executed as of the 4th day of May, 2008 (the "Effective Date")

Smyer Lake Association, Inc.

By: Paul C. Cunningham

Its President

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that Tracy C. Cunn, whose name as President of Smyer Lake Association, Inc., an Alabama nonprofit corporation, is signed to the foregoing Second Amendment to Amended and Restated Covenants, and who is known to me, acknowledged before me on this day that, being informed of the contents of such instrument, he, as such President and with full authority, executed the same voluntarily for and on behalf of said corporation on the day the same bears date.

Given under my hand and official seal this 29th day of April, 2009.

{Notary Seal}

Jason D. Jones
Notary Public
My Commission Expires: 01-16-2009


Secretary's Certificate

I, Jerome K. Lanning, the undersigned Assistant Secretary of Smyer Lake Association, Inc., hereby certify that the foregoing Second Amendment to Amended and Restated Covenants have been approved by the Board of Directors and by at least a sixty percent (60%) majority of the voting Members of Smyer Lake Association, Inc.

This 20th day of April, 2009.

Jerome K. Lanning
Assistant Secretary

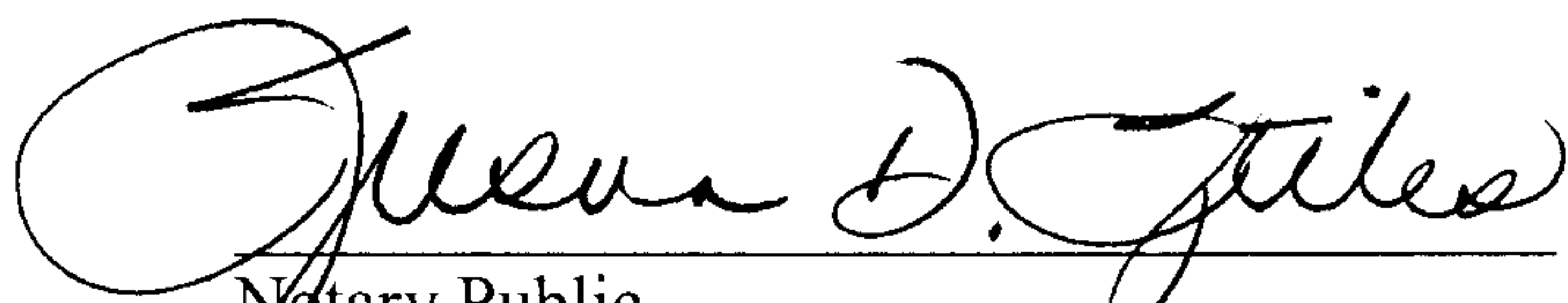
STATE OF ALABAMA)
JEFFERSON COUNTY)


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Shelby Cnty Judge of Probate, AL
07/31/2009 02:42:30 PM FILED/CERT

I, the undersigned notary public in and for said county in said state, hereby certify that Jerome K. Lanning, whose name as Assistant Secretary of Smyer Lake Association, Inc., an Alabama nonprofit corporation, is signed to the foregoing Secretary's Certificate, and who is known to me, acknowledged before me on this date that, being informed of the contents of such instrument, he, as such Assistant Secretary and with full authority, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 21st day of April,
2009.

{Notary Seal}


Notary Public
My Commission Expires: 01-16-2013