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STATE OF ALABAMA)
COUNTY OF SHELBY)

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
CANOPY AT OAK MOUNTAIN**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CANOPY AT OAK MOUNTAIN (this “**Declaration**”), dated Sept. 22, 2021 (the “**Effective Date**”), is made by **HCI OAK MOUNTAIN, LLC**, an Alabama limited liability company (the “**Declarant**”), for the purposes hereinafter set forth.

RECITALS

WHEREAS, Declarant is the owner of certain real property in the City of Pelham, Alabama, which real property is more particularly described on Exhibit A attached hereto (the “**Property**”);

WHEREAS, Declarant intends to develop or to permit the development of the Property as a mixed-use development containing multifamily residential, retail, hospitality, office, and other commercial uses which are allowed under the PUD (as hereinafter defined) to be known as “Canopy at Oak Mountain” (the “**Development**”); and

WHEREAS, to assure the orderly development of the Development, Declarant desires to establish certain rights, obligations, and easements in, over, and upon the Property including the sharing of costs for maintenance and operations of the Property (or certain portions thereof) for the benefit of itself and all future Owners (as hereinafter defined) and to impose such rights, obligations, and easements on the Property (or certain portions thereof) and on each Owner (or certain Owners) and to provide for the harmonious, beneficial, and proper use and conduct of the Development and all Parcels in accordance with this Declaration.

NOW, THEREFORE, for and in consideration of the premises, Declarant does hereby expressly declare, establish and adopt the following covenants, conditions, restrictions, and easements which shall apply in their entirety to the Property (or certain portions thereof), as stated in this Declaration, as covenants running with the land.

**ARTICLE I
DEFINITIONS**

Section 1.1 **Definitions.** The following initially capitalized words and terms used or referred to in this Declaration shall have the following meanings:

- (a) **"Bike Shop"** shall have the meaning set forth in Section 3.3 hereof.
- (b) **"Common Drainage Facilities"** shall mean the area designated as "Retention Pond" on the Development Plan located on Parcel C, together with any other storm and surface water drainage, retention, detention and discharge systems and facilities hereafter installed so as to accommodate storm and surface water from more than just a single Parcel, which are from time to time designated by Declarant as a Common Drainage Facility. Any such amendment to designate property as included within the Common Drainage Facilities may be executed by Declarant without joinder or consent of any Owners other than the respective Owner of the property so designated, whose signature shall be required for the addition to be effective. Declarant shall also have the right to adjust the boundaries of the Common Drainage Facilities from time to time and to eliminate one or more Common Drainage Facilities from time to time, all without the joinder or consent of any Owners other than (i) the Owner of property on which the boundaries of the Common Drainage Facilities are to be adjusted, (ii) the Owner of any property added to the Common Drainage Facilities, and (iii) the Owner of any property then served by any such Common Drainage Facilities that will no longer be served by such Common Drainage Facilities, whose signature, in each instance, shall be required.
- (c) **"Declarant"** shall mean, initially, HCI Oak Mountain, LLC, an Alabama limited liability company, and thereafter its permitted successor in interest as Declarant under this Declaration pursuant to an assignment instrument recorded in the Probate Office in accordance with the provisions of Section 3.4 hereof.
- (d) **"Default Rate"** shall mean a per annum rate equal to twelve percent (12%) per annum.
- (e) **"Development Plan"** shall mean the Development Plan attached hereto as Exhibit B. Nothing contained herein shall be deemed to be a warranty, representation, or agreement by Declarant that the Property, Parcels, or other matters depicted on the Development Plan will be, or will continue to be as indicated on the Development Plan without change.
- (f) **"Easement"** and **"Easement Area"** shall have the meaning set forth in Section 4.3 hereof.
- (g) **"Improvement Plans"** shall have the meaning set forth in Section 6.1 hereof.
- (h) **"Insurance Premiums"** shall mean the total annual insurance premiums for all public liability insurance and other insurance which, from time to time may, at Declarant's reasonable discretion, be carried by Declarant with respect to the Master Common Areas and Parcels A/C Common Areas.
- (i) **"Maintenance Expenses"** shall have the meaning set forth in Section 5.1 hereof.
- (j) **"Master Common Area Maintenance Expenses"** shall have the meaning set forth in Section 5.1 hereof.

(k) **“Master Common Areas”** shall mean those areas designated on the Development Plan as “Park,” “Retention Pond” or “Common Drainage Facility,” “Off-Site Signage,” and “Trail” together with such other common areas that may hereafter be designated as such by Declarant provided that the same is for the common use of all Owners and/or their tenants, licensees, invitees, patrons and guests. Certain of the Master Common Areas, namely the Park, the Retention Pond and other Common Drainage Facilities, shall be located on land owned by Declarant, **subject to** (i) the Easements hereafter established with respect to such Master Common Areas; (ii) the maintenance obligations herein imposed on Declarant with respect to such Master Common Areas and the obligations of the Owners to share in the Maintenance Expenses incurred by Declarant as set forth in this Declaration; and (iii) the right of Declarant to publically dedicate one or more the Master Common Areas or to transfer the same to an Association, an affiliate of Declarant, or any other third party in Declarant’s sole discretion.

(l) **“Off-Site Signage”** shall mean and refer to any offsite signage obtained by Declarant advertising the Development on monument signs or billboards near the intersection of State Park Road at I-65 or near the intersection of Amphitheater Road at Highway 31.

(m) **“Owner”** shall mean and refer to any and all of the record owners (including the Declarant) of fee simple title of record to a Parcel or to all or any portion of the land comprising the Property as shown by the real estate records of Shelby County, Alabama; provided, however, the term “Owner” shall not mean and refer to (i) the holder of any security instrument encumbering or affecting the title to all or any portion of the land comprising the Property unless and until the holder thereof shall become a mortgagee in possession following a default under such security instrument or shall acquire fee simple pursuant to the foreclosure of its security instrument, the exercise of any power of sale contained therein, or any deed, or proceeding taken in lieu of foreclosure with respect thereto; or (ii) any lessee, tenant or licensee of any Owner or other occupant of a Parcel; provided, however, that any agreement entered into between an Owner and any party listed in (i) or (ii), preceding, or any other agreement entered into between Owner and any other party with respect to the Property shall be expressly made subject to the terms and conditions to this Declaration.

(n) **“Owner’s Association”** shall have the meaning set forth in Section 10.1 hereof.

(o) **“Parcel”** shall mean any subdivided lot or parcel constituting a part of the Property. Initially, the Parcels in the Development shall consist of “Parcel A,” “Parcel B,” “Parcel C,” “Parcel D,” “Parcel E” and “Parcel E-1”; however, any Owner shall have the right to subdivide its Parcel into two or more separate parcels to the extent allowed by applicable law and in such case, all such subdivided parcels shall constitute a “Parcel” hereunder.

(p) **“Parcels A/C Access Drive”** shall mean that portion of Canopy Drive designated as “Parcels A/C Access Drive” on the Development Plan.

(q) **“Parcels A/C Common Area Maintenance Expenses”** shall have the meaning set forth in Section 5.1 hereof.

(r) **"Parcels A/C Common Areas"** shall mean the Parcels A/C Access Drive, the Parcels A/C Retaining Wall, the Parcels A/C Shared Parking and Sidewalk Areas, the Parcels A/C Signage Areas, and the Parcels A/C Garbage Facilities, which are for the mutual benefit of Parcel A and Parcel C only. The Parcels A/C Common Areas shall be located on land either owned by the Parcel C Owner or by the Parcel A Owner, in case, *subject to* (i) the Easements hereafter established with respect to such Parcels A/C Common Areas; and (ii) the maintenance obligations herein imposed on Declarant with respect to such Parcels A/C Common Areas, and the obligations of the Parcel A Owner and the Parcel C Owner to share in the Parcels A/C Maintenance Expenses incurred by Declarant as set forth in this Declaration.

(s) **"Parcels A/C Garbage Facilities"** shall mean the trash compactor/dumpster be constructed on Parcel A for the shared used by the Parcel A and Parcel C Owners.

(t) **"Parcels A/C Retaining Wall"** shall mean the retaining wall to be located on Parcels A and C as shown on the Development Plan.

(u) **"Parcels A/C Shared Parking and Sidewalk Areas"** shall mean the surface parking lot and sidewalks to be constructed on Parcel A and Parcel C for the shared used by the Parcel A and Parcel C Owners and their respective lessees, licensees, invitees, patrons and guests.

(v) **"Parcels A/C Signage Areas"** shall mean the areas identified as "Signage Area 1" and "Signage Area 2" on the Development Plan and any sign constructed therein for the shared used by the Parcel A Owner and the Parcel C Owner; provided however, that the Parcel B Owner shall have the option to have one sign panel on the sign to use the Parcels A/C Signage Area located on Parcel C and identified as "Signage Area 2" on the Development Plan at the Parcel B Owner's sole expense.

(w) **"Park"** means the areas designated on the Development Plan as "Park," which is intended for the non-exclusive, mutual use by all Owners and their respective lessees, licensees, invitees, patrons, and guests, subject to such reasonable rules and regulations regarding usage as Declarant may from time to time impose.

(x) **"Probate Office"** shall mean the Office of the Judge of Probate of Shelby County, Alabama.

(y) **"PUD"** shall mean the Planned Unit Development Zoning Application and Development Plan for Canopy at Oak Mountain approved by the City, as the same may be amended from time to time.

(z) **"Trails"** means any and all trails which may be constructed on any one or more of the Parcels for use as walking, jogging, hiking and/or biking trails which are intended for the non-exclusive, mutual use by all Owners and their respective lessees, licensees, invitees, patrons and guests, subject to such reasonable rules and regulations regarding usage as Declarant may from time to time impose. The proposed locations for the initial Trails to be constructed are shown on the Development Plan; however, additional Trails may be constructed by Declarant or by other Owners as set forth in Section 4.2 hereof.

ARTICLE II

MUTUALITY OF BENEFIT AND OBLIGATION

The covenants, restrictions, easements, and obligations set forth herein are made for the mutual and reciprocal benefit of each and every Parcel of the Property (except to the extent the same consist of the Parcels A/C Common Areas, which are for the mutual and reciprocal benefit of Parcel A and Parcel C only). All of the Property shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all the terms and provisions of this Declaration (except to the extent such terms and conditions apply only to the Parcels A/C Common Areas).

ARTICLE III

ZONING AND SPECIFIC RESTRICTIONS AND DEVELOPMENT RIGHTS

Section 3.1 **Zoning.** The restrictions set forth in this Declaration shall not be taken or construed as permitting any action or thing prohibited by applicable zoning laws or the laws, rules or regulations of any governmental authority, including, without limitation, the PUD, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provision of such law, rules, regulations, deeds, leases or the restrictions shall be taken to govern and control.

Section 3.2 **Restricted Uses.** No portion of the Property shall be used for any uses which are in violation of the provisions of Section 3.3 hereof, the PUD, or those uses set forth on **Exhibit C** attached hereto.

Section 3.3 **Exclusive Rights and Restrictions.**

(a) **Exclusive Rights in Favor of Parcel A.** From and after the time that a casual or fast-casual restaurant specializing in the sale of wings and beer opens for business within Parcel A, and is thereafter continuously operating as a casual or fast-casual restaurant specializing in the sale of wings and beer, no other Parcel or any portion thereof in the Development shall be used as a casual or fast-casual restaurant specializing in the sale of wings and beer. For purposes of this paragraph, “featuring” means that the proceeds from the sale of wings constitute (or will constitute) fifteen percent (15%) or more of the total sales of all food and beverage of such restaurant. The foregoing shall in no event prohibit the sale of beer from other businesses within the Development. Furthermore, from and after the time that a business offering the sale, at retail, of bicycles, bicycle repair, bicycle gear and related sales (herein, a “**Bike Shop**”), opens for business and is thereafter continuously operating as a Bike Shop, no other Parcel or any portion thereof in the Development shall be used as a Bike Shop.

(b) **Competing Uses.** Declarant hereby imposes and each Owner shall be bound by a duty of good faith and fair dealing among all Owners such that each Owner agrees that it will not enter into any lease, license, or occupancy agreement for any retail space in excess of 1,500 square feet on its Parcel that is directly competitive in its primary business to an existing use on any other Owner’s Parcel or to any proposed use on any other Owner’s Parcel that has been disclosed in writing, together with evidence confirming such use (such as a redacted copy of a letter of intent or lease confirming such use) to such Owner by the other Parcel Owner.



(c) Continuous Operation. The exclusive rights set forth in this Section 3.3 and any amendment to the Declaration shall become null and void if the applicable business ceases operating for its exclusive use for a period in excess of one (1) year. Continuous operation shall exclude any temporary cessation in operations during remodeling or temporary closures due to casualty or condemnation events, not to exceed ninety (90) consecutive days of closure.

Section 3.4 Declarant Rights. Declarant may assign all or a portion of the Declarant's rights set forth in this Declaration to Parcel C Owner by written instrument recorded in the Probate Office. Declarant shall not have the right to assign the Declarant's rights (or any portion thereof) set forth in this Declaration to any party other than the Parcel C Owner, it being intended that the Declarant's rights and obligations under this Declaration will, following such assignment to the Parcel C Owner, remain with Parcel C Owner.

ARTICLE IV EASEMENTS

Section 4.1 Easements for Parcels A/C Common Areas. Declarant does hereby establish, create, and reserve for Declarant and does hereby grant to Declarant, its successors and assigns, and to any Owner of Parcel A or Parcel C and their respective tenants, licensees, invitees, patrons, and guests, the following easements with respect to the Parcels A/C Common Areas, which such easements shall be exclusive as to the Owners of Parcel A and Parcel C and their respective tenants, licensees, invitees, patrons and guests:

(a) a perpetual easement over, across and through the Parcels A/C Access Drive so as to provide for the passage of motor vehicles and pedestrians to, from, and among Parcel A and Parcel C and to and from all abutting streets or rights of way furnishing access to Parcel A and Parcel C;

(b) a perpetual parking and ingress and egress easement in the Parcels A/C Shared Parking and Sidewalk Areas; the Owners of Parcel A and Parcel C shall cooperate with each other to establish rules and regulations regarding the use of the Parcels A/C Shared Parking and Sidewalk Areas;

(c) a perpetual easement for access to and use of the Parcels A/C Shared Garbage Facilities; the Owners of Parcel A and Parcel C shall cooperate with each other to establish rules and regulations regarding the use of the Parcels A/C Shared Garbage Facilities;

(d) a perpetual easement for the construction and maintenance of the Parcels A/C Retaining Wall; and

(e) Without limitation on the easements and rights set forth in paragraphs (a) through (d) above, a perpetual easement to Declarant and its successors and assigns to construct and maintain any Parcels A/C Common Area in the performance of its duties as set forth in Section 5.1(b) below.

The cost and expenses of maintaining the Parcels A/C Common Areas shall be assessed between the Parcel A Owner and the Parcel C Owner in the proportions as set forth on Exhibit



“D” and shall be included in the Parcels A/C Common Area Maintenance Expenses. Declarant shall have the right to publicly dedicate any one or more of the Parcels A/C Common Areas (if applicable), and upon such public dedication, the Easements granted herein with respect to the Parcels A/C Common Area so dedicated shall terminate and costs associated with maintenance, repair and replacement of such property shall be the responsibility of the appropriate government entity following the acceptance of same.

Section 4.2 **Easements for Master Common Areas.** Declarant does hereby establish, create and reserve for Declarant and does hereby grant to Declarant, its successors and assigns, and/or to any Owner and their respective tenants, licensees, invitees, patrons and guests (as set forth herein) the following easements with respect to the Master Common Areas, which such easements shall be non-exclusive as to the Owners and their respective tenants, licensees, invitees, patrons and guests;

(a) To Declarant and its successors and assigns, a perpetual easement and right to install, maintain, use, repair and replace any Common Drainage Facilities;

(b) To Declarant and its successors and assigns, a perpetual easement under, over, through and across the Property necessary for the purpose of installing, maintaining, repairing, and replacing Trails in such locations as Declarant shall determine, provided, however, that the Declarant’s exercise of the rights granted herein shall not materially interfere with any other Owner’s development and use of its Parcel; likewise, to each Owner, and its successors and assigns, the right to install a trail on its Parcel at its own expense (which shall be constructed to the same level and quality as the existing Trails to be installed by Declarant as part of Declarant’s initial development work), and to connect into the existing Trails in such locations as Declarant shall reasonably approve; thereafter, such trail shall become part of the “Trails” and part of the Master Common Areas and be subject to all provisions set forth herein regarding the nonexclusive use of such Trails by all Owners and their tenants, licensee, invitees, and patrons, shall be maintained by Declarant as a Master Common Area and shall be subject to the provisions hereinafter set forth with respect to Master Common Area Maintenance Expenses;

(c) Without limitation on the easements and rights set forth in paragraphs (a) and (b) above, to Declarant and its successors and assigns, a perpetual easement and right to construct and maintain any Master Common Area in the performance of its duties as set forth in Section 5.1(a) below;

(d) To each Owner and its successors and assigns, a perpetual, non-exclusive easement over, under, across and through each Common Drainage Facilities for the purpose of storm and surface water drainage and the right to tie into the storm water drainage systems for purposes of directing the flow of surface water into the Retention Pond so long as the Owner provides evidence acceptable to Declarant confirming that the use of such easement will not have a material adverse impact the Common Drainage Facilities and/or the Retention Pond;

(e) To each Owner and its successors and assigns, a perpetual, nonexclusive, easement under, over, through and across those parts of the Property necessary for the purpose of installing, using, maintaining, repairing and replacing utility facilities to the Property and to bring necessary utilities to a Parcel, including without limitation, telephone, electricity, water,

cable, natural gas and storm and sanitary sewers, so long as the Owner provides evidence acceptable to Declarant that the exercise of such easement right will not have a material adverse impact the use of the Parcel burdened by the exercise of such easement right;

(f) To each Owner and its successors and assigns and their respective tenants, licensees, invitees, patrons, and guests, a perpetual nonexclusive easement over and across the Trails for recreation uses including jogging, hiking, walking, and biking, subject to the rules and regulations established by the Declarant from time to time; and

(g) To each Owner and its successors and assigns and their respective tenants, licensees, invitees, patrons, and guests, a perpetual nonexclusive easement over and across the Park for park purposes, subject to the rules and regulations established by the Declarant from time to time. Notwithstanding anything to the contrary stated in this Declaration, nothing shall prevent the Park from being used by the Parcel A Owner or the Parcel C Owner as an outdoor entertainment venue which may feature live music from time to time, provided that the Owners of Parcel A and Parcel C shall cooperate with each other to establish rules and regulations regarding live music events in the Park so that the same are not disruptive of the other Parcel.

Section 4.3 **Conveyance of Easement Areas.** The easements granted in this Article IV, as the same may be relocated in accordance with this Declaration, are collectively referred to herein as the “**Easements**” and those portions of the Property affected by the Easements, including all Improvements made in accordance with this Article IV, are referred to as the “**Easement Areas.**” Declarant shall have the right to dedicate any of the Easements and real property facilities located thereon or a part thereof to the City of Pelham, Alabama and/or may convey all or a portion of the Easement Areas to an Association, if created. Nothing contained herein shall obligate the Declarant to convey or dedicate for public use any portion of the Property including the Easement Areas.

ARTICLE V MAINTENANCE OBLIGATIONS

Section 5.1 **Maintenance Expenses.**

(a) **Master Common Area Maintenance Expenses.** All of the common areas and improvements constructed by Declarant within the Master Common Areas established by Declarant from time to time shall be constructed, kept open, clean, and available for use and maintained by Declarant in a manner determined by Declarant in its reasonable discretion, and otherwise in compliance with all laws, statutes, ordinances and regulations of all federal, state and local government agencies and this Declaration. Each Owner of Parcels A, B, C, and D shall pay its share (as set forth on Exhibit D attached hereto) of all costs and expenses of maintaining the Master Common Areas, including but not limited to all costs, expenses and liabilities of every kind or nature paid or incurred by Declarant (to the extent that Declarant, in its good faith judgment, regards it as reasonably necessary or appropriate to provide the services and materials hereafter referred to and to pay and incur the costs, expenses and liabilities hereafter referred to) in connection with landscaping and ground maintenance of the Master Common Areas; lighting the Master Common Areas (including replacement of bulbs and ballasts, and painting, repairing and maintaining of light standards); repair and maintenance of the Retention Pond and Common

Area Drainage Facility in order to keep the same clear of silt and debris and properly functioning; maintenance of the Trails and Park (including repair or replacement of park equipment or furniture; providing project identification signs; providing signs, equipment in traffic control and management at the Master Common Areas; utilities charges for any services to the Master Common Areas; repairing and maintaining utility lines located in the Master Common Area which do not exclusively serve one Parcel in the Development; Insurance Premiums; and all other costs and expenses of every kind or nature paid or incurred by Declarant relative to the maintenance of the Master Common Areas; and a reasonable administration fees not to exceed five percent (5%) of costs, which share is set forth on Exhibit D attached hereto (the “**Master Common Area Maintenance Expenses**”). Notwithstanding anything herein to the contrary, (i) Master Common Area Maintenance expenses shall not be assessed against a Parcel Owner until such time as the first certificate of occupancy is issued for improvements constructed on its Parcel; and (ii) Master Common Area Maintenance expenses shall not include any of the Excluded Expenses set forth in paragraph 5.1(d) below.

(b) Parcels A/C Common Area Maintenance Expenses All of the common areas and improvements constructed by Declarant within the Parcels A/C Common Areas established by Declarant from time to time shall be constructed, kept open, clean, and available for use and maintained by Declarant in a manner determined by Declarant in its reasonable discretion, and otherwise in compliance with all laws, statutes, ordinances and regulations of all federal, state and local government agencies and this Declaration. Each of the Parcel A Owner and, prior to the time Parcel C Owner becomes the Declarant, Parcel C Owner, shall pay its pro rata share (as set forth on Exhibit D attached hereto) of all costs and expenses of maintaining the Parcels A/C Common Areas, including but not limited to all costs, expenses and liabilities of every kind or nature paid or incurred by Declarant (to the extent that Declarant, in its good faith judgment, regards it as reasonably necessary or appropriate to provide the services and materials hereafter referred to and to pay and incur the costs, expenses and liabilities hereafter referred to) in connection with landscaping and ground maintenance of the Parcels A/C Common Areas; lighting the Parcels A/C Common Areas (including replacement of bulbs and ballasts, and painting, repairing and maintaining of light standards); providing project identification signs; providing signs, equipment in traffic control and management at the Parcels A/C Common Areas; utilities charges for any services to the Parcels A/C Common Areas; repairing and maintaining utility lines located in the Parcels A/C Common Areas which do not exclusively serve one Parcel in the Development; sweeping, cleaning, removing debris from, maintaining, restriping and repairing the Parcels A/C Shared Parking and Sidewalk Area and repairing and maintaining sidewalks in the Parcels A/C Shared Parking and Sidewalk Area (including, without limitation, periodic steam cleaning thereof); Insurance Premiums; and all other costs and expenses of every kind or nature paid or incurred by Declarant relative to the maintenance of the Parcels A/C Common Area; and a reasonable administration fees not to exceed five percent (5%) of costs, which share is set forth on Exhibit D attached hereto (the “**Parcels A/C Common Area Maintenance Expenses**”). Notwithstanding anything herein to the contrary, (i) Parcels A/C Common Area Maintenance expenses shall not be assessed against Parcel A Owner or Parcel C Owner until such time as the first certificate of occupancy is issued for improvements constructed on its Parcel; and (ii) Parcels A/c Common Area Maintenance expenses shall not include any of the Excluded Expenses set forth in paragraph 5.1(d) below.

(c) Maintenance Expenses. The Master Common Area Maintenance Expenses and the Parcels A/C Common Area Maintenance Expenses are collectively referred to herein as the “Maintenance Expenses.” Maintenance Expenses shall be based on an annual budgets for each component (namely, one for the Master Common Area Maintenance Expenses and one for the Parcels A/C Common Area Maintenance Expenses) prepared by the Declarant prior to January 1 of each year and shall be reconciled with the actual expenses at the end of the calendar year and any surplus shall be refunded to those Owners that paid for such expenses and any shortfalls shall be charged to the appropriate Owners. Each Owner (as applicable) shall reimburse Declarant on a monthly basis for such Owner’s pro rata share of the Maintenance Expenses. Such expenses not paid when due shall incur a late fee in the amount of \$100.00 if the same is not paid within twenty (20) days after the same is due and, at Declarant’s option, shall accrue interest at the Default Rate from and after such twenty (20) day grace period until paid. Notwithstanding the foregoing or any provision herein to the contrary, no Owner’s pro rata share of all Maintenance Expenses shall increase on an annual basis by more than five percent (5%) of the payment made by such Owner for the preceding calendar year for routine maintenance expenses, it being agreed that five percent (5%) cap shall not apply to increases in Insurance Premiums or capital repairs (other than those associated with customary and ordinary repairs, maintenance, and replacements).

(d) Excluded Expenses. Notwithstanding anything herein to the contrary, Maintenance Expenses shall not include any of the following items, costs, or expenses incurred with respect to either the Master Common Areas or the Parcels A/C Common Areas (the “Excluded Expenses”): (i) capital expenditures, amortization, or depreciation (other than those associated with customary and ordinary repairs, maintenance, and replacements); (ii) costs of any service which inures solely to the benefit of a particular Parcel or Parcels in the Development (which shall be assessed solely to the Owner of the benefitted Parcel); (iii) taxes and other government assessments (which shall be payable by the applicable Owner(s) of the Parcel(s); (iv) any reserves; (v) mortgage payments or costs associated with the financing or refinancing; (vi) repairs and restorations due to casualty and condemnation to the extent Declarant is reimbursed by insurance proceeds or condemnation awards; (vii) charitable or political contributions; (viii) any “tap fees,” “impound fees” or any sewer or water connection fees for the benefit of any particular Parcel in the Development (which shall be assessed solely to the Owner of the affected Parcel); (ix) entertainment, lodging, dining or travel expenses; (x) expenses for the defense of Declarant’s fee title or easement interest to any part of the Development; (xi) expenses incurred as a result of Declarant’s alleged violation or failure to comply with any law or governmental regulations; (xii) costs related to the initial stock of tools and equipment used for the operation, repair and maintenance; and (xiv) any other expenses which, in accordance with generally accepted accounting principles, would not normally be treated as customary maintenance costs for similar properties. Notwithstanding anything contained herein to the contrary, there shall be no duplication of charges to any Owner under this Declaration. Declarant agrees that at no time shall Maintenance Expenses, other than the administrative fee, be based on an amount greater than Declarant’s actual cost.

(e) Assessment Lien. There is hereby created a continuing lien, commencing upon the completion of construction of the Improvements on such Parcel (to be determined once the first certificate of occupancy is issued for such Improvements), (1) on each Parcel and all improvements thereon, with power of sale, in favor of Declarant which secures the payment to

Declarant of any and all Master Common Area Maintenance Expenses levied against or upon any Parcel, all late fees or charges, Default Rate Interest and all reasonable attorneys' fees and expenses, court costs and all other expenses paid or incurred by Declarant in collecting any Master Common Area Maintenance Expenses; and (2) on Parcels A and Parcel C and all Improvements thereto, with power of sale, in favor of Declarant which secures the payment to Declarant of any and all Parcels A/C Common Area Maintenance Expenses levied against or upon Parcel A or Parcel C, all late fees or charges, interest at Default Rate, and all reasonable attorneys' fees and expenses, court costs and all other expenses paid or incurred by Declarant in collecting any Parcels A/C Common Area Maintenance Expenses.

(f) For the sake of clarity, each Owner of Parcel A and Parcel C shall be responsible for the payment of its pro rata share of both the Parcels A/C Common Area Maintenance Expenses and the Master Common Area Maintenance Expenses in accordance with the percentages set forth on Exhibit D attached hereto. If any portion of any Maintenance Expenses remains unpaid for more than thirty (30) days following the due date for the payment of such Maintenance Expenses, then, in either event, at any time thereafter, Declarant may, but shall not be obligated to, make written demand on the Owner which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand, but any number of defaults may be included in a single lien. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, Declarant may file a claim of lien and perfect its lien against any Parcel which claim shall contain the following information and be recorded in the Probate Office:

- (i) The name of Owner;
- (ii) The legal description, and street address, if any, of any Parcel upon which the lien claim is made;
- (iii) The total amount claimed to be due including late fee charges, Interest, collection costs and attorneys' fees and expenses incurred to date, and a statement, if applicable, that such charges and expenses shall continue to accrue and be charged until full payment has been received by Declarant; and
- (iv) a statement that the claim of lien is made by Declarant pursuant to this Agreement and is claimed against any Parcel in an amount equal to that stated therein.

The lien provided for herein shall be in favor of Declarant and may be foreclosed at any time following the filing of such lien in the Probate Office in the same manner as a foreclosure of a mortgage on real property containing a power of sale under the laws of the State of Alabama, as the same may be modified or amended from time to time. Declarant shall have the right and power to bid at such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any Parcel. Owner shall be deemed to (1) grant to and vest in Declarant and its agents, the right and power to exercise the power of sale granted herein to foreclose the lien created herein, (2) grant to and vest in Declarant and its agents, the right and power to bring all actions against Owner personally for the collection of all amounts due from Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein, and (4) expressly waive

the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

Section 5.2 **Right to Audit.** In the event an Owner's pro rata share of Maintenance Expenses exceeds Five Thousand and No/100 Dollars (\$5,000.00) per annum, such Owner shall, at the Owner's sole expense, have the right to audit, at Owner's sole expense Declarant's Maintenance Expenses, but not more than once annually. Access to Declarant's records shall be provided to such Owner within thirty (30) days after Owner's request therefor. If such access is not provided, Owner shall be relieved of its obligation to pay such Owner's share of such charges until access is provided. Declarant agrees to maintain its records of Maintenance Expenses for at least 36 months from the date of each applicable invoice to Owner. If any audit shall indicate that, in any of Declarant's statements, the charges were overstated by Declarant by an amount in excess of five percent (5%) of the actual costs, then Declarant shall pay to Owner the reasonable cost of such audit, not to exceed \$2,500.00 during the first five (5) years of the term of this Declaration, increasing by five percent (5%) every five (5) years thereafter. In any event, Declarant shall repay any amount owing to Owner as a result of any overstatement.

Section 5.3 **Parcel A Owner Right of Self-Help.** As long as this Declaration is in effect, the terms and provisions of this Article V notwithstanding, Declarant agrees that if a condition exists which the Declarant is required under this Declaration to repair, and if the Declarant fails to: (i) repair said condition within thirty (30) days after receipt of notice of the existence thereof from Parcel A Owner; or (ii) if such repair cannot reasonably be completed within said thirty (30) days, to commence such repair within said thirty (30) days and thereafter diligently and in good faith pursue the correction of such repair within a reasonable period of time, then, in such events, Parcel A Owner shall have the right, but not the obligation, to make such repairs at the expense of Declarant. The terms and provisions of the foregoing sentence to the contrary notwithstanding, if such condition constitutes an imminent threat of injury to persons or damage to property or renders the improvements on Parcel A untenable, Parcel A Owner shall exercise reasonable efforts to notify Declarant of such condition, but, in any event, Parcel A Owner shall have the right, but not the obligation, to repair such condition at the expense of Declarant. Declarant agrees to reimburse Parcel A Owner for all costs of such repairs promptly upon demand, which demand shall include documentation of all reasonable third party costs incurred by Parcel A Owner.

ARTICLE VI IMPROVEMENTS; MAINTENANCE OF IMPROVEMENTS; DAMAGE TO IMPROVEMENTS

Section 6.1 **Initial Construction and Alteration and Subsequent Alterations and Additions.**

(a) Prior to the commencement of construction of any improvement on any Parcel (an "**Improvement**"), each Owner shall submit to Declarant, for Declarant's prior written approval, Owner's sign specifications and plans, including, but not limited to Owner's exterior elevations, site plans and landscaping plans indicating the exact building and other Improvements to be constructed on any part of the Property (the "**Improvement Plans**"). Each Owner shall design, construct, and maintain all Improvements in accordance with the approved

Improvement Plans, which said Improvement Plans shall include the following: (i) all utilities serving such real property must be extended entirely under-ground and there shall be no lines, services, poles (excluding those light poles and utility poles existing or subsequently installed by a local utility provider), wires or other utility facilities, whether similar or dissimilar, which shall be constructed or permitted to remain above ground level except for (A) temporary overhead utility lines utilized by Owner solely during the construction or re-construction of any Improvements on any Parcel, (B) subject to screening as required herein, utility meters, generators, transformers, heating, ventilating and air conditioning equipment and any other equipment or similar external components of mechanical systems necessary to provide any utility services to any Improvements on any Parcel, (C) manholes and manhole covers, (D) storm drainage inlets, (E) any exterior lighting for any Parcel so long as all meters, transformers and other equipment for the same are screened from view from the all other Parcels or any public or private roads adjacent to or in close proximity with any Parcel or (F) any irrigation systems for any Parcel; (G) decorative screening and/or landscaping shall be provided as necessary in order to obscure from public view all trash rooms, trash holding receptacles, loading and service areas, mechanical and electrical equipment, storage facilities and bins, and other building appurtenances which may be aesthetically undesirable. Appropriate screening shall be provided to screen roof-mounted equipment, roof vents and other appurtenances from public view from pedestrian and vehicular traffic. All Parcel Improvements shall comply with the PUD, and Declarant shall have the right to require that all Improvements, including hardscaping and landscaping, within the Property be aesthetically similar. Once the Improvement Plans have been approved by Declarant, Owner shall proceed diligently to construct and install, at its sole cost, the Improvements in strict accordance with the approved Improvement Plans. Thereafter, Owner shall not make any material modifications, alterations, deletions or additions to the Property or other improvements (other than as shown on the approved Improvements Plans) without Declarant's prior written approval, provided Declarant's consent shall not be required for changes and alterations so long as (1) the building footprint will not be changed (whether by an increase in size or a re-configuration), and (2) the alterations and/or changes otherwise comply with the terms, conditions and restrictions set forth in this Declaration. In the event an approval is required, Declarant shall not unreasonably condition, withhold, or delay its approval. Any subsequent alterations or additions to each Owner's Improvements shall be subject to Declarant's review and approval in accordance with the foregoing.

(b) No Owner shall place any signage within a ten (10) foot radius of any Signage Area without the express written consent of Declarant, which may be withheld or given in Declarant's sole and absolute discretion.

Section 6.2 **Maintenance of Improvements.** All buildings, whether occupied or unoccupied, and any other Improvements placed on a Parcel shall at all times be maintained in a condition commensurate with all other improvements on the Property and state of repair, normal wear and tear excepted, and in such condition and in such manner as to prevent their becoming unsightly by reason of unattractive growth on-such Parcel or the accumulation of rubbish or debris thereon. In no event shall any building be boarded up. Declarant reserves for itself the right, after thirty (30) days' notice to any Owner of a Parcel, to enter upon such Parcel with such equipment and devices as may be necessary for the purpose of (i) repairing or restoring Improvements or exterior lighting, or (ii) mowing, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of Declarant detracts from the

overall beauty and safety of the Property, or (iii) performing any other obligation of an Owner under this Declaration which obligation such Owner has failed to perform. Declarant may charge the Owner a reasonable cost for such services, which charge shall constitute a lien upon such building which shall accrue interest at the highest rate permitted by Alabama law, provided, however, that the provisions of this section shall not be construed as an obligation on the part of Declarant to mow, clear, cut, or prune any lot nor to provide garbage or trash removal services or to perform any other obligation of an Owner. Each Owner further agrees to store all trash and garbage in adequate containers, to locate such containers so that they are not readily visible, and to arrange for regular removal of such trash or garbage.

Section 6.3 **Casualty and Condemnation.**

(a) In the event any Improvements are damaged by fire or other casualty (whether insured or not), such Owner shall promptly remove the debris resulting from such event and provide a sightly barrier and within a reasonable time thereafter shall either (i) repair or restore such Improvements so damaged, such repair or restoration to be performed in accordance with the provisions of these Covenants; (ii) erect other building improvements in such location, in accordance with plans and specifications subject to Declarant's approval as set forth herein; or (iii) demolish such Improvements and restore the area to an attractive condition. Each Owner shall have the option to choose which of the foregoing alternatives to perform, but shall be obligated to perform one of such alternatives and shall give notice to Declarant within one hundred twenty (120) days from the date of such casualty of which alternative such Owner has selected and shall commence performance of such alternative within one hundred eighty (180) days from the date of such casualty and, thereafter, continually and diligently pursue such alternative to completion.

(b) In the event of a taking of a portion of an Owner's building by right of eminent domain or sale in lieu thereof that results in a loss of all or any portion of the Improvements thereto, such Owner shall, within ninety (90) days of such taking or sale in lieu thereof, restore such Improvements as nearly as possible to the condition existing prior to the taking or sale in lieu thereof.

ARTICLE VII INDEMNITY

Each Owner shall indemnify and save Declarant and Declarant's employees, tenants and agents harmless from and against any and all claims and demands (except such as result from the negligence of Declarant or its agents, contractors, servants or employees) for, or in connection with any accident, injury, or damage whatsoever caused to any person or property arising solely from the negligence of the Owner and relating to the business conducted in or the use and/or occupancy of such Owner's building.

ARTICLE VIII INSURANCE

Section 8.1 **Liability Insurance.** Each Owner shall maintain, or cause to be maintained, a comprehensive general liability insurance policy with respect to such Owner's

Parcel and such Owner's rights in and to the Master Common Areas or the Parcels A/C Common Areas (as applicable) in the minimum amount of \$1,000,000 per occurrence and \$3,000,000 in the aggregate. The obligation to maintain the policy shall begin on the date that such Owner acquires title to its Parcel and shall extend throughout the time that such Owner owns its Parcel. The policy shall insure Declarant as additional insured in connection with any dram shop liability, bodily injury, death, or property damage or destruction caused by Owner, its tenants, licensees, invitees, patrons, or guests, occurring in the Master Common Areas or the Parcels A/C Common Areas (as applicable).

Section 8.2 **Property Insurance.** Each Owner shall carry, or caused to be carried, a Cause of Loss-Special ("All Risk") insurance policy with respect to such Owner's building and improvements. The coverage limits shall not be less than a reasonable estimate of the cost of replacing the building and Improvements (excluding footers and foundations).

Section 8.3 **General Clauses Concerning Insurance.** Each insurance policy carried pursuant to the foregoing provisions shall be issued by an insurance company that is rated as A- or better by A. M. Best Company. Such insurance may be included in general coverage under policies which also include the coverage of other property in which an Owner has an insurable interest. A copy of each such insurance policy or a certificate with respect to the policy shall be delivered to Declarant annually or upon written request.

Section 8.4 **Dram Shop Liability Insurance.** If a business engaged in the sales of alcoholic beverages is located on the Property, such parcel and/or building's Owner shall also provide, or cause to be provided, for so called "Dram Shop Liability" in the comprehensive general liability insurance coverage required to be maintained pursuant to Section 8.1. The obligation to maintain Dram Shop Liability coverage may be satisfied by the occupant of any building Owner that is required to provide insurance coverage hereunder, provided such occupant shall have complied with all insurance requirements applicable to an Owner hereunder. Declarant shall have the right to modify the requirements of this Article VIII pursuant to separate written agreement with an Owner, in Declarant's sole and absolute discretion.

Section 8.5 **Force Placed Insurance.** If an Owner fails to obtain any or all of the insurance coverage required by this Article VIII, Declarant may, but shall not be obligated to, obtain such insurance on behalf of the Owner and the Owner shall be required to reimburse the Declarant within fifteen (15) days of notice from the Declarant to the Owner that such insurance premium has been paid by the Declarant or is owed to the insurance company.

ARTICLE IX GENERAL COVENANTS AND RESTRICTIONS

Section 9.1 **Garbage, Trash and Refuse.** No refuse, garbage, trash, lumber or metal (except building materials during the course of construction of any approved Improvement); and no grass, shrub or tree clippings; and no plant waste, compost, bulk materials or debris of any kind shall be kept, stored or allowed to accumulate on any Parcel except within an enclosed structure or container approved by the Declarant or unless appropriately screened from view in a manner acceptable to the Declarant, except that any refuse container containing such materials



and approved by the Declarant may be placed outside at such times as may be reasonably necessary to permit garbage or trash pickup.

Section 9.2 **Temporary Structures.** No tent, shack or temporary structure, building, garage or trailer shall be placed upon any Parcel except with the prior written consent of the Declarant obtained in each instance. The preceding sentence shall not apply to construction activities conducted in accordance with the reasonable requirements of the Declarant and shall not prevent customary outdoor displays.

Section 9.3 **Antennas, Aerials and Dishes.** No exterior radio antenna or aerial, television antenna, aerial dish or similar facility of any type shall be erected or maintained in the Property (specifically including any Parcel) without the prior written approval of the Declarant of the location of and screening for any such object.

Section 9.4 **Connection Points for Utility Service Lines.** Owners agree to connect utility service lines (including, but not limited to, gas, water, sewer and electricity) at points designated by Declarant.

ARTICLE X OWNER'S ASSOCIATION

Section 10.1 **Owner's Association.** Upon or at any time prior to Declarant's sale of all of the Property, Declarant, at its sole option, may cause an owner's association (the "**Owner's Association**") to be formed solely for the ownership and management of the Master Common Areas (it being understood that the Parcels A/C Common Areas would be owned and managed by Parcel C Owner in accordance with this Agreement). The members of such Owner's Association shall consist of all Owners in the Development. Such Owner's Association shall be governed by a Board of Directors which shall be elected by the members. Such Owners shall have the right to vote in the Owner's Association in accordance with the percentages set forth on Exhibit "D" for Master Common Area Maintenance Expenses, and all matters shall be determined by majority vote except for an amendment to this Declaration or termination following the Initial Term of this Declaration, which shall require an affirmative vote of the members holding at least seventy-five percent (75%) of the votes in the Association (based on the percentages set forth on Exhibit "D" for Master Common Area Maintenance Expenses. Declarant shall have the right to transfer title to the Master Common Areas, unless and until publicly dedicated, to the Owner's Association and to assign to the Owner's Association all of Declarant's rights and obligations under this Declaration with respect to the Master Common Areas, including but not limited to Declarant's rights to enforce the terms and conditions of this Declaration and Declarant's obligations to maintain the Master Common Areas. Upon such transfer, the Owner's Association shall have the right to enact such commercially reasonable rules and regulations governing the Property as will assist all Owners in the orderly operation and preservation of the value of their properties, including but not limited to the following: (a) designation of an architectural review committee to oversee the character and quality of Improvements to be constructed, repaired or re-built; (b) provide for liens against the Parcels to assure compliance with the terms and provisions hereof; provided that such liens shall be subordinate to the liens of any first mortgage; (c) elect a board of directors for the Owner's Association; (d) enact rules and regulations concerning rebuilding Improvements on the

properties after casualty or condemnation; (e) hire a third party management company to manage the affairs of the Association; (f) pay expense of the Association; and (g) provide for the enforceability of the rules and regulations by all Owners. Each Owner shall take such further actions and execute such further documents as are necessary to effect the formation of the Owner's Association and the enforceability of rules and regulations promulgated by the Owner's Association. Notwithstanding anything contained herein to the contrary, HCI Oak Mountain, LLC shall have the right (whether or not it is the holder of the Declarant's rights under this Declaration) to appoint a majority of the members of any architectural review committee for so long as HCI Oak Mountain, LLC owns any portion of the Property.

ARTICLE XI DEFAULT AND REMEDIES

Section 11.1

(a) If an Owner fails to comply with any provision of this Declaration, then Declarant may, upon thirty (30) days prior written notice, proceed to cure the default (and shall have a license to do so) by the payment of money or performance of some other action for the account of such Owner. The foregoing right to cure shall not be exercised if within the thirty (30) day notice period (i) Owner cures the default, or (ii) if the default is curable, but cannot reasonably be cured within that time period, Owner begins to cure such default within such time period and diligently pursues such action to completion. The thirty (30) day notice period shall not be required if, using reasonable judgment, Declarant deems that an emergency exists which requires immediate attention. In the event of such an emergency, Declarant shall give whatever notice to the Owner as reasonable under the circumstances.

(b) Within fifteen (15) business days of written demand (including providing copies of invoices reflecting costs), the defaulting Owner shall reimburse Declarant for any sum reasonably expended by Declarant to cure the default, together with Default Rate Interest thereon until paid. If such amount is not paid within sixty (60) days following demand, it shall, together with interest thereon and costs of collection thereof, thereupon become a continuing lien on the Parcel, which shall bind such property until such amount is paid, at which time Declarant will record a release of such lien after written request by Owner.

(c) In the event any Owner shall institute any action or proceeding against another Owner or the Declarant relating to the provisions of this Declaration, or to any default hereunder, or to collect any amounts owing hereunder, or to an arbitration proceeding that is commenced by agreement of the parties to any dispute, the unsuccessful litigant in such action or proceeding shall reimburse the successful litigant therein for costs and expenses incurred by the successful litigant in connection with such action or proceeding and any appeals therefrom, including reasonable attorneys' fees and court costs.

(d) All remedies are cumulative and shall be deemed additional to any and all other remedies to which each party may be entitled in law or in equity. Each party shall also have the right to restrain by injunction any violation or threatened violation by any other party of any of the terms, covenants, or conditions of this Declaration, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law

for a breach of any such term covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate.

ARTICLE XII GENERAL

Section 12.1 **Grantee's Acceptance.** The grantee of any Parcel encumbered by 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 purpose thereof, whether from Declarant 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.

Section 12.2 **Notice.** Following any Owner's acquisition or long-term ground leasing of a Parcel or building, such Owner shall notify Declarant of such Owner's address for purposes of the furnishing of notices in connection with this Declaration. Declarant shall maintain a record of the notice addresses furnished by the Owners of Parcels or buildings, and Declarant shall make such records available for review by the other Owners upon request. Every notice, demand, consent, approval or other document or instrument required or permitted to be served upon any Owner shall be in writing and shall be deemed to have been duly served on the date it is personally delivered (including but not limited to delivery by courier or by expedited delivery service such as but not limited to Federal Express) or, if mailed, on the date three (3) days after deposit in the United States Mail, sent by registered or certified United States Mail, postage prepaid, return receipt requested, addressed to such Owner at the address given by such Owner to Declarant for the purpose of service of notices, or to the address to which the ad valorem tax bills for such Owner are mailed if no such address has been given to Declarant. Any Owner may change the address for service of notice by ten (10) days' prior written notice to Declarant setting forth the change in the address. Any notice or other instrument required or permitted to be given or delivered under the terms of this Declaration shall be addressed to Declarant as follows:

IF TO DECLARANT:

HCI Oak Mountain, LLC
3075 Heathy Way
Vestavia Hills, AL 35243
Attn: Jordy Henson

Section 12.3 **Enforcement.** This Declaration shall be (i) enforceable in any court of competent jurisdiction by way of damages and injunctive relief by Declarant, its successors and assigns and (ii) governed by the laws of the State of Alabama.

Section 12.4 **Amendment.** As long as HCI Oak Mountain, LLC is the Owner of any Parcel in the Development, this Declaration may only be amended with the written consent of HCI Oak Mountain, LLC, Parcel C Owner, and Parcel A Owner. If HCI Oak Mountain, LLC is no longer the Owner of any Parcel in the Development, this Declaration may only be amended with the written consent of Parcel C Owner, Parcel A Owner, and one (1) other Parcel Owner. Notwithstanding the foregoing, if Declarant has transferred its rights and obligations hereunder with respect to the ownership and management of the Master Common Areas in accordance with the provisions of Section 10.1, (A) this Declaration may be amended as to matters affecting the Master Common Areas by an affirmative vote of the majority of the voting interests as set forth

in Section 10.1 of the Association, and (B) this Declaration may be amended as to matters affecting the Parcels A/C Common Areas only with the mutual consent of both Parcel C Owner and Parcel C Owner. Notwithstanding the foregoing, Declarant shall have the right, in its sole and absolute discretion without consent from any other Owner, to add real property to the Development, which additional real property shall become a part of the Property upon amended to this Declaration executed only by Declarant. Further notwithstanding the foregoing, any amendment to this Declaration with respect to the Exclusive Rights set forth in Section 3.3 shall require the consent of the Owner or tenant benefited by such provision.

Section 12.5 **Estoppel Certificate.** Each Owner agrees that upon written request (which shall not be more frequent than three (3) times during any calendar year) of any other Owner, it will issue within fifteen (15) business days after receipt of such request to such Owner, or its prospective mortgagee or successor, an estoppel certificate stating to the best of the issuer's knowledge as of such date:

(a) Whether it knows of any default under this Declaration by the requesting Owner, and if there are known defaults, specifying the nature thereof in reasonable detail.

(b) Whether this Declaration been assigned, modified or amended in any way by it and if so, then stating the nature thereof in reasonable detail.

(c) Whether this Declaration is in full force and effect.

Such estoppel certificate shall act to estop the issuer from asserting a claim or defense against a bona fide encumbrancer or purchaser for value to the extent that such claim or defense is based upon facts known to the issuer as of the date of the estoppel certificate which are contrary to the facts contained therein, and such bona fide purchaser or encumbrancer has acted in reasonable reliance on such estoppel certificate without knowledge of facts to the contrary. The issuance of an estoppel certificate shall in no event subject the issuer to any liability for the negligent or inadvertent failure of the issuer to disclose correct or relevant information.

Section 12.6 **Term.** This Declarations shall be effective as of the date first above written and shall continue for fifty (50) years (the "**Initial Term**"). Thereafter, this Declaration shall automatically renew for successive five (5) year terms unless two-thirds of the Parcel Owners vote to terminate the Covenants during the fifth (5th) year of a renewal term.

Section 12.7 **Severability.** Invalidation of any one or more of the provisions of this Declaration by judgment or court order shall in no way affect any of the other agreements contained herein, which shall remain in full force and effect.

[Signature page follows.]



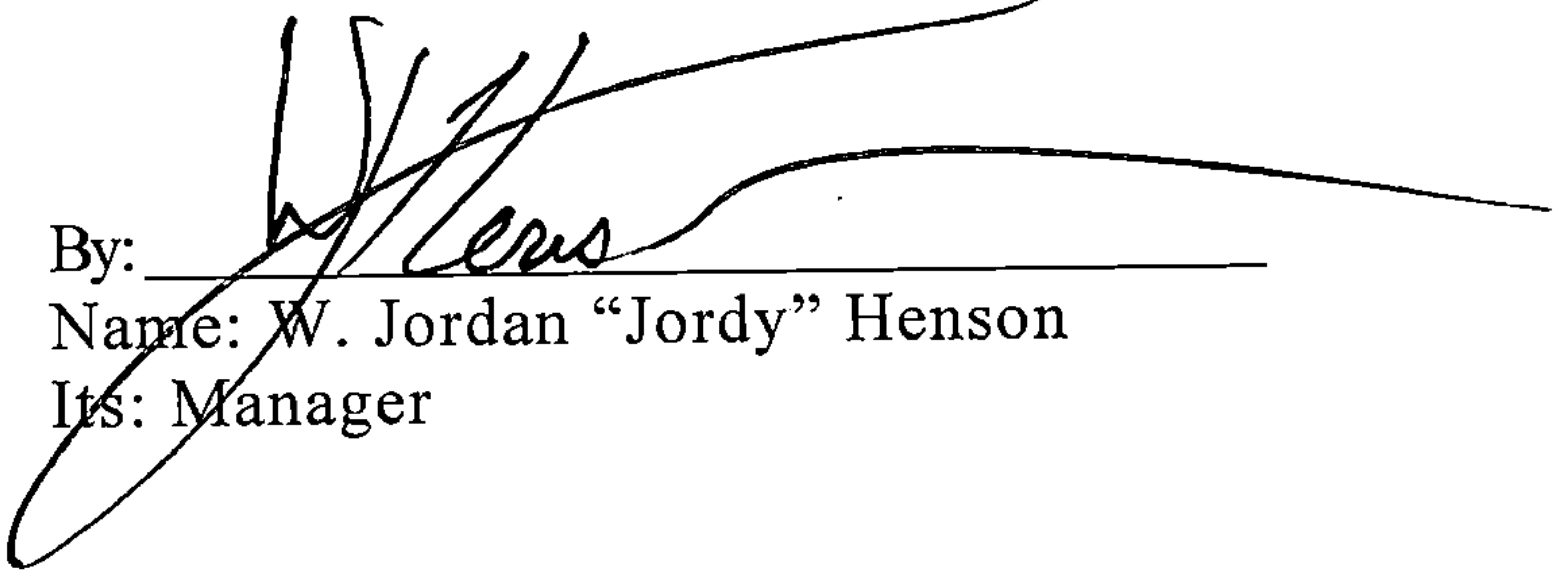
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 Shelby Cnty Judge of Probate, AL
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IN WETNESS WHEREOF, the undersigned has caused this instrument to be executed by its duly authorized officer on this 22nd day of September, 2021.

DECLARANT:

HCI OAK MOUNTAIN, LLC,

an Alabama limited liability company

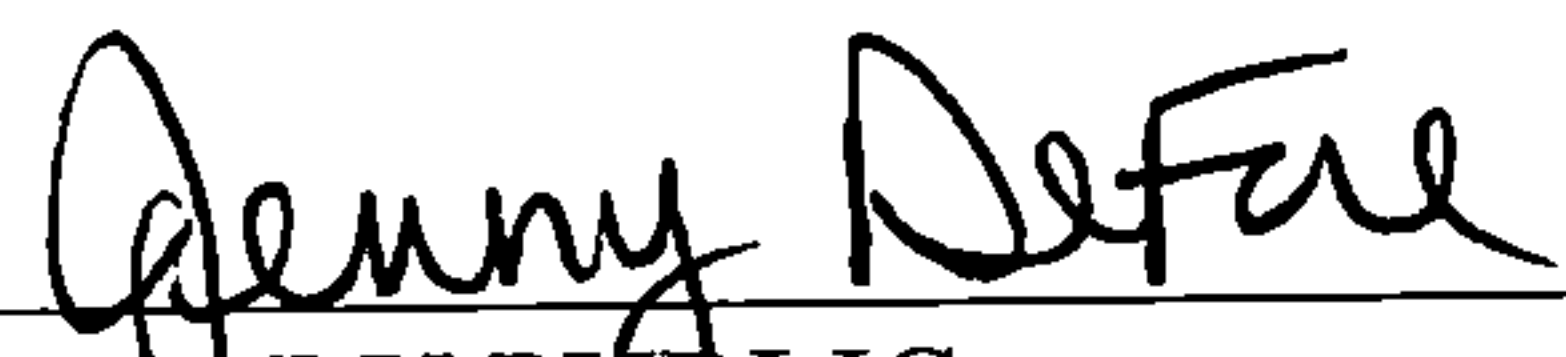
By: 
 Name: W. Jordan "Jordy" Henson
 Its: Manager

STATE OF ALABAMA)

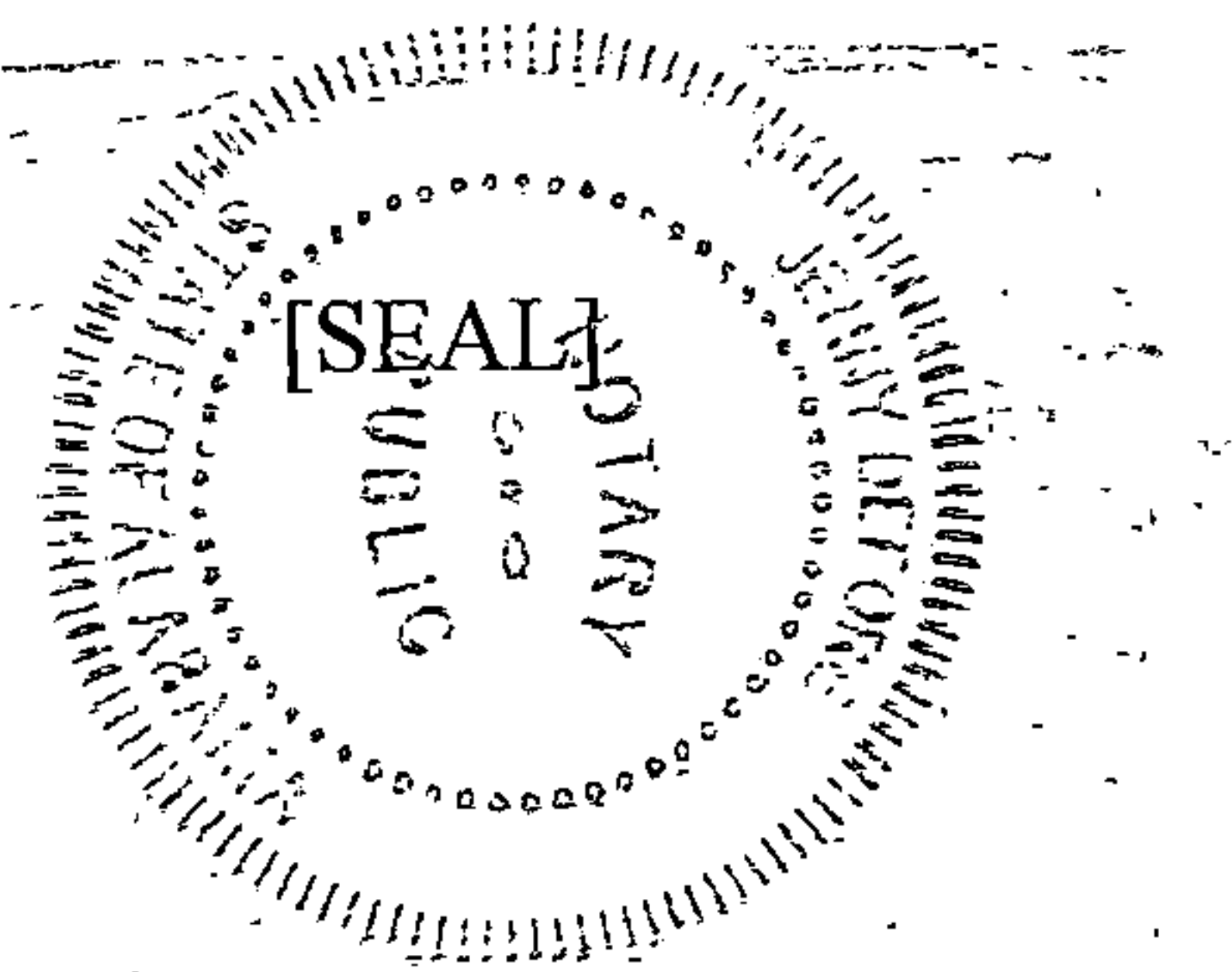
COUNTY OF JEFFERSON)

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that W. Jordan "Jordy" Henson, whose name as the Manager of HCI OAK MOUNTAIN, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, in his capacity, as such Manager and with full authority, executed the same voluntarily for and as the act of said limited liability company on the day the same hears date.

Given tinder my hand this the 22nd day of September, 2021.


 NOTARY PUBLIC

My Commission Expires: May 23, 2022





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Shelby Cnty Judge of Probate, AL
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Exhibit A

Legal Description of Property

Lots A, B, C, D, E-1 and E-2, according to the Plat of The Canopy, recorded in Map Book 55,
Page 5 in the Office of the Judge of Probate of Shelby County, Alabama.



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Exhibit B

Development Plan

SEE ATTACHED

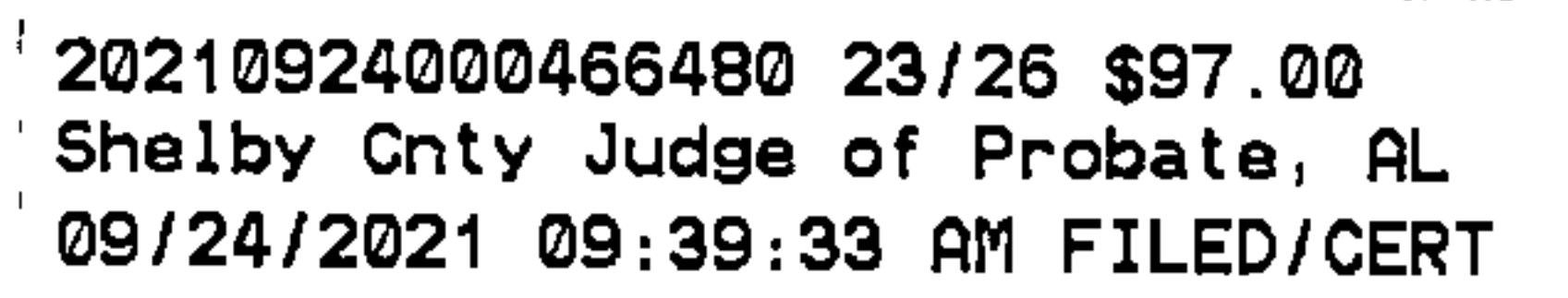



Exhibit C

Use Restrictions


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1. A use or operation that is generally considered to be an environmental risk to any portion of the Development or surrounding properties;
2. A laundry or dry cleaning establishment, provided, the foregoing restriction shall not include an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed at the subject property;
3. Any establishment which stocks, displays, sells, rents, or offers for sale or rent any merchandise or material commonly used or intended for the use with or in consumption of any narcotic, dangerous drug, or other controlled substance (provided that the foregoing is not intended and shall not be construed to prohibit a drug store or pharmacy or any other medical use operated in accordance with applicable laws);
4. Adult book store, an establishment selling or exhibiting pornographic materials or any form of adult entertainment or an operation whose principal use is an exotic dancing and/or massage parlor (provided this restriction shall not prohibit massages in connection with a beauty salon, health club or athletic facility, a national massage chain such as Massage Envy, or therapeutic massage);
5. A pool or billiard hall, arcade, night club, dance club;
6. An abortion clinic; Planned Parenthood;
7. A pet store; except, however, a national pet store (i.e. a PetSmart, Petco or Hollywood Peed) will be permitted subject to applicable laws, rules and regulations;
8. Automobile dealerships, automobile sales, automobile servicing, a truck stop or a motel;
9. A mobile home park, trailer court (except that this provision shall not prohibit the temporary use of construction trailers during any periods of construction, reconstruction or maintenance), or mobile home sales lot;
10. Off-track betting establishment, bingo parlor or any gambling use;
11. A business which would emit or produce noxious fumes, gases, excessive dust, dirt or loud noises (except for automobile sales, service or repair);
12. An assembly, manufacturing, refining, smelting, industrial, agricultural, drilling or mining operation; provided, however, that notwithstanding anything to the contrary in this Declaration, the manufacturing and/or distilling of alcohol for retail sale (e.g. a brewery) are specifically exempt from this restriction;
13. A junk yard, stock yard, animal raising operation, a dump or disposal or any operation for the incineration or reduction of garbage or refuse;

14. A pawn shop, a thrift store, a “Good Will” or “Salvation Army” type store, flea market or a store dedicated to the sale of tobacco products;
15. A mortuary or funeral home;
16. A church or other place of worship (except in connection with a hospital or other medical facility), banquet hall, auditorium or meeting hall;
17. No flashing neon signs may be placed in the window or on any buildings or on any poles located in the Development;
18. Carnival, amusement park, or circus;
19. Any use which emits an obnoxious odor, noise or sound;
20. Any assembling, manufacturing, refining, smelting, agricultural or mining operation; provided, however, that notwithstanding anything to the contrary in this Declaration, but subject to all zoning laws, the manufacturing and/or distilling of alcohol for retail sale (e.g. a brewery) are specifically exempt from this restriction;
21. Any dumping, disposing, incineration or reduction of garbage;
22. Any establishment selling or exhibiting illicit and/or illegal drug-related paraphernalia; or
23. Any uses prohibited by the PUD.

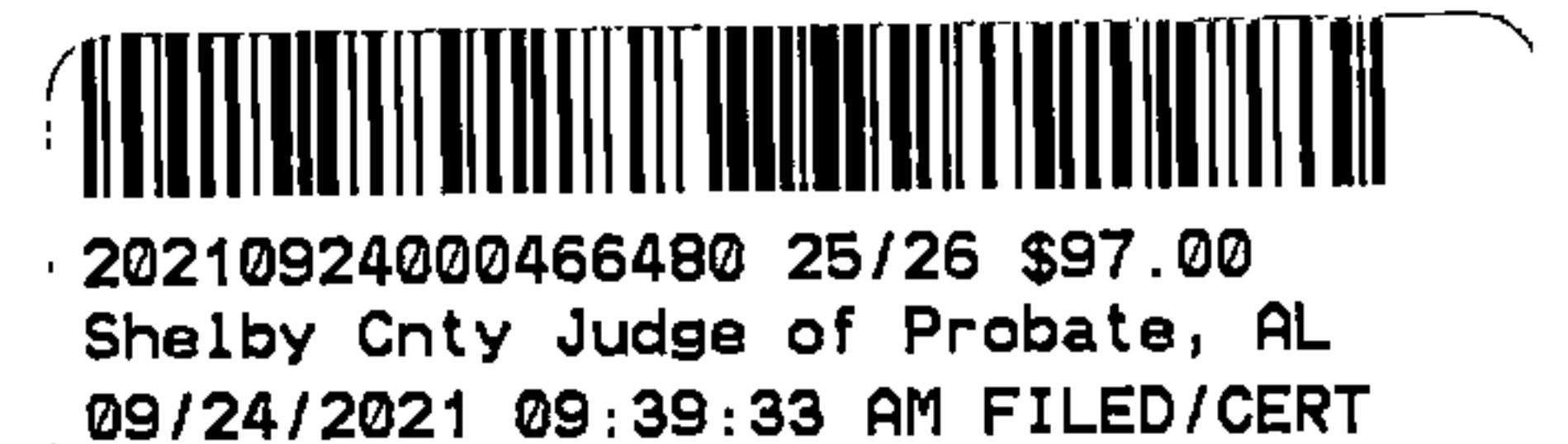


EXHIBIT D

Master Common Area Expense and Limited Common Area Expense Liability

<u>Parcel</u>	<u>% of Master Common Area Maintenance Expense</u>	<u>% of Parcels A/C Common Area Maintenance Expense</u>
A	20%	40%
B or Hotel Parcel	15%	N/A
C	55%	60%
D or Office Parcel	10%	N/A
E-1		N/A
E-2		N/A



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