

DECLARATION OF PROTECTIVE COVENANTS



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Jefferson County, Alabama
I certify this instrument filed on:
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Judge of Probate- Alan L. King

FOR

CHAMBERS ADDITION TO DEVONSHIRE ESTATES,
A RESIDENTIAL SUBDIVISION

THIS DECLARATION OF PROTECTIVE COVENANTS (the "Declaration") is made as of this 2nd day of September, 2010 by CAC, LLC, a Limited Liability Company, (the "Developer"), which declares that the real property hereinafter described is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth (the "Protective Covenants").

WHEREAS, the Developer is presently the owner of certain real property known as Chambers Addition to Devonshire Estates, hereinafter referred to as Devonshire Estates, located in the City of Homewood, Jefferson County, Alabama, as shown by the Map and Survey of Chambers Addition to Devonshire Estates, as recorded in Map Book 233, Page 10, in the probate Office of Jefferson County, Alabama (the "Record Map"); and

WHEREAS, the Developer desires to establish and enforce uniform standards of development quality and to provide for the effective preservation of the appearance, value and amenities of real property herein described and for the maintenance and administration of certain areas thereof which benefit all owners of property therein and, to this end, desires to subject said real property, together with such additions thereto as may hereafter be made, to the Protective Covenants, all of which are for the benefit of the said real property and each owner thereof; and

WHEREAS, the Developer has deemed it desirable for the establishment and enforcement of uniform standards of development quality and the effective preservation of the appearance, value and amenities to create a not for profit corporation (the "Association") to which should be delegated and assigned the powers of maintaining and administering certain areas thereof which benefit all owners of property therein and enforcing the Protective Covenants and of levying, collecting and depositing such

charges and assessments as may be authorized in this Declaration for that purpose; and

WHEREAS, the Developer has incorporated the Association under the Alabama Nonprofit Corporation Act for the purpose of exercising and aforesaid functions.

NOW, THEREFORE, the Developer declares that the real property described in Section 2.01 hereof, and such additions thereto as may hereafter be made pursuant to Section 2.02 hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the Protective Covenants, all of which shall be construed as and deemed to be covenants running with the land and shall be binding on and inure to the benefit of all parties having a right, title or interest in the said real property, as well as their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

1.01 "**Association**" shall mean and refer to Devonshire Estates Homeowners Association, Inc., a not for profit corporation, formed, or to be formed at or about the same time as the filing of this Declaration, under the Alabama Nonprofit Corporation Act, as well as its successors or assigns. This is the Declaration of Protective Covenants to which the Articles of Incorporation (the "Articles") and By-Laws (the "By-Laws") of the Association make reference.

1.02 "**Common Area or Common Areas**", as the case may be, shall mean and refer to all real and/or personal property, including property which the Association owns, leases, or otherwise maintains for the use or enjoyment of the members of the Association, including, without limitation, a right of use (such as but not limited to, easements for ingress and egress to and within the Property and easements for surface water collection. The use of the Common Areas shall be restricted to landscape, irrigation, entry features, drainage, medians, sidewalks, entrance gates, decorative walls, retaining walls, lighting, or any other use to which the Board of Directors of the Association may accede.

1.03 **"Developer"** shall mean and refer to CAC, LLC, an Alabama Limited Liability Company, or its successors or assigns if such successors or assigns acquire any portion of the Property from and are designated as successor developer by CAC, LLC.

1.04 **"Institutional Mortgagee"** shall mean and refer to any federal or state chartered bank, life insurance company, federal or state savings and loan association or real estate investment trust which holds a first mortgage or other first lien or charge upon any Lot or portion of a Lot or any interest therein which is of record in the Probate Office of Jefferson County, Alabama.

1.05 **"Lot"** or **"Lots"**, as the case may be, shall mean and refer to the individual residential lots as reflected on subdivision plat(s) for the Property as recorded in the Probate Office of Jefferson County, Alabama, as the same may be amended from time to time.

1.06 **"Owner"** or **"Owners"**, as the case may be, shall mean and refer to one or more persons or entities who or which have fee simple title to any Lot or Lots, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

1.07 **"Property"** shall mean and refer to all real property which is presently or may hereafter be subject to this Declaration pursuant to Article II below.

1.08 **"Yard"** shall mean any and all portions of land lying within any Lot but outside the exterior structural walls of the primary building constructed on such Lot. The Front Yard shall mean the land lying between any Lot line fronting a street and the exterior structural wall of the primary building. The Rear Yard shall mean the land lying between the Lot line that runs in substantially the same direction as the Lot line fronting the street and the exterior wall of the primary building except that in the case of lots fronting more than one street the Rear Yard shall be the land lying between the Lot line which is the greatest in distance from the street and the primary building. The Side Yards shall mean the land lying between all other Lot lines and the primary building.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION, ADDITIONS THERETO, DELETIONS THEREFROM

2.01 Legal Description. The real property which presently is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Jefferson County, Alabama, and is described in the Map and Survey of Chambers Addition to Devonshire Estates, as recorded in Map Book 283, Page 10, in the Probate Office of Jefferson County, Alabama. This declaration shall not apply to any other property owned by Developer or any other person or entity, unless expressly made subject to this Declaration pursuant to Section 2.02 hereof.

2.02 Additions to Property. Upon the approval in writing of the Association, the owner of any property who desires to subject it to this Declaration may file a Supplementary Declaration describing the additional property to be subject to this Declaration. Such described property shall become and be subject to this Declaration at such time as the owner thereof shall file the Supplementary Declaration in the Probate Office of Jefferson County, Alabama, and if the additional property is located in a county other than Jefferson County, the owner shall file a copy of this Declaration and the Supplementary Declaration in the Probate Office of the county in which the property is located. Such Supplementary Declaration may contain such complementary additions to and modifications of the Protective Covenants as the Association shall determine to be necessary or proper to reflect the different character, if any, of the additional property, provided they are not inconsistent with the general plan of this Declaration. Houses constructed on such additional property may be different in appearance from existing houses.

2.03 Withdrawals of Property. The Association may at any time or from time to time withdraw portions of the Property from this Declaration, provided only that the withdrawal of such portions of the Property shall not, without the joinder or consent of the Owners of Lots constituting over one-half of the then existing Lots, increase by more than one-fourth the share of remain subject hereto after such withdrawal. The withdrawal of Property as aforesaid shall be evidence by filing a Supplementary Declaration setting forth the portions of the Property to be so withdrawn in the Probate Office of Jefferson County, Alabama, and if the property is located

in a county other than Jefferson County, the Supplementary Declaration shall also be filed in the Probate Office of that county.

2.04 Platting and Subdivision of the Property. The Developer shall be entitled at any time and from time to time, to subdivide, plat and/or re-plat all or any part of the Property, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion or portions of the Property; provided, however, that any such additional platting or re-platting shall involve only minor revisions to the Record Map.

2.05 Merger. The Association may, with consent of a majority of the Owners of the Lots, merge or consolidate with another owners association now existing or hereafter created. Upon a merger or consolidation of the Association with another association, its properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or alternatively, the properties, rights and obligations of another owners association may, by operation of law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. To the greatest extent practicable, the surviving or consolidated association shall administer the covenants and restrictions established by this Declaration with the Property, together with any surviving covenants and restrictions established upon any other properties as one scheme, but with such differences in the method or level of assessments to be levied upon the Property and such other properties as may be appropriate, taking into account the different nature or amount of services to be rendered to the owners thereof by the surviving or consolidated association. No such merger or consolidation, however, shall effect any revocation, change, or addition to the covenants established by this Declaration except as expressly adopted in accordance with the terms hereof.

ARTICLE III

ARCHITECTURAL CONTROL

3.01 Architectural Review and Approval.

(a) All plans and specifications for any structure or improvement whatsoever to be erected on or moved upon any Lot, and the proposed location thereof on any Lot, the construction material, exterior paint and finishes, the roofs, landscaping, and later changes or

additions after initial approval thereof and any remodeling, reconstruction, alterations, or additions thereto on any Lot shall be subject to and shall require the approval in writing (the "Letter of Approval") of the Committee (as described in Section 3.02 below) before any work is commenced. THE SCOPE OF REVIEW BY THE ASSOCIATION SHALL BE LIMITED TO EXTERIOR APPEARANCE ONLY AND SHALL NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, INTERIOR DESIGN, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS. Commencement of construction prior to a receipt of a Letter of Approval of the Committee, a copy of which must be signed by the Builder, or Owner, and returned to the Committee for retention, is strictly prohibited.

(b) No improvement or structure of any kind, including, without limitation, any building, fence, wall, sign, mailbox, lighting system, landscaping, irrigation system, paving, grading, screen enclosure, drain or decorative amenity shall be commenced, erected or maintained upon any Lot, nor shall any addition, change or alteration thereof be made unless and until the Committee shall have issued a Letter of Approval with respect thereto.

3.02 Architectural Control Committee.

(a) All architectural review and control functions shall be administered and performed by the Architectural Control Committee (the "Committee"). The Committee shall be composed of three (3) members, and at all times, at least two-thirds (2/3) of the membership of the Committee shall be composed of Owners of Lots in the Property; provided, however, that Developer reserves the right to appoint the initial and successor members of the Committee, none of whom need be an Owner of a Lot in the Property, until the Developer no longer owns any Lots within the Property, or until the Developer elects to terminate its control of the Committee, whichever shall first occur. After terminating control of the Committee by Developer, as aforesaid, the members of the Committee shall be appointed by, and shall serve at the pleasure of, the Board of Directors of the Association.

(b) The Committee shall not be required to conduct regular meetings. The Committee may conduct special meetings upon five (5) days notice from the Chairman elected by such Committee at the time and location established by the Committee. The vote or written consent

of a majority of the members of the Committee shall be the act of the Committee; provided that a majority of the members of the Committee may delegate the right to act for and on behalf of the Committee to one or more of its members.

(c) The members of the Committee shall not be entitled to any compensation for services performed pursuant to these Protective Covenants.

(d) The members of the Committee may, as a Common Expense, retain the services of a registered architect, registered engineer, and/or registered landscape architect to provide advisory services to the Committee in connection with the performance of its duties hereunder.

3.03 Powers and Duties of the Committee. The primary authority of the Committee shall be to examine and approve or disapprove all initial and subsequent plans, including site plans and landscape plans, for construction of improvements of Lots within the Property in accordance with the provisions of these Protective Covenants. The Committee shall have the following powers and duties:

(a) To approve of an Owners' selection of a builder or contractor; provided that the Committee may not disapprove a builder or contractor unless: (i) in the Committee's opinion, such builder or contractor has a history of non-compliance with rules and regulations applicable to builders or contractors in subdivisions, and such builder or contractor has failed to provide the Committee adequate assurance that it will comply with the requirements of these Protective Covenants and any rules and regulations promulgated under the authority herein vested and/or reserved in the Developer, the Association, or the Committee; or (ii) such contractor or any subcontractor working thereunder cannot provide evidence of public liability insurance reasonably satisfactory to the Committee.

(b) To propose, adopt, alter and amend rules and regulations applicable to builders, general contractors, and subcontractors who are engaged in the construction of improvements on any Lot or any portion of the Common Area within the Property.

(c) To require submission to the Committee of plans and specifications for any improvement or structure of any kind, and any change, modification or alteration thereof, including, without limitation, any such

improvement or change to any building, fence, wall, sign, lighting system, site paving, grading, screen enclosure, sewer, drain, disposal system, landscaping or landscape device or object, the construction or placement of which is or is proposed upon any Lot. Such plans and specifications shall be in such form and shall contain such information as is required in Section 3.04 hereof.

(d) To approve or disapprove the submitted plans and specifications for any improvement or structure as hereinabove described prior to commencement of construction of such improvement or structure and to approve or disapprove any improvements constructed pursuant to such plans and specifications after the same have been fully completed. The Committee shall have a period of twenty (20) business days from the date of receipt of a fully completed submission of any plans and specifications, to approve or disapprove any builder or contractor and/or any plans or specifications submitted to it for approval. Prior to the use or occupancy of any improvement or structure constructed or erected on any Lot, the Owner thereof shall apply for certificate from the Committee (the "Compliance Certificate") that the construction thereof has been completed in accordance with the plans and specifications approved by the Committee. The Committee shall have a period of twenty (20) business days from the date of receipt of such application to give or deny such Compliance Certificate. If any improvement or structure as aforesaid shall be completed, changed, modified or altered without the prior approval of the Committee, or shall not be completed, changed, modified or altered in accordance with the approvals granted by the Committee, then the owner shall, upon and in accordance with a demand by the Committee, cause the property, improvement or structure either to be restored to its original condition or to comply with the plans and specifications as approved by the Committee, and shall bear all costs and expenses of such restoration or compliance, including the costs and attorneys' fees of the Committee. Notwithstanding the aforesaid, after the expiration of one year from the date of final completion of any such improvement or structure, such improvement or structure shall be deemed to comply with all of the provisions hereof unless notice to the contrary shall have been recorded in the Probate Office of Jefferson County, Alabama, or legal proceedings shall have been instituted to enforce such compliance. Any agent or member of the Committee may at any reasonable time enter any building or property subject to the jurisdiction of the Committee which is under construction or on or in which the agent or member may believe that a violation of the

Protective Covenants in this Declaration is occurring or has occurred. The Committee may, from time to time, delegate to a person or persons, who may or may not be a member of the Committee, the right to approve or disapprove plans and specifications and to issue such certification. The approval by the Committee of the builder or contractor and/or plans and specifications submitted for its approval, as herein specified, shall not be deemed to be a waiver by the Committee of the right to object to such builder or contractor and/or any of the features or elements embodied in such plans or specifications if and when the same builder or contractor and/or the same features and elements are embodied in any plans and specifications subsequently submitted for approval for other Lots. Any Owner aggrieved by a decision of the Committee shall have the right to make a written request to the Board of Directors of the Association (the "Board"), within thirty (30) days of such decision, for a review thereof. The determination of the Board, after reviewing any such decision, shall in all events be dispositive.

(e) To adopt fees which shall be designed to reimburse the Association for the necessary and reasonable costs incurred by it in processing requests for Committee approval of any matters under its jurisdiction. Such fees, if any, shall be payable to the Association, in cash, at the time that any application for approval is sought from the Committee. In the event such fees are not paid by the Owner, they shall become a lien of the Association on the affected Lot enforceable in the manner specified in Article V hereof.

(f) To modify, amend, or otherwise change the design criteria set forth in Section 3.05 below, so long as such modification, amendment, addition or change will not, in the opinion of the Committee, be inconsistent with the architectural environment of the Property or have a material adverse effect on improvements then existing within the Property, or to adopt and approve additional design criteria for the Property. Such changes or additional criteria shall be effective upon approval in writing by (i) a majority of the members of the Board of Directors of the Association at a meeting duly called and noticed and at which a quorum is present, and (ii) the Developer if the Developer shall then own any Lots. Notice of adoption of any change hereto or of any additional design criteria shall be delivered to each member of the Association, but such delivery shall not be a condition precedent to adoption of such modification or additional criteria.

3.04 Review Documents. Two sets of prints of the drawings and specifications (herein referred to as "Plans") for each house proposed to be constructed on each Lot shall be submitted for review and approval or disapproval by the Committee. The Plans submitted to the Committee shall be retained by the Committee. Said Plans should be delivered to the general office of the Committee or to the office of the administration agent designated to service the Committee at least twenty (20) business days prior to the date construction is scheduled to commence. Each such plan must include the following:

(a) The Plans shall include a site plan, foundation plan, floor plan, and landscape plan.

(b) All Plans for structures shall be not less than one-eighth (1/8) inch = one (1) foot scale.

(c) The site plan and landscape plan must take into consideration the particular topographic and vegetative characteristics of the Lot or Lots involved.

(d) The Plans must include the elevations of all sides of the proposed structure as such sides will be after finished grading has been accomplished.

(e) The foundation and floor plans shall show the existing grade on each elevation in order that the extent of cut and/or fill areas may be easily and clearly determined.

(f) The site plans shall show all existing and planned improvements, access streets and walkways, driveways, drainage and fill plans, lighting, irrigation systems, setbacks, easements of record, drives, fences, and underground trench locations. No work may commence until the site plan is approved.

(g) All Plans must include a summary specifications list in a form acceptable to the Committee of proposed materials and samples of exterior materials, including paint (type and color) or other finish samples.

(h) The Owner shall provide the name of the person who the Owner proposes to engage to construct the improvements described in the submission together with proof of insurance required hereunder.

(i) After the Plans for the structure are approved, the house or other structure must be staked out and such siting approved by the Committee before tree cutting or grading is done. No work may commence until both the plan and the siting are approved by the Committee.

3.05 Design Criteria, Structure.

(a) It is the intent of Developer that Devonshire Estates will generally present a consistent architectural environment. The following types of exterior materials, among others, are acceptable, subject to final approval of the actual appearance of such materials by the Committee and the Developer:

(i) Brick, stone, painted wood, synthetic or masonry stucco. All horizontal lapped siding shall have a maximum of 8 inches per board exposed to weather. Masonite siding will not be permitted.

(ii) Any wood siding used as a veneer other than in a gable shall not exceed 15% of total coverage of the exterior, excluding gable. Exclusive use of the siding as an exterior finish is discouraged.

(iii) All roofs shall use slate as its roofing material. The minimum pitch for the main roof shall be 8:12. Minor roof elements may have a pitch of not less than 8:12 with the approval of the Committee, and the Developer. The Committee may approve an alternative "slate-like" material for roofing, with the approval of the Developer.

(b) Exterior materials shall be generally uniform on all sides of a residence, and no artificial, simulated or imitation materials shall be permitted without the prior approval of the Committee after submission of samples. Exterior paints shall be soft tones not to include high gloss finishes or pure red.

(c) Each structure shall have a private, enclosed garage for at least two and no more than four cars unless otherwise approved by the Committee (carports shall be permitted only upon approval of the Committee). Electric automatic door closures shall be required for garages visible or partially visible from the street. No open garage is to face a neighboring yard without screening

approved by the Committee. Garage doors shall remain closed at all times except when entering or exiting the garage.

(d) No window or "through wall" air conditioning units shall be allowed. All outdoor air conditioning units shall be shielded so as not to be visible from any street or adjacent Lot.

(e) Satellite dishes may be permitted if approved by the Committee, which shall require submission of a plan including the location of the disk and a detail of how the dish will be screened from view.

(f) No plumbing or heating ventilators shall be placed on the front of the roof. All vents, fans or other items protruding from roofs shall be painted the same color as the roof covering and shall be located on the rear or side of the roof. Any material other than natural copper used for roof valleys, flashings, drips, downspouts or gutters shall be painted to blend with roof color.

(g) Swimming pools will be permitted (except for above-ground pools) within applicable setbacks.

(h) All driveways shall be finished with Antique Cobblestone Pavers from the curb for a distance of not less than fifteen (15) feet. Such pavers shall be similar to those installed at the Gated Entrance and must be approved by the Committee and the Developer.

(i) All chimneys will be required to have finished caps of the basic exterior finish material (e.g., brick, stone, stucco, etc.) or will be required to have a fabricated metal shroud painted a color the same as the roof and design acceptable to the Committee. Wood chimneys or fire covers shall not be permitted.

(j) Each Lot Owner shall build and install a Stone mailbox structure (laid with horizontal Sandstone) with a slate roof, as approved by the Developer and the Committee, similar in design to others approved and built. Stone shall be similar to stone work at the entrance walls.

(k) The required building set back lines applicable with respect to any improvements constructed on the Lots shall correspond with the setbacks reflected on the Record Map.

(l) There shall be no silver chrome/mill finish aluminum or other silver finish metal doors (including

glass sliding doors) and windows of any kind; all windows must be wood framed or encased. The color of such finish must be approved by the Committee. All screening must be of a dark colored material. Shutters shall be approved by the Committee and the Developer.

(m) Chain link, wire, or metal (other than wrought iron) fences of any type are discouraged but may be used only upon approval of the Committee. All fences, including materials and location, must be approved by the Committee prior to construction. All fences constructed in front yards or visible from the street shall not protrude beyond the front building set back line of any adjacent lot and shall not exceed six feet in height above grade. No crosstie walls shall be permitted in front of any building line.

(n) Drainage of surface water, storm water, and/or foundation drains may not be connected to sanitary sewers. Existing drainage shall not be altered in any manner, and specifically shall not be altered in such a manner as to divert the flow of water onto the adjacent Lot or Lots.

(o) No outside clothes lines shall be permitted.

(p) Accessory structures, including but not limited to gazebos, fountains, birdbaths, sculptures, detached garages or doghouses, will not be permitted absent written approval from the Committee. No trailer, tent, shack, barn, servant's house, or other out building, whether of a temporary or permanent nature, shall be erected on any Lot at any time. Notwithstanding the foregoing, construction trailers not exceeding 12 feet by 32 feet may be placed on a Lot during the construction period, but the same shall not be placed on any street or right-of-way.

(q) Front steps shall be constructed of brick, stone or architecturally treated concrete, subject to approval of the Committee.

(r) No facilities, including poles and wires, for the transmission of electricity, telephone, light and other uses, shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antennas of any kind shall be maintained. No Lot Owner shall erect or permit any third party to erect any such overhead wires, poles or facilities of any kind without prior written consent of the Committee. Each Lot Owner agrees, by

acceptance of a deed to a Lot within the Property, to connect utility service lines (including, but not limited to, natural gas, water, sewer, cable television and electricity) at points designated by the Developer.

(s) Each dwelling must install a fire-sprinkler system as approved by the Committee.

3.06 Limitation of Liabilities. Neither the Committee nor any architect, nor engineer, nor agent thereof, nor Developer, nor the Association, shall be responsible in any way for any defects in any Plans or 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. It is specifically agreed that the scope of review by the Committee shall be limited to appearance only and shall not include any responsibility or authority to review for structural soundness, compliance with building or zoning codes or standards, or any other similar or dissimilar factors. Neither the Committee, nor any member thereof, shall be liable to any Owner for any action taken, or omitted to be taken by the Committee or the individual members thereof in the performance of their respective duties hereunder.

3.07 Exclusive Residential Use and Improvements.

(a) All Lots in the Property shall be known and described as residential purposes exclusively and no Lot shall be subdivided so as to increase the number of Lots in the Property unless permitted under Section 2.04 hereof. No structure, except as otherwise provided, shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family residence dwelling with not more than two stories, excluding the basement as a story, and a private garage. This shall not prohibit the construction of one residence upon two (2) or more Lots.

(b) Every dwelling building erected on any Lot in the Property, exclusive of one-story open porches, garages, carports and other unairconditioned, unfinished spaces, shall each include a minimum of 3,000 square feet of enclosed, heated, habitable areas, ("finished space") with a minimum of 2,000 square feet on the first floor of a one and a half story home and 1,600 square feet on the first floor of a two story home.

(c) No more than a single family unit shall occupy any dwelling house. Detached auxiliary buildings are

not permitted, other than a detached garage, as approved by the Committee and the Developer. All dwellings must be built within the set back lines for the Lot as shown on the Record Map.

3.08 Subsurface Conditions.

(a) Approval of the submitted Plans by the Committee as herein provided shall not be construed in any respect as a representation or warranty of the Committee and/or the Developer to the Owner submitting such Plans, or successors or assigns of such suitable for the construction of the improvements contemplated by such Plans. It shall be the sole responsibility of the Owner to determine the suitability and adequacy of the surface and subsurface conditions of the Lot for the construction of any and all structures and other improvements thereon.

(b) Neither the Association nor the Committee (and their respective individual members), nor the Developer and its partners, agents, and employees and the officers, directors, agents, and employees of its partners, shall be liable to any Owner, or the successors, assigns, licensees, lessees, employees and agents of any Owner, for loss or damage on improvements, or structures now or hereafter located upon the Property, or on account of injuries to any Owner, occupant, or other person in or upon the Property, which are caused by known or unknown sinkholes, underground mines, limestone formations or other similar conditions under or on the Property.

3.09 Variance Requests. The Committee, in its discretion, shall have the authority to modify the requirements of this Article III upon the request for a variance from such requirements by an Owner with respect to his or her Lot. If the Committee grants a requested variance, the nonconforming improvements subject to said request shall not be deemed to be in violation of these covenants. The granting or denial of a request for variance shall not be binding on the Committee, nor shall it have any precedential value, on any further variance requests by the Owner or another Owner.

3.10 Landscaping and Irrigation. Each Owner shall submit to the Committee for approval a basic landscaping plan for his or her Lot. Such plan shall include a landscape scheme, a list of all plants included in the scheme, and the size of such plants at the time of planting. If front and side yards are to be grassed, sod

shall be required, and no seeding shall be permitted. Front and side yards may be left in a natural state only upon the express approval of the Committee. Rear yards may be sprigged or left natural, at Owner's option. No gravel, rocks, artificial turf or similar material shall be permitted unless approved by the Committee.

ARTICLE IV

EASEMENTS

4.01 Owners' Easement With Respect to Common Areas. Every Owner shall have a right and easement of enjoyment in and to all Common Areas subject to the limitations set forth in this Declaration.

4.02 Flowage Easement. Every Lot in the Property that abuts on or lies contiguous to a water way, natural or artificial, shall be subject to an inundation or a flowage easement to an elevation above mean sea level as established by the United States Coast and Geodetic Survey, as adjusted in January, 1955.

Drainage flow shall not be obstructed or diverted from drainage swales, storm sewers and/or utility easements as reflected on the Record Map, or as may hereafter appear on any plat of record in which reference is made to these Protective Covenants. Developer or the Association may cut drain ways for surface water wherever and whenever such action may appear to Developer or the Association to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the 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. Except as provided herein, existing drainage shall not be altered in such a manner as to divert the flow of water onto an adjacent Lot or Lots or Common Areas. The provisions hereof shall not be construed to impose any obligation upon Developer or the Association to cut such drain way.

No permanent structure may be constructed or placed in such flowage easement area. Each Lot owner also agrees, by acceptance of a deed to a Lot, to assume, as against Developer, all the risks and hazards of ownership or occupancy attendant to such Lots, including but not limited to its proximity to waterways.

4.03 Utility Easement. Developer reserves for itself and the Association the right to use, dedicate and/or convey to the appropriate local authority or agency, and/or to the appropriate utility company or other companies, rights-of-way or easements on, over or under the ground to erect, maintain and use utilities, electric and telephone poles, wires, cables, cable television, conduits, storm sewers, sanitary sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, cable television, or other public conveniences or utilities, on, in and over the utility easements reflected on the Record Map or as may hereafter appear on any plat of record of Property subject to these Protective Covenants.

4.04 Additional Easements and Uses. For so long as the Developer owns any Lot, the Developer, and, thereafter, the Association, on its own behalf and on behalf of all Owners, who hereby appoint the Developer and/or the Association, as the case may be, irrevocably, as their attorney-in-fact for such purposes, shall have to right to grant such additional electric, telephone, water, sanitary sewer, landscaping, irrigation, security, maintenance, drainage, gas, cable television and/or other utility, recreational or service easements or facilities (subject to applicable restrictions), in any portion of the Property, and to grant access easements or relocate any existing access easements in any portion of the Property, as the Developer or the Association shall deem necessary or desirable for the proper operation and maintenance of the Property, or any portion thereof, or for the general welfare of the Owners, or for the purpose of carrying out any provisions of this Declaration, provided (a) such easements or relocation of existing easements will not, in the opinion of the Board of Directors of the Association, unreasonably interfere with any Owner's enjoyment of the portion of the Property owned by such Owner, (b) any required work is done at the sole cost and expense of the Association, and after completing such work, the Association will restore any portion of the Property which was affected to the same or as good a condition as existed immediately before the commencement of such work, and (c) following the completion of such work, the Association shall cause a survey to be made of the easement showing its location on the Property and cause the same to be recorded in the Probate Office of Jefferson County, Alabama. Such right of the Developer and/or the Association shall also include the right to provide for such simultaneous or concurrent usage of any presently existing or additional easements for such purposes, not infringing upon their stated purposes, as it may deem

necessary or desirable, including, but not limited to, their use for the recreational purposes of the Owners, their respective tenants, employees, guests, invitees, licensees and agents.

4.05 Additional Documents. All Owners shall be required to execute such other documents as are necessary or convenient to effectuate the intent of this Declaration with respect to all easements which may be created pursuant to this Article IV.

4.06 Limitations. Any easements which may be created pursuant to this Article IV shall be appurtenant to, and the benefits and burdens thereof shall pass along with the title to, every Lot and are further subject to the following limitations:

(a) All provisions of this Declaration and the Articles and By-Laws of the Association;

(b) All the rules and regulations governing the use and enjoyment of the Common Areas which may have been or may hereafter be adopted by the Association; and

(c) All the restrictions contained on any and all plats of all or any part of the Common Areas or any other part or parts of the Property.

ARTICLE V

COVENANTS FOR MAINTENANCE ASSESSMENTS

5.01 Affirmative Covenant to Pay Assessments. Each Owner, by acceptance of a deed or other instrument of conveyance for a Lot, whether or not it shall be so expressed in any such deed or other instrument, including any purchase at a judicial sale, shall be obligated and hereby covenants and agrees to pay to the Association, in the manner set forth herein, all assessments or other charges, determined in accordance with the provisions of this Declaration (the "Assessment").

5.02 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the preservation of the appearance, value and amenities of the Property, and in particular for the improvement, preservation, maintenance and administration of the Common Areas (including, without limitation, the payment of Common Expenses under Article VI below) and of any easement in favor of the Association and/or the Owners, as well as for

such other purposes as are properly undertaken by the Association.

5.03 Assessments. The Association shall levy Assessments in such amounts as are necessary to meet the Common Expenses (as defined in Article VI below) and such other recurring or projected expenses as the Board of Directors of the Association (the "Board") may deem appropriate. The Assessments may be levied monthly, quarterly or annually, as necessary to meet the Common Expenses.

5.04 Special Assessments. In addition to the Assessments specified in Section 5.03 above, the Association may at any time levy one or more Special Assessments for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, or expected or unexpected repair to or replacement of any time of the Common Areas, including any fixtures and personal property related thereto.

5.05 Duties of the Board of Directors. The Board shall fix the amount of all Assessments, the date of commencement for each Assessment, and the due date of such Assessment, on a per Lot basis, at least thirty (30) days in advance of any such commencement date, and shall at that time, prepare a roster of the Lots and Assessments applicable thereto, which roster shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the amount of the Assessment, the commencement and due dates shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement.

5.06 Date of Commencement and Due Date for Assessments. The liability of a Lot for any Assessment shall commence on the date or dates (which shall be the first day of a month) fixed by the Board in the resolution authorizing such Assessment (but which need not be the first day of a month). Such Assessments shall be payable in advance in monthly, quarterly, semi-annual or annual installments, as so fixed in the resolution authorizing the Assessment.

5.07 Allocation of Assessment. The Board shall allocate a portion of each Assessment to each Lot in the proportion that each Lot bears to the total number of Lots within the Property (to the nearest one-thousandth).

5.08 Certificates Concerning Assessments. The Association shall, upon demand at any time, furnish to any Owner liable for any Assessment or his designee or any Institutional Mortgagee a certificate in writing signed by an Officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

5.09 Liability of Owners for Assessments.

No Owner may exempt himself from liability for any Assessment levied against his Lot by waiver of the use or enjoyment of any of the Common Areas, or by abandonment of the Lot.

5.10 Effect of Non-Payment of Assessments: The Lien, the Personal Obligation; Remedies of the Association.

(a) If any Assessment or other charge or lien provided for herein is not paid in full on the due date set by the Board, then such Assessment, charge or lien shall become delinquent on the thirtieth day thereafter, and together with interest thereon and cost of collection thereof as are hereinafter provided, thereupon become a continuing lien on the Lot encumbered thereby, and also the personal obligation of its Owner, his heirs, and his or its successors and/or assigns. Notice of such delinquency shall be forwarded to such Owner and any Institutional Mortgagee having an interest in the Lot. The personal obligation of any Owner to pay such Assessment, however, shall remain his or its personal obligation and shall not pass to any successors or assigns unless expressly assumed by them.

(b) If any Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of delinquency at the highest rate permitted under Alabama law, and the Association may bring an action against the owner personally obligated to pay the same and/or commence the foreclosure of a mortgage on real property under the laws of the State of Alabama, and there shall be added to the amount of such Assessments all attorneys' fees incurred in attempting to collect such Assessment and in prosecuting any action for the same, the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include the interest on the Assessment as above provided together with the costs of the action. The lien granted to the Association shall further secure such advances for taxes and payments on account of superior

mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien. Any person (except an Institutional Mortgagee) who shall acquire, by whatever means, any interest in the ownership of any Lot, or who may be given or acquire a mortgage, lien or other encumbrance thereon, is hereby placed on notice of the lien granted to the Association and shall acquire his interest in any Lot expressly subject to any such lien of the Association.

(c) The lien herein granted to the Association shall be perfected by recording a Claim of Lien in the Probate Office of Jefferson County, Alabama, stating the description of the Lot encumbered thereby, the name of its Owner, the amount due and the date when due. The lien shall continue in effect until all sums secured by it, as herein provided, shall have been fully paid. Such Claim of Lien shall include only Assessments which are due and payable when the Claim of Lien is recorded, plus interest, costs, attorneys' fees and advances to pay taxes, prior encumbrances and other proper charges together with interest thereon, all as provided herein. Such Claim of Lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such Claim of Lien, the same shall be satisfied or recorded. No sale or other transfer of a Lot shall relieve any Owner from liability for any Assessment due before such sale or transfer, nor from the lien of any such Assessment. The written opinion of an officer of the Association that any lien is subordinate to any given mortgage shall be deemed to be dispositive of that issue.

(d) The lien of any Assessments shall be subordinate to the lien of any Institutional Mortgagee bearing a recording date in the Probate Office of Jefferson County, Alabama prior to the date of recording the Association's Claim of Lien. Where an Institutional Mortgagee obtains title to a Lot as a result of foreclosure of its mortgage or where any Institutional Mortgagee or its designee accepts a deed to a Lot in lieu of foreclosure, such acquirer of title, its successors and assigns, shall not be liable for any Assessment pertaining to such Lot or chargeable to the former Owner which became due prior to the acquisition of title to such Lot, unless such delinquent Assessment was secured by a Claim of Lien recorded prior to the recordation of the Institutional Mortgagee's mortgage. Such unpaid Assessments shall be instead collectible from all Owners. Nothing herein contained shall be construed as releasing the party liable for such delinquent Assessments from the payment thereof or

liability for the enforcement or collection thereof by means other than foreclosure.

(e) Any person who acquires an interest in a Lot, except an Institutional Mortgagee as specifically provided above, including, but not limited to, persons acquiring title by operation of law or at a judicial sale, shall not be entitled to occupancy of the Lot or the use or enjoyment of the Common Areas until such time as all unpaid Assessments due and owing by the former Owner have been paid in full. Any party who has a contract to purchase a Lot, or who has made application for a loan secured by a mortgage on said Lot, may, by written request, inquire of the Association whether the Lot is subject to any Assessments which are due and payable and the Association shall give the requesting party a written response within ten (10) days of such inquiry providing information as to the status of Assessments on said Lot. The party making such request may rely on the information set forth in such response and the facts stated therein shall be binding upon the Association.

(f) The Association shall have the right to assign its Claim of Lien, and any other lien rights provided for in this Article V, for the recovery of any unpaid Assessments, to the Developer, to any Owner or group of Owners, or to any third party.

5.11 Exempt Property. The Board shall have the right to exempt any portion of the Property from the Assessments, charges and liens created herein provided that such part of the Property exempted is used (and as long as it is used) for any of the following purposes:

(a) As an easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;

(b) As a Common Area as defined in Section 1.02 hereof;

(c) As Property exempted from ad valorem taxation by the laws of the State of Alabama, to the extent agreed to by the Association.

ARTICLE VI

COMMON EXPENSES

The following are certain expenses with respect to the Common Areas which are hereby declared to be Common Expenses which the Association is obligated to collect by Assessment and which Owners are obligated to pay as provided in Article V hereof. The enumeration below of these expenses shall in no way limit the Association from considering other expenses shall in no way limit the Association from considering other expenses incurred in managing the Association or any part of the Common Areas and/or the Property as expenses subject to collection by Assessment. Common areas include, but are not limited to, the entrance walls, columns, gates, stonewalls, irrigation, lighting, wells and pumps, streets, curbs, gutters, storm drains, utilities, paving, cobblestone, landscaping, etc.

6.01 Maintenance and Repair of Common Areas. The cost and expense to keep and maintain the Common Areas in good and substantial repair and in a clean and attractive condition, if any, including the charges in Section 7.01 of this Declaration.

6.02 Management. The cost and expense of such (i) employees or agents, including professional management agents, accountants and attorneys, and (ii) materials, supplies and equipment as may be needed to provide for the management, supervision and maintenance of the Common Areas.

6.03 Property Taxes. All ad valorem taxes and other assessments relating and connected to the Common Areas, if any.

6.04 Reserves. The Association shall establish contingency reserves for repairs to Common Area structures such as lighting or sidewalks. The Association may establish reserves for the payment of Common Expenses in the future.

6.05 Fidelity and Directors' Insurance. Fidelity and Directors' Insurance covering all directors, officers and employees of the Association and all managing agents who handle Association funds, if any.

6.06 Interested Transaction. The Association may obtain materials and/or services from the Developer and/or any of its Affiliates in connection with the management of

the Association or any part of the Common Areas as herein contemplated; provided that the compensation for such materials and/or services is, in the opinion of the Association, comparable with the compensation of any non-affiliated third party providing similar materials and/or services which can be reasonably made available to the Association.

6.07 Enforcement of Declaration and Rules and Regulations. All fees, costs and expenses, including attorneys' fees through all appellate levels, in connection with the Association's duty to enforce all of the Protective Covenants and other terms contained in or imposed by this Declaration, and all rules and regulations adopted pursuant to the Articles, by the By-Laws or this Declaration.

ARTICLE VII

RESTRICTIONS ON USE

7.01 Maintenance.

(a) It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on such Lot which shall tend to decrease the beauty of the specific area or for the neighborhood as a whole.

(b) All Lots, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and in such manner as to prevent their becoming unsightly by reason of unattractive growth on such Lot or the accumulation of rubbish or debris thereon. In order to implement effective control of this item, Developer reserves for itself, its agents and the Association, the right, after ten (10) days' notice to any Owner of a Lot, to enter upon such Lot with such equipment and devices as may be necessary for the purpose of mowing, removing, clearing, or cutting underbrush, weeds or other unsightly growth and trash which in the opinion of the Developer or the Association detracts from the overall beauty and safety of the Property. Such entrance upon which property for such purposes shall be only between the hours of 7:00 a.m. and 6:00 p.m. on any day except Sunday and shall not be a trespass. Developer or the Association may charge the Owner a reasonable cost for such services, which charge shall constitute a lien upon such Lot enforceable in accordance with Section 5.10 of this Declaration. The provisions of this section shall not

be construed as an obligation on the part of Developer or the Association to mow, clear, cut or prunes any lot not to provide garbage or trash removal services.

(c) All maintenance for the Common Areas will be the responsibility of the Association. Maintenance to be provided by the Association includes, but is not limited to, maintenance of the entrance to the Property, maintenance of all landscaping and grassed portions of the Common Areas, including medians, if any, and general maintenance or repair of any kind whatsoever of any areas within the Property which are not the responsibility of a governmental authority or a specific Owner. Notwithstanding anything within this Declaration to the contrary, so long as Developer owns any Lots within the Property, Developer reserves the right to provide or contract to provide for all such maintenance services for the benefit of the Association and to bill the Association for the cost of such services not more frequently than quarterly.

7.02 Construction.

(a) During construction, all vehicles, including those delivering supplies, must enter a Lot's building site only on driveways constructed by the contractor, connecting the street paving to the Lot line. Such driveways shall be approved by the Committee, and such vehicles, supplies and materials must be parked or stored only on the Lot where the construction is underway so as not to damage trees, street paving and curbs unnecessarily. No vehicles, supplies or materials shall be parked or stored on streets, adjoining property or street rights-of-way. The Association shall have the right to repair any damage not repaired after ten (10) days written notice and to charge the Owner a reasonable cost for such repair, which charges shall constitute a lien upon such Lot enforceable in accordance with Section 5.10 of this Declaration.

(b) During construction, the Owner must keep homes and garages clean and yards cut. All building debris, stumps, trees, etc., must be removed from each Lot by the builder or contractor as often as necessary to keep the Lot attractive. Such debris shall not be dumped in any area of Devonshire Estates.

(c) During construction, all contractors and subcontractors shall adequately secure any stockpiled materials which could become airborne in the event of a tornado or other severe weather.

(d) Each Lot Owner shall be responsible for securing and protecting his or her Lot and the construction materials and improvements thereon from theft and vandalism during the construction period.

(e) Adequate silt fencing and gravel at the entry of each driveway must be properly installed and maintained during construction. All streets shall be kept free of mud, silt and debris from erosion and construction traffic. Each Lot Owner shall be responsible for obtaining and complying with an Alabama Department of Environmental Management Permit regarding storm water runoff from construction, excavation, land clearing and other land disturbance activities. Each Owner, by acceptance of a deed for a Lot, agrees to protect, indemnify and hold harmless Developer, the Association and their respective officers, directors, agents, employees, successors, and assigns, from and against any losses, claims, penalties, demands, decrees, actions, judgments, liabilities, costs and expenses, including attorneys' fees and court costs, incurred by Developer as a direct or indirect result of such Owner's failure to obtain such a Permit or to comply with the terms thereof.

7.03 Animals. Subject to the Association's sole discretion, no animals, livestock, birds, insects or poultry of any kind or description except the usual household pets shall be kept on any Lot; provided, however, that no household pet may be kept on any Lot for breeding or commercial purposes; provided further, that any household pets shall be confined to the Lot of the owner thereof and if outside, such pets must be kept in accordance with ordinances of the City of Homewood.

7.04 Nuisance. No noxious, offensive or illegal activities shall be carried on upon any Lot nor shall anything be done on any Lot which may be or may become an annoyance, embarrassment, nuisance or source of discomfort to the neighborhood.

7.05 Minerals. No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon any Lot and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on any Lot nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any Lot.

7.06 Garbage. No trash, garbage or other refuse shall be dumped, stored or accumulated on any Lot. Trash, garbage or other waste shall not be kept on any Lot except in sanitary containers or garbage compactor units. Garbage containers, if any, shall be kept in a clean and sanitary condition, and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee so as not to be visible from any road within sight distance of the Lot at any time. Garbage containers shall be placed on the street for pickup no earlier than twelve hours prior to the scheduled time for garbage removal. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted except during construction with approval of the local governmental authorities and the Committee. The Owner of each Lot shall contract with the authorized agent in the City of Homewood or Jefferson County for the collection of trash, refuse and garbage.

7.07 Signs. All signs, billboards or advertising structures of any kind are prohibited except that (i) builder and contractor signs will be permitted during construction periods of approved by the Committee, and (ii) one professional sign of not more than five (5) square feet will be permitted to advertise the Property for sale during sales periods. All builder or contractor signs shall be promptly removed after completion of construction, No sign shall be nailed or attached to trees. No "For Sale or Rental" sign shall be permitted on the rear of any Lot.

7.09 Damaged Structures. Any dwelling or other structure on any Lot in the Property which may be destroyed in whole or in part for any reason must be rebuilt within one (1) year. All debris must be removed and the Lot restored to a sightly condition with reasonable promptness, provided that in no event shall such debris remain on any Lot longer than sixty (60) days.

7.10 Roadway Obstruction. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above any roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. Except as herein

provided, no trees shall be permitted to remain within such distance of such intersections unless the foliage is maintained at sufficient height to prevent obstruction of such sight-lines. Any such tree or shrub of a rare or unusual species may be permitted to remain in place upon application to and written permission from the Committee.

7.11 Boats, Trailers and Campers. No boat, boat trailer, house trailer, truck, camper or similar equipment or vehicle shall be parked or stored on any road, street, driveway, Yard or Lot located in the Property or otherwise is visible from any street for any period of time in excess of twenty-four (24) hours except in garages. Also, no unkempt or otherwise unattractive vehicle or piece of equipment may be parked or stored on any road, street, driveway, Yard or Lot or otherwise be visible from any street except in garages.

7.12 Trees. NO TREE HAVING A DIAMETER OF SIX (6) INCHES OR MORE (MEASURED FROM A POINT ONE (1) FOOT ABOVE GROUND LEVEL), NOR ANY FLOWERING TREES OR SHRUBS, SHALL BE REMOVED FROM ANY LOT AFTER COMPLETION OF CONSTRUCTION WITHOUT THE EXPRESS WRITTEN AUTHORIZATION OF THE COMMITTEE. If it shall deem it appropriate, the Committee may mark certain trees, regardless of size, as not removable without written authorization. The Committee is hereby authorized to come onto any Lot during reasonable hours for the purpose of inspecting or marking trees, and any such entry by the Committee or its agent(s) shall not be deemed as trespassing or any other wrongful act. In addition, each Lot Owner shall plant Pen Oak trees having a caliber of two inches (2") or more behind the curb along the Lot line of the front Yard of such Lot. Such trees shall be planted at approximately fifty foot intervals. The exact location of such trees shall be determined and approved by the Committee so as to create a uniform appearance throughout the Property.

7.13 Firearms. There shall be no discharging of any type firearm or other weapon in the Property, and no wildlife is to be harmed.

7.14 Due Care. Each and every Owner and future Owner, in accepting a deed or contract for any Lot or Lots in the Property, whether from Developer or a subsequent Owner of such Lot, agrees, in connection with the construction of any improvements on such Lot or Lots, to exercise due care, and to assure that any builders or contractors of such Owner, or employees and subcontractors of such contractors, will exercise due care and will comply with any and all

governmental rules, regulations, codes and ordinances relating to safety, so as to protect the safety and health of the public, and the safety and health of such Owner, his or her family, and any such builder or contractor and its employees and subcontractors.

7.15 Time of Construction. Upon the commencement of construction of any building on a Lot, work thereon must be prosecuted diligently and continuously and must be completed within twelve (12) months from date of commencement of construction.

7.16 Drainage. No Owner shall restrict the planned flow of storm water along any street or road upon which the Owner's Lot fronts or adjoins. All proposed construction of driveways or other access to each Lot shall be approved by the Committee in efforts to prevent violation of such restriction.

ARTICLE VIII

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

8.01 Membership. Every Owner, including the Developer, shall, for so long as it is an Owner, at all times are a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot. Membership shall attach automatically upon the acceptance of delivery of the instrument of transfer of such ownership interest, provided that such instrument is promptly recorded in the Probate Office of Jefferson County, Alabama and a true copy of such recorded instrument is promptly delivered to the Association. Membership shall terminate automatically upon the tendering of delivery of an instrument of transfer of such ownership interest (provided such tender is accepted), or upon such ownership interest being divested in some other manner.

8.02 Voting. Subject to the restrictions hereinafter set forth, each member shall be entitled to one (1) vote for each Lot in which he holds the interest required for membership. When one or more persons hold such interest, all such persons may be members, and the vote(s) for such Property shall be exercised in the manner set forth in the By-Laws, but in no event shall more than one (1) vote be cast with respect to any one (1) Lot. There shall be no fractional voting. The votes of an Owner of more than one (1) Lot cannot be divided for any issue and must be voted as a whole. Except where otherwise required under the provisions of this Declaration, the Articles or the By-

Laws, the affirmative vote of Owners who own a majority of the Lots which are represented at any meeting of members duly called, and at which a quorum is present, shall be binding upon the members. Voting may take place by proxy executed and delivered in the manner set forth in the By-Laws.

Notwithstanding the provisions of this Section 8.02, the Developer shall have the exclusive right to (i) vote on all issues and matters of the Association, and (ii) elect the members of the Board of Directors of the Association, and in the event of vacancies, the Developer shall fill vacancies, until such time as all Lots have been sold to Owners other than Developer, or the Developer elects, at its option, to terminate its control of the Association, whichever first occurs.

ARTICLE IX

RIGHTS OF DEVELOPER

9.01 Indemnification. Each and every Owner, in accepting a deed or contract for any Lot or Lots in the Property whether from Developer or a subsequent and/or the Association, as their respective interests may appear, for any damage caused by such Owner or the builder, contractor, agent or employees of such Owner, to roads, streets, gutters, walkways, Common Areas, or other portions of the Property, including all surfacing thereon, or to water, drainage or storm sewer lines or sanitary sewer lines owned by Developer and/or the Association, or for which Developer and /or the Association has responsibility, at the time of such damage.

9.02 Limitation of Liability. Each and every Owner, in accepting a deed or contract for any Lot or Lots in the Property, whether from Developer or a subsequent owner of such Lot, agrees and covenants to release, indemnify, protect and hold harmless the Developer, and its agents, directors and employees (all of whom are included in the term "Developer" for the purposes of this Section 9.03) from and against any and all claims and demands by such Owner, any member of his or her family, their employees, agents, guests, invitees, licensees, builders, contractors, and employees or subcontractors of such contractors, or any other persons whomsoever, for damages to property and personal injury or death (including but not limited to, the Developer's contributory negligence) which may arise out of or be caused directly or indirectly by such Owner's Lot or Lots, and/or the use of or construction on said Lot or Lots

by said Owner, any member of his or her family, their guests, agents, invitees, licensees, builders, contractors, or by any other person whomsoever. The indemnification by such Owner as set forth above shall also cover any and all expenses of Developer, including attorneys' fees resulting from any claims or demands.

ARTICLE X

NATURE OF PROTECTIVE COVENANTS; DEFAULTS AND REMEDIES

10.01 Protective Covenants Running with the Land. The foregoing Protective Covenants shall constitute a servitude in and upon the Property and shall run with such Property and inure to the benefit of and be enforceable by the Developer, by the Association, or by any Owner for a term of fifty (50) years from the date this Declaration is recorded, after which time the said Protective Covenants shall automatically be extended for successive periods of ten (10) years, unless an agreement, which has been signed by Owners who own two-thirds (2/3) or more of the then existing Lots in the Property, agreeing to terminate or modify this Declaration has been recorded in the Probate Office of Jefferson County, Alabama.

10.02 Default. Violation or breach of any of the Protective Covenants shall constitute a default hereunder. Any person given the right to enforce the Protective Covenants herein set forth may provide written notice thereof to any Owner (and any Institutional Mortgagee who or which has requested the same and provided to the Association an address for such notices).

10.03 Remedies for Default. The existence of any default which has not been cured within thirty (30) days of the notice specified above shall give the Developer, the Association, and any Owner, in addition to all other remedies specified herein, the right to proceed at law or in equity to compel compliance with the terms of these Protective Covenants and to prevent the violation or breach of any of them. All costs, fees and expenses, including attorneys' fees, incurred by any party enforcing or attempting to enforce these Protective Covenants shall be borne by the defaulting party.

10.04 Nature of Remedies; Waiver. All rights, remedies and privileges granted to the Developer, Association and the Owners, pursuant to the provisions of this Declaration shall be deemed to be cumulative, and the exercise of any one or more of them shall not be deemed to constitute an

election of remedies, nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies, or privileges as may be available to such party at law or in equity. The failure at any point in time to enforce any covenants or restriction shall in no event be deemed a waiver of the right thereafter to enforce any such covenant or restriction.

10.05 Assignment. The Developer and/or the Association shall have the right to assign their respective rights to enforce these Protective Covenants. In the event of such assignment, the assignee shall have all the rights, remedies and privileges granted to its assignor under the provisions of this Article X.

10.06 No Rights of Reverter. No covenant, condition or restriction set forth in this Declaration is intended to be, or shall be construed as, a condition subsequent or as creating the possibility of reverter.

ARTICLE XI

AMENDMENT OF DECLARATION

11.01 Amendment by Developer. The Developer reserves the right unilaterally to amend this Declaration, and to do so at such time, and upon such conditions, in such form and for such purposes as it, in its sole discretion, shall deem appropriate by preparing and recording an amendment hereto, provided, however, that this right of unilateral amendment is subject to the limitations set forth in Section 11.03 hereof and provided, further, that this right of unilateral amendment shall expire after all Lots have been sold to Owners other than the Developer, after which time this Declaration may be amended only in the manner set forth in Section 11.02 below.

11.02 Amendment by Association.

(a) Amendments to this Declaration may be proposed by either the Board of Directors of the Association (the "Board") acting upon a vote of the majority of the Board or by the affirmative vote of members of the Association who own not less than a majority of the Lots, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to the Declaration being proposed by the said Board or members, such proposed amendment or amendments shall be transmitted to the president of the Association or, in the

absence of the president, such other officer of the Association, who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days, nor later than sixty (60) days, from receipt by him of the proposed amendment or amendments, and it shall be the duty of the secretary of the Association to give each member written or printed notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than twenty (20) days nor more than fifty (50) days, before the date set for such special meeting. Such notice shall be given to any Institutional Mortgagee of record who requests such notices and provides an address therefore to the Association. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to the member at this post office address as it appears on the records of the Association, the postage therein being prepaid. Any member may, by written waiver of notice signed by such members, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such special meeting, the amendment or amendments proposed must be approved by the affirmative vote of members who own not less than two-thirds (2/3) of the total Lots in the Property in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments to the Declaration shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted and the original or executed copy of such amendment or amendments so certified and executed with the same formalities as a deed shall be recorded in the Probate Office of Jefferson County, Alabama within twenty (20) days from the date on which the same became effective, such amendment or amendments to specifically refer to the recording identifying the declaration. Thereafter, a copy of said amendment or amendments, in the form in which the same were placed of record, shall be delivered to all of the Owners, but mailing or delivering a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting.

11.03 Restrictions on Amendment. Notwithstanding the foregoing provisions of this Article XII:

(a) No amendment shall materially adversely affect the rights of any Owner or group of Owners, unless such Owner or all Owners so adversely affected shall consent thereto. For example, no amendment shall alter the basis for apportionment of Assessments in a manner which would materially adversely affect any Owner or Owners, as opposed to other Owners, unless the Owner or Owners so adversely affected shall consent thereto.

(b) No amendment shall materially adversely affect the rights and priorities of any Institutional Mortgagees of record or change the provisions of this Agreement with respect to Institutional Mortgages, unless all Institutional Mortgagees of record so adversely affected shall consent thereto.

(c) No amendment to this Declaration shall make any change in the qualifications of the membership nor in the voting or property rights of members, without approval in writing by all Owners and the joinder of all Institutional Mortgagees.

(d) No amendment to this Declaration shall abridge, limit, amend, or alter the rights, privileges, powers or options of the Developer or any Institutional Mortgagee, as the same are set forth in the Declaration, without the prior written consent of the Developer if it is so affected and/or any Institutional Mortgagee which is so affected.

(e) No amendment shall be made to this Declaration so long as the Developer owns any Lot, unless the Developer shall consent thereto. Such consent may be withheld by the Developer for any reason or no reason at all.

11.04 Scrivener's Error. Notwithstanding the foregoing amendment provisions, any scrivener's error or omission may be corrected by the filing of an amendment to this Declaration consented to by the Board of Directors of the Association and any Owners or Institutional Mortgagees of record directly affected by the amendment. No other Owner is required to consent to any such amendment. If there appears to be any other omissions or errors in this Declaration, scrivener's or otherwise, and such error or omission does not materially adversely affect the rights and interests of any other party, then such error or

omission may be corrected by the filing of an amendment to this Declaration executed by the Board without the consent of any other party.

ARTICLE XII

GENERAL PROVISIONS

12.01 Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed by the United States mail, postage prepaid, to the address of such Owner as it appears on the records of the Association at the time of such mailing. Any notice required to be sent to the Developer or the Association, as the case may be, shall be deemed to be sent when mailed by the United States mail, postage prepaid, to their respective registered office in the State of Alabama.

12.02 Severability. Invalidation of any provision or provisions hereof by judgment or court order shall in no way affect any previous other provision, all of which shall remain in full force and effect.

12.03 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration as the same may be amended from time to time, said dispute or litigation shall be governed by the laws of the State of Alabama.

12.04 Captions. The captions and titles of the various Articles and Sections in this Declaration are for convenience of reference only, and in no way define, limit or describe the scope or intent of this Declaration.

12.05 Usage. Whenever used herein the singular shall include the plural and the singular, and the use of any gender shall include all genders.

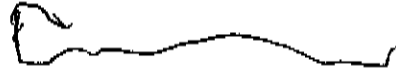
12.06 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of any provisions of this Declaration, the Articles, the By-Laws or the Rules and Regulations, then the provisions of this Declaration shall prevail.

12.07 Effective Date. This Declaration shall become effective when it has been recorded in the Probate Office of Jefferson County, Alabama.

12.08 Owner's Acceptance. EACH OWNER, BY ACCEPTANCE OF A DEED OR OTHER INSTRUMENT OF CONVEYANCE FOR ANY LOT OR ANY INTEREST THEREIN, OR BY EXECUTION OF A CONTRACT FOR THE PURCHASE THEREFOR, UNCONDITIONALLY AGREES TO BE BOUND BY, AND TO COMPLY WITH, EACH AND EVERY TERM, PROVISION, COVENANT AND RESTRICTION CONTAINED HEREIN.

IN WITNESS WHEREOF, the undersigned has duly executed this declaration as of the date first above written.

DEVELOPER:
CAC, LLC



By: _____
Caryn A. Chambers
Managing Member

20100902000972890 36/36
Bk: LR201007 Pg:13796
Jefferson County, Alabama
09/02/2010 09:15:05 AM REST
Fee - \$110.00

Total of Fees and Taxes-\$110.00
HATCHERK