

**This instrument was prepared by:**

Gail Livingston Mills, Esq.  
Burr & Forman LLP  
420 North 20th Street  
Suite 3100 Wachovia Tower  
Birmingham, Alabama 35203

**ARTICLES OF INCORPORATION**  
**OF**  
**SOUTHERN TRACE HOMEOWNERS' ASSOCIATION, INC.**

The undersigned, acting as the incorporator of a nonprofit corporation under the Alabama Nonprofit Corporation Act, Code of Alabama 1975 § § 10-3A-1 et seq., (the "Act"), adopt the following Articles of Incorporation for such corporation:

**FIRST**: The name of the corporation shall be Southern Trace Homeowners' Association, Inc. (hereinafter referred to as "Association").

**SECOND**: The period of duration of the Association is perpetual.

**THIRD**: The specific and primary purpose for which the Association is formed is to enforce the provisions of and exercise the rights under that certain Declaration of Covenants, Conditions and Restrictions for Southern Trace, a Residential Subdivision (the "Declaration") to be executed by Wellington Development Corporation, an Alabama corporation, as the "Developer" thereunder and to be recorded to in the Office of the Judge of Probate of Jefferson County, Alabama, burdening certain real property located in Jefferson County, Alabama more particularly described therein as the "Property," together with any "Additional Property" which is hereafter subjected to the Declaration as provided in the Declaration (such Property and Additional Property being collectively referred to herein as the "Property" and being more particularly described on Exhibit A attached hereto). Within the scope of the foregoing purposes, and not by way of limitation thereof, the general purposes and powers for which the Association is organized are:

1. To promote the common good, health, safety, and general welfare of the residents within the property covered by the Declaration;
2. To provide for the efficient preservation of the appearance, value and amenities of the Property;
3. To own and maintain, repair and replace the general and/or Common Areas (as such term is defined in the Declaration) of the Property including structures, landscaping and other improvements in and benefiting the Property for which the obligation to maintain has been delegated and accepted;
4. To control the specifications, architecture, design, appearance, elevation and landscaping of all improvements and structures of any kind, including, without limitation, buildings, fences, walls, signs, lighting systems, site paving, grading,

screen enclosures, sewers, drains, landscaping, landscape devices or objects and/or other structures constructed, placed or permitted to remain on the Property, as well as any alteration, improvement, addition and/or change therein, thereof or thereto, all in accordance with the Declaration;

5. To provide, purchase, acquire, own, replace, improve, maintain and/or repair such real property, buildings, structures, street lights, landscaping, paving or other improvements in and/or benefiting the Property for which the obligation to so maintain and repair has been, or may be, delegated to, and accepted by, the Association;
6. To provide services, the responsibility for which has been, or may be, delegated to, and accepted by, the Association;
7. To operate without profit for the sole and exclusive benefit of its members; and
8. To perform any and all other functions contemplated of the Association or otherwise undertaken by its Board of Directors in accordance with the Declaration.

FOURTH: The powers of the Association shall include and be governed by the following provisions:

A. The Association shall have all of the common law and statutory powers, authority and privileges generally granted to nonprofit corporations under the laws of the State of Alabama. The Association shall have such additional powers as are reasonably necessary or appropriate to implement and effectuate the purposes of the Association and as are not inconsistent with these Articles, the Bylaws of the Association ("Bylaws"), and the Declaration, as each of them may from time-to-time be amended, including, without limitation:

1. To exercise, undertake and accomplish all of the rights, duties and obligations which may be granted to or imposed upon the Association pursuant to the Declaration, these Articles, the Bylaws, or any rules and regulations adopted pursuant thereto, and to enforce the provisions thereof;
2. To maintain, repair, replace, operate and manage the Common Areas, and such other parts or parcels of the Property or other property adjacent thereto as may be delegated to, and accepted by, the Association, including the right to make further improvements to the Common Areas or such other property;
3. To acquire (by purchase, grant or otherwise), annex and merge, own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
4. To promulgate, amend and enforce rules, regulations, the Bylaws, covenants, restrictions and agreements in connection with and to effectuate the affairs and

purposes of the Association and to enforce by legal means the provisions of these Articles or the Declaration;

5. To fix, levy, collect and enforce payment of all Assessments or charges to be levied against Lots (as defined in the Declaration) within the Property pursuant to the terms of the Declaration and Bylaws, and to defray all costs and expenses in connection therewith, as well as the costs and expenses of effectuating the objects and purposes of the Association, and to create reasonable reserves for such costs and expenses;
6. Subject to the provisions of these Articles and the Bylaws, to borrow money, and, from time to time, to make, accept, endorse, execute and issue debentures, promissory notes or other obligations of the Association for monies borrowed, in payment of property acquired, or for any of the other purposes of the Association, and to secure the repayment of any such obligation by mortgage, pledge or other instrument of trust, or by lien upon, assignment of, or agreement in regard to, all or any part of the property, rights or privileges of the Association, wherever situated;
7. To pay taxes and other charges, if any, on or against any property, if any, owned by the Association;
8. To employ such personnel or to enter into, make, perform or carry out contracts with others to effectuate the aforesaid purposes with any person, firm, corporation, association or other entity and so contract for the management of the Association and to delegate to such contractors all powers and duties of the Association;
9. To delegate power or powers where such is deemed to be in the interest of the Association; and
10. To purchase insurance for the protection of the Association, its officers, directors or members.

B. The objects and purposes set forth in Article Fourth of these Articles shall be construed as powers as well as objects and purposes, and the Association shall have and may exercise such powers as if such powers were set forth in full herein. The Association shall have and may exercise all powers set forth in any other Article of these Articles of Incorporation.

C. The foregoing statement of purposes shall be construed as a statement both of purposes and of powers, and the purposes and powers in each clause shall not be limited or restricted by reference to or inference from the terms or provisions of any other clause, but shall be broadly construed as independent purposes and powers.

D. Notwithstanding any of the above statements of purposes and powers, neither the Board of Directions nor any officer of the Association shall have the authority to borrow funds in order to pay for any required expenditure or outlay or to mortgage, pledge, or hypothecate any or

all of the real or personal property of the Association without the approval of the members of the Association in the manner provided under the Bylaws and the Declaration.

E. All funds and title of properties acquired by the Association and the proceeds therefrom shall be held in trust for the members in accordance with the provisions of the Declaration and the Articles and Bylaws of the Association.

FIFTH: The Members of the Association shall consist of all Owners (as defined in the Declaration), and the membership shall be appurtenant to, and may not be separated from, ownership of any Lot (as defined in the Declaration). 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 Office of the Judge of Probate of Jefferson County, Alabama. 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.

SIXTH: The affairs of the Association shall be managed by a Board of Directors consisting of the number of directors as shall be determined by the Bylaws; provided, however, that the Board of Directors shall consist of not less than four directors, and in the absence of a provision in the Bylaws shall consist of three Directors. Directors of the Association shall be elected at the annual meeting of the members in the manner determined by the Bylaws. Vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws.

Notwithstanding the provisions set forth in this Article Sixth, United States Steel Corporation, its successors and assigns, (the "Developer") shall 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 Control Period (as defined in the Declaration) has expired. Within sixty (60) days after the date of termination of the Control Period, the Board of Directors shall call and give not less than ten (10) nor more than thirty (30) days notice of a special meeting of the membership for the purpose of electing the members of the Board of Directors.

The initial Board of Directors shall have three (3) directors. The names and addresses of the members of the Board of Directors who shall hold office until their successors are elected and have qualified, or until such Directors are removed, are as follows:

NAME

Andrew J. Hancock

Erin A. Dunavant

ADDRESS

c/o D.R. Horton, Inc.-Birmingham  
2090 Columbiana Road  
Suite 4000  
Birmingham, Alabama 35216

c/o D.R. Horton, Inc.-Birmingham  
2090 Columbiana Road  
Suite 4000  
Birmingham, Alabama 35216

Charles G. Arcara

c/o D.R. Horton, Inc.-Birmingham  
2090 Columbiana Road  
Suite 4000  
Birmingham, Alabama 35216

Any director may be removed, either with or without cause, at any time, by the affirmative vote of a majority of the members at a meeting called for that purpose, and the vacancy in the Board caused by any such removal may be filled by the Developer until such time as all Lots have been sold to Owners other than Developer and in that event by the members at such meeting or at any subsequent meeting in the manner prescribed in the Bylaws for the filling of vacancies on the Board.

SEVENTH: The address of the Association's initial registered office is 2090 Columbiana Road, Suite 4000, Birmingham, Alabama 35216, and the name of its initial registered agent is Andrew J. Hancock, with the same address.

EIGHTH: The Association shall have the right to indemnify each person who shall serve as a director, officer, employee, or agent of the Association, or shall serve at the request of the Association in a similar capacity with another corporation, joint venture, trust, or other enterprise, to the extent to which this Association is granted the power to so indemnify such persons by any and every statute of the State of Alabama or act of the Legislature of the State of Alabama.

NINTH:

A. The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3rd) of the entire Membership. Upon dissolution of the Association, all of its assets remaining after provision for creditors and payment of all costs and expenses of such dissolution shall be distributed in the following manner:

1. Real property contributed to the Association without the receipt of other than nominal consideration by Developer (or its predecessor in interest) shall be returned to Developer, unless it refuses to accept the conveyance (in whole or in part).
2. Remaining assets shall be distributed among the members, subject to the limitations set forth below, as tenants in common, each members' share of the assets to be determined in accordance with its voting rights.

TENTH: The Association reserves the right to amend, alter, change or repeal any provision contained in these Articles in the manner now or hereafter provided by law, and all rights conferred upon officers and directors herein are granted subject to this reservation, provided, however that such amendment, alteration, change, or repeal shall have received the assent of not less than two-thirds (2/3rd) of the entire Membership.

ELEVENTH: The name and address of the incorporator is:

NAME

ADDRESS

Gail Livingston Mills, Esq. Burr & Forman LLP  
420 North 20th Street  
Suite 3100  
Birmingham, Alabama 35203

**WHEREFORE**, the incorporator files this, its Articles of Incorporation, and tenders to the Probate Judge of Jefferson County, Alabama, the lawful fees and charges, and prays that these Articles may be examined and approved, and that the Association may be deemed to be incorporated for the purposes herein set out.

**IN WITNESS WHEREOF**, the undersigned incorporator has hereunto subscribed his signature to these Articles of Incorporation this 16<sup>th</sup> day of June, 2006.

Gail Livingston Mills  
Incorporator

Sworn to and Subscribed before

me this 16<sup>th</sup> day of June, 2006.

Erica Shauling  
Notary Public

My Commission expires:

2-20-08

## EXHIBIT A

### Legal Description

#### Southern Trace Cottages (Phase VI):

Lots 601-678, according to the Map of Southern Trace Cottages, recorded in Map Book 219, Page 85, in the Office of the Judge of Probate of Jefferson County, Alabama.

#### Southern Trace Cottages (Phase VII):

A part of the Southwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Northwest corner of the Southwest quarter of the Northwest quarter of said Section 30; thence S 88 degrees 09 minutes 27 seconds W along the North line of said quarter-quarter section a distance of 517.79'; thence S 01 degrees 50 minutes 33 seconds W a distance of 6.78' to the Point of Beginning; thence S 39 degrees 30 minutes 17 seconds E a distance of 1180.99'; around a curve to the right through a central angle of 06 degrees 32 minutes 45 seconds an arc distance of 28.56' a chord bearing of S 48 degrees 56 minutes 33 seconds W a distance of 28.55'; thence S 52 degrees 12 minutes 56 seconds W a distance of 251.58'; thence N 39 degrees 30 minutes 17 seconds W a distance of 1065.49'; thence N 00 degrees 17 minutes 54 seconds E a distance of 141.52'; thence N 50 degrees 29 minutes 43 seconds E a distance of 189.41'; to the Point of Beginning containing 325017.61 square feet or 7.46 acres more or less.

#### Southern Trace Cottages (Phase VIII):

A part of the Southeast quarter of the Northeast quarter of Section 25, Township 17 South, Range 1 West and a part of the Southwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Southeast corner of the Southeast quarter of the Northeast quarter of said Section 25; thence N 01 degrees 49 minutes 25 seconds E along the West line of said quarter-quarter section a distance of 297.41' to the Point of Beginning; thence N 88 degrees 34 minutes 57 seconds W a distance of 604.61'; thence N 69 degrees 01 minutes 48 seconds W a distance of 107.95'; thence S 52 degrees 18 minutes 59 seconds W a distance of 107.87'; around a curve to the right through a central angle of 28 degrees 23 minutes 34 seconds an arc distance of 111.50' a chord bearing of N 23 degrees 29 minutes 14 seconds W a distance of 110.36'; thence S 80 degrees 42 minutes 33 seconds W a distance of 50.00'; around a curve to the right through a central angle of 19 degrees 36 minutes 14 seconds an arc distance of 94.09' a chord bearing of N 00 degrees 30 minutes 40 seconds E a distance of 93.63'; thence N 10 degrees 18 minutes 48 seconds E a distance of 127.30'; thence N 89 degrees 29 minutes 43 seconds E a distance of 50.91'; thence S 88 degrees 34 minutes 57 seconds E a distance of 1224.03'; thence N 45 degrees 24 minutes 01 seconds E a distance of 199.13'; thence S 44 degrees 35 minutes 59 seconds E a distance of 381.42'; thence S 41 degrees 17 minutes 19 seconds E a distance of 149.44'; thence S 65 degrees 04 minutes 57 seconds E a distance of 65.01'; thence S 87 degrees 01 minutes 42 seconds W a distance of 296.20'; thence N 88 degrees 34 minutes 57 seconds W a distance of 685.85' to the Point of Beginning; containing 493509.61 square feet or 11.33 acres more or less.

Southern Trace Cottages (Phase IX):

A part of the Southeast quarter of the Northeast quarter of Section 25, Township 17 South, Range 1 West and a part of the Southwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Northeast corner of the Southeast quarter of the Northeast quarter of said Section 25; thence S 01 degrees 49 minutes 25 seconds W along the West line of said quarter-quarter section a distance of 182.89' to the Point of Beginning; thence S 53 degrees 02 minutes 48 seconds W a distance of 55.43'; thence S 49 degrees 14 minutes 22 seconds W a distance of 50.12'; thence S 53 degrees 29 minutes 43 seconds W a distance of 119.24'; thence N 32 degrees 48 minutes 07 seconds W a distance of 101.09'; thence S 48 degrees 13 minutes 47 seconds W a distance of 133.44'; thence S 07 degrees 55 minutes 23 seconds W a distance of 65.57'; thence S 48 degrees 13 minutes 47 seconds W a distance of 309.18'; thence S 01 degrees 25 minutes 03 seconds W a distance of 152.14'; thence S 88 degrees 34 minutes 57 seconds E a distance of 962.86'; thence N 45 degrees 24 minutes 01 seconds E a distance of 199.13' to the Westerly most right of way of Alabama Power Company; thence N 44 degrees 36 minutes 00 seconds W a distance of 681.75'; thence S 53 degrees 02 minutes 48 seconds W a distance of 62.42' to the Point of Beginning; containing 428645.49 square feet or 9.84 acres more or less.

Southern Trace Cottages (Phase X):

A part of the Northeast quarter of Section 25, Township 17 South, Range 1 West and a part of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Northeast corner of the Southeast quarter of the Northeast quarter of said Section 25; thence S 01 degrees 49 minutes 25 seconds W along the West line of said quarter-quarter section a distance of 182.89' to the Point of Beginning; thence S 53 degrees 02 minutes 48 seconds W a distance of 55.43'; thence S 49 degrees 14 minutes 22 seconds W a distance of 50.12'; thence S 53 degrees 29 minutes 43 seconds W a distance of 119.24'; thence N 32 degrees 48 minutes 07 seconds W a distance of 101.09'; thence S 48 degrees 13 minutes 47 seconds W a distance of 133.44'; thence S 07 degrees 55 minutes 23 seconds W a distance of 65.57'; thence S 48 degrees 13 minutes 47 seconds W a distance of 309.18'; thence S 01 degrees 25 minutes 03 seconds W a distance of 152.14'; thence N 88 degrees 34 minutes 57 seconds W a distance of 261.16'; thence S 89 degrees 29 minutes 43 seconds W a distance of 50.91'; thence S 10 degrees 18 minutes 48 seconds W a distance of 127.30'; around a curve to the left through a central angle of 19 degrees 36 minutes 14 seconds an arc distance of 94.09' a chord bearing of S 00 degrees 30 minutes 40 seconds W a distance of 93.63'; around a curve to the right through a central angle of 75 degrees 31 minutes 21 seconds an arc distance of 32.95' a chord bearing of S 28 degrees 28 minutes 14 seconds W a distance of 30.62'; thence S 66 degrees 13 minutes 54 seconds W a distance of 27.82'; around a curve to the left through a central angle of 27 degrees 21 minutes 47 seconds an arc distance of 95.52' a chord bearing of S 52 degrees 33 minutes 01 seconds W a distance of 94.61'; thence N 26 degrees 19 minutes 43 seconds W a distance of 22.40'; thence N 00 degrees 23 minutes 14 seconds W a distance of 115.20'; thence N 10 degrees 18 minutes 48 seconds E a distance of 346.16'; thence N 48 degrees 13 minutes 47 seconds E a distance of 761.46'; thence N 65 degrees 17 minutes 13 seconds E a distance of 94.49'; thence N 04 degrees 14 minutes 47 seconds W a distance of 6.44'; thence N 79 degrees 31 minutes 57 seconds E a distance of 118.43'; around a curve to the right through a central angle of 07 degrees 14 minutes 32 seconds an arc distance of 60.04' a chord



bearing of N 06 degrees 50 minutes 47 seconds W a distance of 60.00'; thence N 77 degrees 39 minutes 10 seconds E a distance of 50.72'; thence N 29 degrees 56 minutes 40 seconds E a distance of 321.92'; thence N 45 degrees 10 minutes 31 seconds E a distance of 98.20'; thence N 44 degrees 49 minutes 29 seconds W a distance of 65.34'; thence N 79 degrees 05 minutes 09 seconds E a distance of 90.73' to the Westerly most right of way of Alabama Power Company; thence S 39 degrees 30 minutes 08 seconds E along said right of way a distance of 306.05'; thence S 45 degrees 10 minutes 31 seconds W a distance of 144.40'; thence S 29 degrees 56 minutes 40 seconds W a distance of 320.15'; thence S 44 degrees 36 minutes 03 seconds E a distance of 10.31'; thence S 53 degrees 02 minutes 48 seconds W a distance of 62.42' to the Point of Beginning; containing 488691.59 square feet or 11.22 acres more or less.

**Southern Trace Cottages (Phase XI):**

Being a part of the Northeast quarter and the Southeast quarter of the Northeast quarter of Section 25, Township 17 South, Range 1 West, and also a part of the Northwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East; Being more particularly described as follows: Beginning at the Southwest corner of the Northeast quarter of the Northeast quarter of said Section 25; thence S 87 degrees 25 minutes 13 seconds E along the South line of said quarter-quarter section a distance of 282.13'; thence N 45 degrees 53 minutes 25 seconds E a distance of 809.19'; thence S 40 degrees 24 minutes 60 seconds E a distance of 187.42'; thence S 18 degrees 11 minutes 60 seconds E a distance of 121.00'; thence S 04 degrees 00 minutes 60 seconds W a distance of 274.06'; thence S 04 degrees 14 minutes 47 seconds E a distance of 51.95'; thence S 04 degrees 14 minutes 47 seconds E a distance of 55.43'; thence N 79 degrees 31 minutes 57 seconds E a distance of 118.43'; around a curve to the right through a central angle of 07 degrees 14 minutes 32 seconds an arc distance of 60.04' a chord bearing of N 06 degrees 50 minutes 47 seconds W a distance of 60.00'; thence N 77 degrees 39 minutes 10 seconds E a distance of 50.72'; thence N 29 degrees 56 minutes 40 seconds E a distance of 321.92'; thence N 45 degrees 10 minutes 31 seconds E a distance of 98.20'; thence N 44 degrees 49 minutes 29 seconds W a distance of 65.34'; thence N 79 degrees 05 minutes 09 seconds E a distance of 90.73' to the Westerly most right of way of Alabama Power Company; thence N 39 degrees 30 minutes 17 seconds W along said right of way a distance of 1163.45' to a point on the North line of said Section 25; thence N 87 degrees 00 minutes 53 seconds W along said North line a distance of 670.78' to the Northwest corner of said Northeast quarter; thence S 01 degrees 24 minutes 27 seconds W along the Westerly line of said Northeast quarter a distance of 1349.08' to the Point of Beginning; containing 1276009.05 square feet or 29.29 acres more or less.

20060620000689170 9/9  
Bk: LR200610 Pg:14303  
Jefferson County, Alabama  
06/20/2006 02:58:27 PM INC  
Fee - \$36.00

Total of Fees and Taxes-\$36.00  
ROBERSON

CERTIFICATE OF INCORPORATION

SOUTHERN TRACE HOMEOWNERS' ASSOCIATION, INC.

duly signed and verified pursuant to the provisions of Alabama  
NONPROFIT Corporation Act, have been received in this office  
 and are found to conform to law.

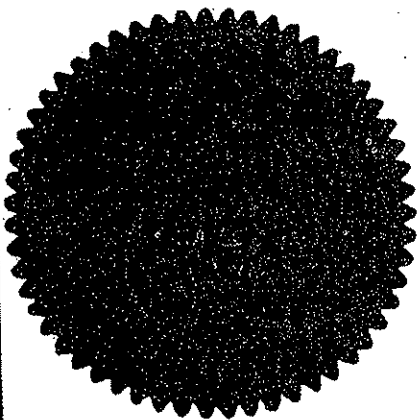
Accordingly the undersigned, as such Judge of Probate, and by virtue of the authority vested in him by law, hereby, issues this Certificate of INCORPORATION of SOUTHERN TRACE HOMEOWNERS' ASSOCIATION, INC.

and attaches hereto a copy of the \_\_\_\_\_ Articles of  
INCORPORATION \_\_\_\_\_

Given Under My Hand and Official Seal on this the 20TH  
day of JUNE, 2006.

Mark Givens

## Judge of Probate



**BYLAWS  
OF  
SOUTHERN TRACE HOMEOWNERS' ASSOCIATION, INC.**

**ARTICLE I. THE ASSOCIATION**

Section 1. Identity. These are the Bylaws of Southern Trace Homeowners' Association, Inc., a nonprofit corporation (the "Association"), which was formed under the Alabama Nonprofit Corporation Act [Code of Alabama 1975 §§ 10-3A-1 et seq.] by filing the Articles of Incorporation of the Association (the "Articles") with the Office of the Judge of Probate of Jefferson County, Alabama, on June 20, 2006. The purposes for which the Association has been organized are set forth in the Articles. The provisions of these Bylaws are expressly subject to the terms, provisions, covenants and conditions contained in the Articles and the Declaration of Covenants, Conditions and Restrictions for Southern Trace, a Residential Subdivision (hereinafter referred to as the "Declaration") as filed, or to be filed, with the Office of the Judge of Probate of Jefferson County, Alabama. The terms "Common Area," "Developer," "Mortgagee," "Lot," "Owner," "Property" and any other capitalized term used in these Bylaws are used with the definitions given those terms in the Declaration.

Section 2. Principal Office. The principal office of the Association in the State of Alabama shall be located in the County of Jefferson, State of Alabama. The Association may have such other offices, either within or without the State of Alabama, as the Board of Directors may designate or as the business of the Association may require from time to time.

Section 3. Registered Office. The registered office of the Association, required by the Alabama Nonprofit Corporation Act to be maintained in the State of Alabama, may be, but need not be, identical with the principal office in the State of Alabama, and the address of the registered office may be changed from time to time by the Board of Directors.

**ARTICLE II. MEMBERSHIP**

Section 1. Membership. The Members of the Association shall consist of all Owners (as defined in the Declaration), and the Membership shall be appurtenant to, and may not be separated from, ownership of any Lot (as defined in the Declaration). 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 Office of the Judge of Probate of Jefferson County, Alabama. 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.

Section 2. Members in Good Standing. A Member shall be a "Member in Good Standing" ONLY if such Member:

(a) has, at least ten (10) days prior to the taking of any vote by the Association, fully paid all Assessments and other charges levied by the Association as provided herein;

(b) has not received a notice of default for unpaid Assessments or has pending against such Owner any enforcement proceeding as described in Article VI of the Declaration; and

(c) has discharged all other obligations to the Association as provided herein or in the Articles and By-Laws.

The Board shall have the sole authority for determining the good standing status of any Member at any time and shall make such determination with respect to all Members prior to any vote being taken by the Association on any matter. The Board shall have the authority and right, in its sole discretion, to waive the 10-day prior payment requirement and require only that such payment be made before such vote is taken. Any Member not conforming with the provisions of this Section 2 shall be declared by the Board not to be a Member in Good Standing and shall be disqualified from voting on matters before the Association until Member in Good Standing status is attained and so declared by the Board.

Section 3. Annual Meeting. The annual meeting of the Membership shall be held in the month of April in each year, beginning with the year 2007 at the hour of 7:00 p.m., or at such other time on such other day and time within such month as shall be fixed by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday in the State of Alabama, such meeting shall be held on the next succeeding business day. If the election of directors shall not be held on the day designated herein for any annual meeting of the Membership, or at any adjournment thereof, the Board of Directors shall cause the election to be held at a special meeting of the Membership as soon thereafter as conveniently may be. Notwithstanding the foregoing, the Developer may, at its option, waive any meetings of the Membership during the Control Period specified in the Declaration.

Section 4. Special Meetings. Special meetings of the Membership, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President or by the Board of Directors and shall be called by the President or the Secretary at the request of Owners of one half (½) or more of the total Lots of the Property.

Section 5. Place of Meeting. The Board of Directors may designate any place, within or without the State of Alabama, as the place of meeting for any annual meeting or from any special meeting of the Membership. If no designation is made, or if a special meeting is otherwise called, the place of the meeting shall be the principal office of the Association in the State of Alabama.

Section 6. Notice of Meeting. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, or of a meeting which is required by statute to be held for any special purpose, or of any annual meeting at which special action is to be taken, the purpose or purposes for which the meeting is called, or the special action which is proposed to be taken, shall, unless otherwise prescribed by statute, be delivered not less than ten (10) nor more than fifty (50) days before the date of the meeting, either personally or by mail, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each Member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 7. Fixing of Record Date. The Board of Directors may fix in advance a date as the record date for the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or for any other proper purpose, such date in any case to be no more than fifty (50) days and, in case of a meeting of the Membership, not less than ten (10) days prior to the date on which the particular action, requiring such determination of Members, is to be taken. If no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of the Membership, the date on which notice of the meeting is mailed shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of the Membership has been made as provided in this section, such determination shall apply to any adjournment thereof.

Section 8. Voting Lists. The officer or agent having charge of the records of Members of the Association shall make, at least ten (10) days before each meeting of the Membership, a complete list of the Members in Good Standing and entitled to vote at such meeting, or any adjournment thereof, arranged in alphabetical order, with the address of each Member, which list, for a period of ten (10) days prior to such meeting, shall be kept on file at the principal office of the Association and shall be subject to inspection by any Member making written request therefor at any time during usual business hours. Such list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of any Member during the whole time of the meeting.

Section 9. Quorum. The presence at any meeting of the Membership of the Members entitled to cast at least 10% of the votes in the Association, represented in person or by proxy, shall constitute a quorum. If a quorum is not present at any meeting, a majority of the Members so represented may adjourn the meeting from time to time without further notice. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified. The Members present or represented at a meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 10. Majority Vote. The vote of Members entitled to cast a majority of the votes represented at a meeting of the Membership at which a quorum is present shall be the act of the Members of the Association, unless the vote of a greater number is required by law, the Declaration, the Articles, or these Bylaws.

Section 11. Proxies. At all meetings of the Membership, a Member may vote in person or by proxy executed in writing by the Member or by his duly authorized attorney in fact. Such proxy shall be filed with the Secretary of the Association before or at the time of the meeting. No proxy shall be valid after ninety days from the date of its execution, unless otherwise provided in the proxy.

Section 12. Voting Rights. Each Member shall be entitled to one (1) vote for each Lot in which he holds the interest required for Membership. When one (1) or more persons holds such interest, all such persons may be Members, but in no event shall more than one (1) vote be cast with respect to each Lot. If an Owner is a corporation or other entity, the person entitled to cast the vote for the Lot shall be designated by a certificate duly executed by such corporation or

other entity and filed with the Secretary of the Association. Such certificate shall be valid until revoked or until superseded by a subsequent certificate or a change in the ownership of the Lot concerned. A certificate designating the person entitled to cast the vote of a Lot may be revoked at any time by any Owner of a Lot. There shall be no fractional voting or cumulative voting allowed. The votes of an Owner of more than one Lot cannot be divided for any issue and must be voted as a whole. Except where otherwise required under the provisions of the Declaration, the Articles or these Bylaws, the affirmative vote of Owners who own a majority of the total Lots within the Property which is 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 herein.

Section 13. Informal Action by Members. Any action required to be taken at a meeting of the Membership, or any other action which may be taken at a meeting of the Membership, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof.

### ARTICLE III. BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Association shall be managed by or under the direction of its Board of Directors.

Section 2. Number, Tenure and Qualifications. The number of directors of the Association shall consist of up to five (5) directors, as shall be determined by the Board of Directors.

Section 3. Election of Directors by The Membership:

(a) Election of Directors. Elections to the Board of Directors by the Membership shall be by written ballot as hereinafter provided. As such elections, the Members or their proxies may cast as many votes as there are vacancies to be filled on the Board of Directors. The names receiving the largest number of votes shall be elected.

(b) Nominations Committee. Nominations for a full slate of Directors for election to the Board of Directors by the Members shall be made by the Nominations Committee. The Nominations Committee shall consist of three (3) persons appointed each year by the Board of Directors, one (1) of whom shall be a Director, and two (2) of whom shall be non-directors. Members of the Nominations Committee shall be appointed each year by the Board of Directors as least sixty (60) days before the date on which the election for the Members of the Board of Directors is to be held, and the slate of Directors to be nominated by the Nominations Committee shall be nominated at least thirty (30) days before the date of such election. No Member of the Nominations Committee shall be eligible for nomination for the Board of Directors by such Committee.

In addition, nominations for the Board of Directors may be made by petition signed by more than twenty (20) Members of the Association, provided that such petitions are filed with the Secretary of the Association at least thirty (30) days before the date of the meeting at which

the directors are to be elected.

(c) Ballots. All elections to the Board of Directors shall be made on a written ballot which shall: (a) describe the vacancies to be filled; (b) set forth the names of those nominated by the Nominations Committee for such vacancies and those nominated by petition timely filed with the Secretary of the Association; and (c) containing a space for a write in vote by the Members for each vacancy. Such ballots shall be prepared and mailed by the Secretary of the Association to the Members at least fourteen (14) days in advance of the date set forth therein for a return (which shall be a date not later than the date for the annual meeting or special meeting called for election).

(d) Voting Procedures. Each Member shall indicate next to the name of each nominee on the ballot its vote for the election of such nominee to the Board of Directors, or shall write in the name of a person not so nominated in the space on the ballot provided for this purpose. All ballots shall be signed by the Member casting it and returned to the Secretary of the Association, who, upon receipt of each ballot shall immediately place it in a safe or other locked place until the day set forth for the annual or other special meeting at which the elections are to be held. On that date, the ballots shall be turned over to an Elections Committee which shall consist of three (3) to five (5) Members appointed by the Board of Directors. The Elections Committee shall then adopt a procedure which shall:

(1) Establish that the number of ballots turned in by each Member correspond with the number of Lots owned by such Member or its proxy identified on the ballot; and

(2) Establish that the signature of the Member or its proxy on the ballot is genuine; and

(3) If the vote is by proxy, establish that a proxy has been filed with the Secretary as provided in Section 11 of Article II of these ByLaws and that such proxy is valid.

If any ballot is found to contain more than the number of votes which the Member signing such ballot is entitled to cast, all votes on such ballot shall be disqualified and shall not be counted. After the announcement of the results by the Elections Committee, unless a review of the procedure is demanded by thirty-five percent (35%) of the Members casting ballots in the election within ten (10) days after the election, the ballots shall be destroyed.

(e) Directors terms of Services: At the first annual meeting of the Members there shall be elected in the manner set forth in Article II of these Bylaws five (5) Directors, two (2) such Directors being elected for three (3) years, two (2) such Directors being elected for two (2) years, and one (1) such Director being elected for one (1) year. Subsequently Directors will be elected for three (3) years terms.

(f) Vacancies: Vacancies in the Board of Directors shall be filled by the majority of the remaining Directors, any such appointed Director to hold office until his

successor is elected by the Members, who were entitled to elect the Director, at the next annual meeting of the Members or at any special meeting duly called for that purpose.

(g) Control Period. Notwithstanding the provisions of subparagraph (a)-(d) above, the Developer (as defined in the Declaration), its successors and assigns, shall 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 Control Period (as defined in the Declaration) has expired. Within sixty (60) days after the date of termination of the Control Period, the Board of Directors shall call and give not less than ten (10) nor more than thirty (30) days notice of a special meeting of the Membership for the purpose of electing the Members of the Board of Directors.

(h) Initial Board of Directors. The initial Board of Directors shall have three (3) directors. The names and addresses of the Members of the Board of Directors who shall hold office until their successors are elected and have qualified, or until such Directors are removed, are as follows:

<u>NAME</u>	<u>ADDRESS</u>
Andrew J. Hancock	c/o D.R. Horton, Inc.-Birmingham 2090 Columbiana Road Suite 4000 Birmingham, Alabama 35216
Erin A. Dunavant	c/o D.R. Horton, Inc.-Birmingham 2090 Columbiana Road Suite 4000 Birmingham, Alabama 35216
Charles G. Arcara	c/o D.R. Horton, Inc.-Birmingham 2090 Columbiana Road Suite 4000 Birmingham, Alabama 35216

Any director may be removed, either with or without cause, at any time, by the affirmative vote of a majority of the Members at a meeting called for that purpose, and the vacancy in the Board caused by any such removal may be filled by the Developer until such time as all Lots have been sold to Owners other than Developer and in that event by the Members at such meeting or at any subsequent meeting in the manner prescribed in the Bylaws for the filling of vacancies on the Board. Any director may be removed, either with or without cause, at any time, by the affirmative vote of a majority of the Members at a meeting called for that purpose, and the vacancy in the Board caused by any such removal may be filled by the Developer until such time as all Lots have been sold to Owners other than Developer and in that event by the Members at such meeting or at any subsequent meeting in the manner prescribed in the Bylaws for the filling of vacancies on the Board.



Section 4. Regular Meetings. - A regular meeting of the Board of Directors shall be held without other notice than these Bylaws immediately after, and at the same place as, the annual meeting of the Membership, provided, however, any such regular meeting may be held at any other time or place which shall be specified in a notice given as hereinafter provided for special meetings, or in a consent and waiver of notice thereof, signed by all directors. The Board of Directors may provide, by resolution, the time and place, within or without the State of Alabama, for the holding of additional regular meetings without other notice than such resolution.

Section 5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two directors.

Section 6. Notice. Notice of any special meeting shall be given at least three (3) days previously thereto by written notice delivered personally or mailed to each director at his business address, or by telegram. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail so addressed, with postage thereon prepaid. If notice be given by telegram, such notice shall be deemed to be delivered when the telegram is delivered to the telegraph company. Any director may waive notice of any meeting. The attendance of a director at a meeting shall constitute a waiver of notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 7. Quorum. A majority of the number of directors fixed by Section 2 of this Article III shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of the directors present may adjourn the meeting from time to time without further notice.

If a quorum is present when the meeting is convened, the directors present may continue to do business, until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum present, or the refusal of any director present to vote.

Section 8. Manner of Acting. The act of the majority of a majority of the directors present at a meeting at which a quorum is present is necessary to constitute the act of the Board of Directors unless a greater number is required under the Alabama Nonprofit Corporation Act.

Section 9. Action Without a Meeting. Any action that may be taken by the Board of Directors at a meeting may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all of the directors.

Section 10. Vacancies. Subject to the provisions of subparagraph (e) of Section 3 of this Article III, any vacancy occurring in the Board of Directors and any directorship to be filled by reason of an increase in the number of directors may be filled by a majority of the remaining directors. A director elected or appointed, as the case may be, shall be elected or appointed for the unexpired term of his predecessor in office.

Section 11. Compensation. By resolution of the Board of Directors, the directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors. No such payment shall preclude any director from serving the Association in any other capacity and receiving compensation therefor.

Section 12. Committees. The Board of Directors may, by resolution or resolutions, passed by a majority of the whole Board, designate one or more committees, each of which shall consist of two or more directors and which to the extent provided in said resolution or resolutions or in the Bylaws of the Association shall have and may exercise all of the powers of the Board of Directors in the management of the activities and affairs of the Association and may have power to authorize the seal of the Association to be affixed to all papers which may require it; except that no such committee shall have the authority of the Board of Directors in reference to amending, altering or repealing the Bylaws; electing, appointing or removing any Member of any such committee or any director or officer of the Association; amending the Articles, restating the Articles, adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Association; authorizing the voluntary dissolution of the Association or revoking proceedings therefore; adopting a plan for the distribution of assets of the Association; or amending, altering or repealing any action or resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation of such committee or committees or the delegation thereto of authority shall not operate to relieve the Board of Directors of any individual director of any responsibility imposed upon it or him by law.

Section 13. Resignations. Any director of the Association may resign at any time either by oral tender of resignation at any meeting of the Board or by giving written notice thereof to the Secretary of the Association. Such resignation shall take effect at the time specified therefor; and the acceptance of such resignation shall not be necessary to make it effective.

Section 14. Place of Meeting. The Board of Directors may designate any place within or without the State of Alabama as the place of meeting for any regular or special meeting of the Board of Directors.

Section 15. Presumption of Assent. A director of the Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the Secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

#### ARTICLE IV. OFFICERS

Section 1. Number. The officers of the Association shall be a President, one or more Vice President(s) (the number thereof to be determined by the Board of Directors), a Secretary, and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers

and assistant officers as may be deemed necessary may be elected or appointed by the Board of Directors. Any two or more offices may be held by the same person, except the President and Secretary. The failure of the Board of Directors to elect any officer other than a President and a Secretary shall not constitute a violation of these Bylaws.

Section 2. Election and Term of Office. The officers of the Association to be elected by the Board of Directors shall be elected annually by the Board of Directors at the first meeting of the Board of Directors held after each annual meeting of the Membership. If the election of officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall have resigned or shall have been removed in the manner hereinafter provided.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed at any time, by the affirmative vote of a majority of the Board of Directors, whenever in their judgment the best interests of the Association will be served thereby. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create any contract rights in favor of such officer.

Section 4. Vacancies. A vacancy in any office elected or appointed by the Board of Directors because of death, resignation, removal, disqualification or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. President. The President shall be the chief executive officer of the Association and, subject to the control of the Board of Directors, shall in general supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Membership. He may sign, with the Secretary or an Assistant Secretary, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice President. In the absence of the President or in the event of his death, inability or refusal to act, the Vice President (or in the event there be more than one Vice President, the Vice Presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice President shall perform such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 7. Secretary. The Secretary shall: (a) keep the minutes of the proceedings of the Members and of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Association and

see that the seal of the Association is affixed to all documents the execution of which on behalf of the Association under its seal is duly authorized; (d) keep a register of the post office address of each Member which shall be furnished to the Secretary by such Member; (e) have general charge of the records of the Members of the Association; and (f) in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article V of these Bylaws; and (c) in general perform all of the duties as from time to time may be assigned to him by the President or by the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine.

Section 9. Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors. The Assistant Treasurers shall respectively, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine.

Section 10. Salaries. The salaries of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary by reason of the fact that he is also a director of the Association.

## ARTICLE V. CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. Contracts. The Board of Directors may authorize any officer or officers, agent or agents to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

### Section 2. Loans.

(a) Subject to the provisions of subsection (b) below, no loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or confined to specific instances.

(b) The Board of Director shall have no right or authority to mortgage or convey any of the Common Areas without the affirmative vote of Owners who own not less than two-thirds (2/3) of the total Lots of the Property, which such vote shall be cast at a duly noticed meeting of the Association Members at which a quorum is present.

(c) No loans shall be made by the Association to its directors or officers. Any director or officer who assents to or participates in the making of such loan shall be liable to the Association for the amount of such loan until the repayment thereof.

Section 3. Checks, Drafts, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board of Directors may select.

Section 5. Proxies. Unless otherwise provided by resolution of the Board of Directors, the President may from time to time appoint an attorney or agent of the Association, in the name and on behalf of the Association, to cast the votes which the Association may be entitled to cast as the holder of stock or other securities in any other corporation any of whose stock or other securities may be held by the Association, at meetings of the holders of the stock or other securities of such other corporation, or to consent in writing, in the name and on behalf of the Association, as such holder, to any action by such other corporation, and may instruct the person or persons so appointed as to the manner of casting such votes or giving such consent, and may execute or cause to be executed, in the name and on behalf of the Association and under its corporate seal or otherwise, all such written proxies or other instruments as he may deem necessary or proper in the premises.

## ARTICLE VI. BOOKS AND RECORDS

Section 1. Accounting. The Association shall keep correct and complete books and records of account and shall keep minutes of the proceedings of the Members, Board of Directors and committees thereof and shall keep at its registered or principal office in Alabama a record of the names and addresses of Members entitled to vote, directors and officers. The accounting records shall be maintained in accordance with generally accepted accounting principles. All books and records of the Association shall be open to inspection by the Members of their authorized representatives for any proper purpose at any reasonable time.

Section 2. Budget. The Board of Directors shall adopt a budget for each calendar year that shall include the estimated funds required to defray the Common Expenses (as defined in the Declaration) and to provide and maintain funds for the foregoing accounts and reserves according to good accounting practices. Copies of the budget and proposed assessments shall be transmitted to each Member on or before December 1 preceding the year for which the budget is made. If the budget is amended substantially, a copy of the amended budget shall be furnished to each Member.

Section 3. Assessments. Assessments against the Members as provided in the Declaration shall be made for the calendar year annually in advance on or before December 31, preceding the year for which the assessments are made. Such assessments shall be due in annual, quarterly or monthly installments, as may be determined by the Board of Directors of the

Association. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board of Directors.

Section 4. Assessments for Emergencies. Assessments for Common Expenses for emergencies that cannot be paid from the annual assessments for Common Expenses shall be made only after notice of the need for such is given to the Members concerned, and it shall be due thirty (30) days after such notice in such manner as the Board of Directors of the Association may require in the notice of assessment.

Section 5. Bonds. Fidelity bonds may be required by the Board of Directors from all persons handling or responsible for Association funds. The amount of such bonds shall be determined by the Board of Directors, but shall not be less than three times the amount of the total annual assessments against Members for Common Expenses. The premiums of such bonds shall be paid by the Association.

## ARTICLE VII. SEAL

The Board of Directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association and the state of incorporation and such other words as the Board of Directors may prescribe.

## ARTICLE VIII. WAIVER OF NOTICE

Whenever any notice is required to be given to any Member or director of the Association under the provisions of these Bylaws, the Articles of Incorporation, the Declaration, the provisions of the Alabama Nonprofit Corporation Act, and any act amendatory thereof, supplementary thereto or substituted therefor, or the Alabama Constitution, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## ARTICLE IX. FISCAL YEAR

The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

## ARTICLE X. INDEMNIFICATION

Section 1. Actions Not Brought By or in Right of Association. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement,

conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. Actions Brought By or in Right of Association. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Association and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

Section 3. Terms of Indemnification.

(a) To the extent that a director, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Sections 1 and 2, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(b) Any indemnification under Sections 1 and 2 (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Sections 1 and 2. Such determination shall be made (i) by the Board of Directors by a majority vote of directors who were not parties to such action, suit or proceeding, or (ii) if disinterested directors so direct, by independent legal counsel in a written opinion, or (iii) by the Members.

(c) Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Association as authorized in this section.

(d) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, vote of Members or disinterested director or otherwise, both as to action in his

official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 4. Indemnification of Contractors. Nothing in this Article X shall prevent the Association from entering into contracts with persons other than a director, officer, or employee of the Association containing indemnification provisions broader in scope than the provisions of Sections 1, 2, and 3 of this Article X.

#### ARTICLE XI. AMENDMENT

Section 1. Amendment. These Bylaws may be amended, altered or repealed by the Developer during the Control Period, and thereafter, these Bylaws may be amended by the Members at any regular or special meeting upon the affirmative vote of the Owners of not less than 2/3rd of the entire Membership.





20060620000689160 1/33  
Bk: LR200610 Pg:14270  
Jefferson County, Alabama  
I certify this instrument filed on:  
06/20/2006 02:58:26 PM EST  
Judge of Probate- Mark Gaines

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR**  
**SOUTHERN TRACE, A RESIDENTIAL SUBDIVISION**

**June 16, 2006**

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# TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS .....	2
Section 1.1 "Additional Property" .....	2
Section 1.2 "Amenity Center" .....	2
Section 1.3 "Architectural Review Committee" or ARC" .....	2
Section 1.4 "ARC Guidelines" .....	2
Section 1.5 "Articles" .....	2
Section 1.6 "Assessment" .....	2
Section 1.7 "Association" .....	2
Section 1.8 "Board" or "Board of Directors" .....	2
Section 1.9 "By-laws" .....	2
Section 1.10 "Common Area" or "Commons Areas," .....	2
Section 1.11 "Control Period" .....	3
Section 1.12 "Declaration" .....	3
Section 1.13 "Developer" .....	3
Section 1.14 "Dwelling" .....	3
Section 1.15 "Entrance Easement" .....	3
Section 1.16 "Living Area" .....	3
Section 1.17 "Lots" .....	4
Section 1.18 "Member" .....	4
Section 1.19 "Mortgage" .....	4
Section 1.20 "Mortgagee" .....	4
Section 1.21 "Occupant" .....	4
Section 1.22 "Owner" .....	4
Section 1.23 "Property" .....	4
Section 1.24 "Protective Covenants" .....	4
Section 1.25 "Purchaser" .....	4
Section 1.26 "Single Family Unit" .....	4
Section 1.27 "Subdivision" .....	4
Section 1.28 "Subdivision Record Map" .....	4
ARTICLE II PROPERTY SUBJECT TO RESTRICTIONS .....	5
Section 2.1 <u>General Declaration</u> .....	5
Section 2.2 <u>Additional Property</u> .....	5
Section 2.3 <u>Right of Developer to Modify Restrictions with Respect to Lots Owned</u> <u>by Developer</u> .....	6
Section 2.4 <u>Mutuality of Benefit and Obligation</u> .....	6
Section 2.5 <u>Development of Property</u> .....	6
Section 2.6 <u>Subdivision Plat</u> .....	6
ARTICLE III EASEMENTS .....	6
Section 3.1 <u>Grant of Nonexclusive Easements to Owners:</u> .....	6
Section 3.2 <u>Utility Easements</u> .....	7
Section 3.3 <u>Additional Easements and Uses</u> .....	7
Section 3.4 <u>Reservation of General Access Easement</u> .....	8
Section 3.5 <u>Additional Documents</u> .....	8
Section 3.6 <u>Limitations</u> .....	8
ARTICLE IV ARCHITECTURAL CONTROL .....	8
Section 4.1 <u>ARC Guidelines</u> .....	8
Section 4.2 <u>Method of Architectural Control</u> .....	9
Section 4.3 <u>ARC Membership</u> .....	9

Section 4.4	<u>Release</u>	9
Section 4.5	<u>Powers and Duties</u>	10
Section 4.6	<u>Variances</u>	11
Section 4.7	<u>Additional Remedies</u>	12
ARTICLE V RESTRICTIONS		12
Section 5.1	<u>Use Restrictions</u>	12
Section 5.2	<u>Storm Drains</u>	13
Section 5.3	<u>Common Areas</u>	13
Section 5.4	<u>Amenity Center</u>	13
Section 5.5	<u>Tenants</u>	13
Section 5.6	<u>Enforcement</u>	13
Section 5.7	<u>Model Homes</u>	14
Section 5.8	<u>Buffer Areas</u>	14
Section 5.9	<u>Stormwater System Maintenance Plan</u>	14
Section 5.10	<u>Additional Restrictions</u>	15
ARTICLE VI COVENANT FOR ASSESSMENTS		15
Section 6.1	<u>Affirmative Covenant to Pay Assessments</u>	15
Section 6.2	<u>Purpose of Assessments</u>	16
Section 6.3	<u>Individual Assessment</u>	16
Section 6.4	<u>Annual Assessments</u>	16
Section 6.5	<u>Special Assessments</u>	16
Section 6.6	<u>Special Meeting</u>	16
Section 6.7	<u>Amount of Assessments</u>	17
Section 6.8	<u>Certificate</u>	17
Section 6.9	<u>Effect of Non-Payment of Assessments; Liens; Remedies</u>	17
Section 6.10	<u>Lien Subordinate to Mortgages</u>	18
Section 6.11	<u>Damages</u>	18
Section 6.12	<u>Exempt Property</u>	18
ARTICLE VII COMMON AREA EXPENSES		19
Section 7.1	<u>Common Area Expenses</u>	19
Section 7.2	<u>Reserves</u>	20
Section 7.3	<u>Interested Transactions</u>	20
Section 7.4	<u>Enforcement of Declaration and Rules and Regulations</u>	20
ARTICLE VIII NATURE OF PROTECTIVE COVENANTS, DEFAULTS AND REMEDIES		1
Section 8.1	<u>Protective Covenants Running with the Land</u>	1
Section 8.2	<u>Remedies for Default</u>	1
Section 8.3	<u>Nature of Remedies: Waiver</u>	1
Section 8.4	<u>No Reverter</u>	1
ARTICLE IX FUNCTION OF ASSOCIATION		1
Section 9.1	<u>Name</u>	1
Section 9.2	<u>Maintenance Responsibilities</u>	1
Section 9.3	<u>Other Rights of Association</u>	2
ARTICLE X AMENDMENT OF DECLARATION		2
Section 10.1	<u>Amendment by Association</u>	2
Section 10.2	<u>Scrivener's Error</u>	3
ARTICLE XI PERIOD OF DEVELOPER CONTROL		3
Section 11.1	<u>Developer Control</u>	3
ARTICLE XII GENERAL PROVISIONS		4
Section 12.1	[Intentionally Deleted]	4
Section 12.2	<u>Deeds Subject to Covenants</u>	4
Section 12.3	<u>Obligation of Owner to Build or Restore</u>	4

Section 12.4	<b><u>Indemnity for Damages</u></b> .....	4
Section 12.5	<b><u>No Trespass</u></b> .....	4
Section 12.6	<b><u>Notices</u></b> .....	4
Section 12.7	<b><u>Severability</u></b> .....	5
Section 12.8	<b><u>Governing Law</u></b> .....	5
Section 12.9	<b><u>Captions</u></b> .....	5
Section 12.10	<b><u>Usage</u></b> .....	5
Section 12.11	<b><u>Conflict</u></b> .....	5
Section 12.12	<b><u>Effective Date</u></b> .....	5

STATE OF ALABAMA                    )  
COUNTY OF JEFFERSON            )

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
SOUTHERN TRACE, A RESIDENTIAL SUBDIVISION**

**THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS** (this "Declaration") is made as of this 16th day of June, 2006, by **WELLINGTON DEVELOPMENT CORPORATION**, an Alabama corporation ("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 (sometimes hereinafter referred to as the "Protective Covenants"); and

**WHEREAS**, the Developer is presently the owner of all of the real property described on Exhibit A attached hereto (such property, together with any other property which may become subject to the Protective Covenants as hereinafter property, being collectively referred to herein as the "Property"); and

**WHEREAS**, the Developer intends to develop the Property into a residential subdivision, together with Common Areas hereafter described, as part of a planned residential community (collectively, the "Subdivision"); and

**WHEREAS**, the Developer desires to establish and enforce uniform standards of development quality and to provide for the effective preservation of the appearance and value of the Property, which benefit all Owners of the Property and, to this end, desires to subject the Property, together with such additions thereto as may hereafter be made, to the Protective Covenants, all of which are for the benefit of the Property and each Owner thereof; and

**WHEREAS**, the Developer has created a nonprofit corporation (the "Association") to which it has delegated the responsibility for the management and regulation of the Common Areas and assigned the powers of enforcing the provisions of this Declaration and any additional covenants and restrictions that are placed against property that is now or may hereafter be included in the Development and of levying assessments against the Owners of Lots within the Subdivision to enable the Association to perform such obligations.

**NOW, THEREFORE**, the Developer declares that the Property and such additions thereto as may hereafter be made pursuant to Section 2.2 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 Property, as well as their heirs, successors and assigns.

## ARTICLE I DEFINITIONS

As used in this Declaration, the following terms shall have the following meanings, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

Section 1.1 **"Additional Property"** shall mean any additional property, which may hereafter be subjected to the Protective Covenants as set forth in Section 2.2 hereof.

Section 1.2 **"Amenity Center"** shall mean the clubhouse and swimming pool to be constructed in an area to be designated as the "Amenity Center" on a future subdivision map for "Phase One" of the Subdivision, together with all furniture, furnishings, equipment, appliances and other personal property appurtenant to the operation and use of the Amenity Center.

Section 1.3 **"Architectural Review Committee" or "ARC"** shall mean the Architectural Review Committee appointed pursuant to Article IV hereof with the rights and obligations conferred upon such Architectural Review Committee pursuant to this Declaration.

Section 1.4 **"ARC Guidelines"** means and refers to any written architectural, landscaping, and use regulations, specifications, procedures, guidelines and policies which may be promulgated by the ARC in accordance with applicable provisions of this Declaration.

Section 1.5 **"Articles"** shall mean the Articles of Incorporation of the Association, as said Articles may be amended from time to time.

Section 1.6 **"Assessment"** shall mean the assessments to be assessed against the Owners pursuant to the authority vested in the Association, and such term shall include annual assessments, special assessments, individual assessments, and Common Area Assessments, all as described in Article VI hereof.

Section 1.7 **"Association"** shall mean and refer to Southern Trace Homeowners' Association, Inc., an Alabama non-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 and By-Laws of the Association make reference.

Section 1.8 **"Board" or "Board of Directors"** shall mean the Board of Directors of the Association.

Section 1.9 **"By-laws"** shall mean the By-laws of the Association, as such by-laws may be amended from time to time.

Section 1.10 **"Common Area" or "Commons 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, and

which shall be responsibility of the Association to maintain, and which shall include, without limitation, the following:

- (a) the Amenity Center;
- (b) all detention ponds;
- (c) one or more entrance areas for the Subdivision (or the various Phases or Sectors thereof) which are subject to the Entrance Easement;
- (d) all installations for the furnishing of electricity, telephone, natural gas, sanitary sewer, water service and television cable not immediately appurtenant to any Dwelling;
- (e) all outdoor exterior lighting not situated within the boundaries of any Lot;
- (f) landscaping, trees, and walkways not situated within the boundaries of any Lot (which shall include the main entrance, median, and any landscaping within the Entrance Easement);
- (g) all portions of the Property which are designed or designated on the Plat or otherwise for collecting, retaining and discharging surface and subsurface water from the Property, including without limitation all drainage/utility easement areas;
- (h) all private alleys as shown on the Subdivision Record Map as such; and
- (i) any and all other areas designated on the Subdivision Record Map as a "Common Area."

Section 1.11 **"Control Period"** shall have the meaning ascribed to it in Section 11.1 hereof.

Section 1.12 **"Declaration"** shall mean this entire document, as same may from time to time be amended.

Section 1.13 **"Developer"** shall mean Wellington Development Corporation, an Alabama corporation, its successor and assigns, if such successors or assigns acquire any portion of the Property and are designated as successor developer by Developer.

Section 1.14 **"Dwelling"** shall mean a dwelling constructed on the Property in accordance with the restrictions and conditions set forth in Article V hereof and the ARC Guidelines.

Section 1.15 **"Entrance Easement"** shall have the meaning ascribed to it in Section 3.1 hereof.

Section 1.16 **"Living Area"** shall mean enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating, and air conditions equipment, exclusive porches, garages, basements, carports, or attics.

Section 1.17 **"Lots"** shall mean and refer to the individual lots shown on the Subdivision Record Map, as the same may be amended from time to time. A Lot shall be deemed "Developed" when all offsite streets and utilities have been completely installed. A Lot shall be deemed "Improved" when a Dwelling has been completely constructed thereon.

Section 1.18 **"Member"** shall mean any person who is a member of the Association. Every Owner shall be a Member.

Section 1.19 **"Mortgage"** shall mean any mortgage or other security device encumbering a Lot or Dwelling or any interest therein and which shall have been duly and properly recorded in the Probate Office of Jefferson County, Alabama.

Section 1.20 **"Mortgagee"** shall mean the holder of any Mortgage.

Section 1.21 **"Occupant"** shall mean and include any Owner, the family members, guests, tenants, agents, employees or invitees of any Owner and their respective family members, guests, tenants, agents, employees, invitees and any other person who occupies or uses any Dwelling within the Development. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Dwelling.

Section 1.22 **"Owner"** shall mean and refer to the record owner, including Developer, of fee simple title to any Lot or Dwelling, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or Dwelling at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any lessee, purchaser, contract purchaser or vendor who has an interest in any Lot or Dwelling solely by virtue of a lease, contract, installment contract or other agreement.

Section 1.23 **"Property"** shall mean and refer to the real property more particularly described on Exhibit A attached hereto, including all the Lots within the Subdivision, all Common Areas, and all easements as reflected on the Subdivision Record Map.

Section 1.24 **"Protective Covenants"** shall mean all of those covenants, conditions and restrictions contained in this Declaration.

Section 1.25 **"Purchaser"** shall mean any person who acquires any Lot.

Section 1.26 **"Single Family Unit"** shall mean a group of one or more persons each related to the other by marriage or legal adoption, or a group of not more than three persons not all so related, who maintain a common household in a dwelling.

Section 1.27 **"Subdivision"** shall mean all sectors or phases of Southern Trace Cottages, collectively, and any amendments or supplements thereof.

Section 1.28 **"Subdivision Record Map"** shall mean, collectively, one or more recorded map or plat for any part of the Subdivision, or any Phases or Sectors thereof, including, without limitation, the plat for Southern Trace Cottages, recorded in the Office of the Judge of



Probate of Jefferson County, Alabama contemporaneously herewith for the "Phase VI" Lots, and any amendments or supplements thereof.

## ARTICLE II PROPERTY SUBJECT TO RESTRICTIONS

Section 2.1 **General Declaration.** The Property which presently is and shall be held, transferred, sold, conveyed, and occupied subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration is located in Jefferson County, Alabama. Any part of such Property and each Lot or Dwelling thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to such Property and shall be binding upon and inure to the benefit of Developer and upon all Owners and Occupants of such Property and any Lot or Dwelling thereof. This Declaration shall not apply to any other real property owned by Developer unless the same is subjected specifically by written instrument to this Declaration in accordance with Section 2.2 hereof.

Section 2.2 **Additional Property.** Developer reserves the right, in its sole and absolute discretion and without the consent of the Association or its Members or by an Owner, Occupant, or Mortgagee of any Lot or Dwelling, at any time and from time to time during the pendency of this Declaration, to add and submit any Additional Property to the provisions of this Declaration and, to the extent any of the Additional Property is specifically submitted to the terms and provisions of this Declaration by Developer, then any such Additional Property shall constitute part of the Property. Additional Property may be submitted to the provisions of this Declaration by an instrument executed by Developer in the manner required for the execution of deeds and recorded in the Probate Office of Jefferson County (Bessemer Division), Alabama, which instrument shall be deemed an amendment to this Declaration (which need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling) and shall (a) refer to this Declaration stating the Instrument Number in the Probate Office of Jefferson County, Alabama where this Declaration is recorded, (b) contain a statement that such Additional Property is conveyed subject to the provisions of this Declaration, (c) contain an exact description of such Additional Property and (d) state such other or different covenants, conditions and restrictions as the Developer, in its sole discretion, shall specify to regulate and control the use, occupancy and improvement of such Additional Property. In no event shall Developer be obligated to submit any Additional Property to the provisions of this Declaration or to impose any of the covenants, conditions or restrictions set forth in this Declaration upon any real property owned by Developer situated adjacent to or in close proximity with the Development. Notwithstanding anything provided in this Declaration to the contrary, (1) the provisions of this Section 2.2 may not be abrogated, modified, rescinded, supplemented or amended, in whole or in part, without the prior written consent of Developer and (2) the rights reserved by Developer pursuant to this Section 2.2 shall not be deemed to inure to the benefit of any transferee or purchaser of the Additional Property or any portion thereof, unless Developer, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein by express reference to Section 2.2 of this Declaration.

Section 2.3 **Right of Developer to Modify Restrictions with Respect to Lots Owned by Developer.** With respect to any Lot owned by Developer, Developer may, by deed, contract or other instrument filed for record in the manner specified in Section 2.2 above, modify the provisions of this Declaration as the same apply to any such Lot, without the consent of the Association, or its Members or by any Owner, Occupant, or Mortgagee of any Lot or Dwelling.

Section 2.4 **Mutuality of Benefit and Obligation.** The provisions of this Declaration are made (a) for the mutual and reciprocal benefit of each Lot or Dwelling within the Property and are intended to create mutual, equitable servitudes upon and in favor of each Lot and Dwelling, (b) to create reciprocal rights and obligations between the respective Owners, Occupants and all future and subsequent Owners and Occupants of any Lot or Dwelling within the Property, and (c) to create a privity of contract and estate between the Owners and Occupants, their respective heirs, successors and assigns.

Section 2.5 **Development of Property.** Developer shall have the right, but not the obligation, for so long as Developer owns any Lot or Dwelling in the Property, to make improvements and changes to all Lots or Dwellings owned by Developer, including, without limitation, (i) changes in the location of the boundaries of any Lots or Dwellings owned by Developer, (ii) installation and maintenance of any water, sewer and any other utility systems and facilities, and (iii) installation of security and trash and refuse facilities.

Section 2.6 **Subdivision Plat.** Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, the subdivision plat of the Property setting forth such information as Developer may deem necessary with regard to the Property, including, without limitation, the locations and dimensions of all Lots, Dwellings, Common Areas, Additional Property, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, lakes, retention ponds and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration. Notwithstanding anything provided to the contrary in this Declaration, Developer may at any time or from time to time divide and redivide, combine and resubdivide any Lots owned by Developer.

### ARTICLE III EASEMENTS

#### Section 3.1 **Grant of Nonexclusive Easements to Owners:**

(a) **Common Areas.** Subject to the terms and conditions of this Declaration and the rules and regulations from time to time established by the Association with respect to the Common Areas, Developer does hereby grant to each Owner and Occupant the nonexclusive right, privilege, and easement of access to and the use and enjoyment of the Common Areas in common with all other Owners and Occupants. The easement and rights granted pursuant to this Section 3.1(a) are and shall be permanent and perpetual, are nonexclusive, are appurtenant to, and shall pass and run with title to each Lot.

(b) Entrance Easement. Developer hereby declares an easement across each Common Area as shown on any Subdivision Record Map for a landscaped entrance area into the Subdivision (the "Entrance Easement"). The Entrance Easement shall constitute a Common Area and shall be subject to all terms and conditions set forth in this Declaration with respect to Common Areas.

Section 3.2 Utility Easements. 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, electric and telephone poles, wires, cables, cable television, conduits, storm sewers, sanitary sewers, surface drainage, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, surface water drainage, cable television, or other public conveniences or utilities, on, in and over the utility easements reflected on the Subdivision Record Map or as may hereafter appear on any plat of record of Property subject to these Protective Covenants. Without limitation upon the foregoing, Developer specifically reserves a ten (10) foot easement on the rear property line and a five (5) foot easement on the side of each Lot for surface water drainage, together with the right to construct within such reserved easement such swales and other surface water drainage systems as Developer shall, in its sole discretion, deem necessary. In addition, no utility junction boxes, enclosures, pedestals or other above ground utility apparatus (other than street lights) may be situated in the front yard of any Lot which is served by a rear private alley, unless the approval of the ARC is first obtained.

Section 3.3 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 the 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 new 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 (Bessemer Division), 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,

Occupants, and the Owner's and Occupant's respective tenants, employees, guests, invitees, licensees and agents.

Section 3.4 **Reservation of General Access Easement.** Developer does hereby establish and reserve for the Association and its respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon each Lot for the purpose of providing ingress to and egress from each Lot for (a) inspecting each Lot and any improvements thereon in order to determine compliance with the provisions of this Declaration and/or other applicable regulations or covenants, and (b) the performance of the duties of the Association hereunder, including, without limitation, taking any action required or permitted to be taken by the Association pursuant to any of the terms or provisions of this Declaration and/or other applicable regulations or covenants; provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner of such Lot directly affected thereby.

Section 3.5 **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 III.

Section 3.6 **Limitations.** Any easements which may be created pursuant to this Article III 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 or may have been or may hereafter be adopted by the Association; and
- (c) All 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 IV ARCHITECTURAL CONTROL

Section 4.1 **ARC Guidelines.**

(a) The general architectural objective of the Developer for the Property is to create a neighborhood of Dwellings constructed in high quality styles, design, materials, and colors. All Dwellings shall be constructed in conformity with the ARC Guidelines and in accordance with the provisions of this Declaration. The Developer, by the terms of this Declaration, has charged the ARC with the approval of all Dwellings, prior to construction, so as to determine that all Dwellings meet the ARC Guidelines. In appropriate cases, the ARC shall be entitled to grant variances from the ARC Guidelines, as described in Section 4.6 hereof.

(b) The ARC is hereby empowered and authorized to formulate and promulgate ARC Guidelines to govern (i) the review, approval, rejection, form, content and provisions of all landscaping or architectural submissions, and (ii) the rules and regulations governing restrictions as to the use of the Property. The ARC will provide a copy of the ARC Guidelines, and any amendments thereto, to each Owner. Such ARC Guidelines must be followed by all applicants submitting plans for review and approval by the ARC. Decisions of the ARC shall be based upon the uniform application of such reasonable, but high, standards as are consistent with the ARC Guidelines, such standards to include, among other things, the harmony of external design including roof style (pitch, shingle and color), chimney, exterior siding (material and color), windows and trim, shutters (color and style), front doors, garage doors, location in relation to surrounding structures and topography, variation in front set backs, the type, kind and character of buildings, structure and other improvements, and aesthetic qualities in general.

Section 4.2 **Method of Architectural Control.** So as to establish and maintain the ARC Guidelines set forth in this Declaration, no improvement or structure of any kind, including, without limitation, any Dwelling, fence, wall, sign, lighting system, site paving, grading, parking lot, screen enclosure, sewer drain, disposal system, statuary, signs, flags, flag poles, water fountains, yard sets, window awnings or other exterior window covering, decorative building, landscaping, landscape device or object, shall be commenced, erected, placed, or maintained upon a Lot, nor shall any addition, change, or alteration therein, thereof, or thereto be made, unless and until the plans and specifications, showing the color, nature, kind, shape, elevation, materials and location of the same, together with such information as the ARC may require, shall have been submitted to and approved in writing by the ARC.

Section 4.3 **ARC Membership.** The ARC shall consist of four (4) members and the initial members shall be appointed by the Developer. In the event of the death, resignation or other termination of any members, the Developer during the Control Stage (as hereafter defined) shall have full authority to appoint successor members. The Developer's appointed members shall serve until all Lots are sold by the Developer whereupon, the Developer's control and authority and Developer's appointed members to the ARC shall cease. Upon the sale and closing of the last Lot in the subject subdivision, the Association shall assume full control and authority over the ARC. Developer (as long as it owns any Lots in the subdivision) and the Association (from and after the time that it has assumed control of the ARC) reserve the right to remove any member from the ARC at any time with or without cause, in such parties' sole discretion.

Section 4.4 **Release.** Neither the ARC nor any member thereof shall be liable to any Owner, Occupant or to any other party for any damage, loss, or prejudice suffered on account of the approval or disapproval of any plans, drawings, or specifications, whether or not defective, or the execution or filing of any action, motion, certificate, petition, or protest in the courts of the United States or the State of Alabama, or with any other governmental board or body, whether or not the facts stated therein are true and correct. Neither the ARC nor any member thereof shall have any liability for structural defects, building code compliance, or similar issues, the sole responsibilities of the ARC being limited to aesthetic approvals and compliance with this Declaration. Without limitation on the foregoing, the ARC shall have no obligation to review any submittals for their compliance with applicable building codes or other inadequacy or deficiency, and approval of any submitted plans by the ARC shall not constitute a basis for any liability of the members of the ARC, the Developer, members of the Board or the Association as

regards any failure of such approved plans to conform to any applicable building codes or other inadequacy or deficiency in the said plans. Neither the ARC, nor any of its members, shall in any way or manner be held liable to any Owner, the Association or any other person or entity for its good faith exercise of the discretionary authority herein conferred.

Section 4.5 Powers and Duties. The ARC shall have the following powers and duties:

(a) To require submission to the ARC 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 Dwelling, fence, wall, sign, lighting system, site paving, grading, parking lot, screen enclosure, sewer drain, disposal system, statuary, signs, flags, flag poles, water fountains, yard sets, decorative building, landscaping, 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 may be reasonably required by the ARC and shall include but not necessarily be limited to:

(i) An accurately drawn and dimensional plot plan showing all setbacks, easements, drives and walks;

(ii) A foundation plan, floor plan, landscape plan, and exterior elevations of the Dwellings as they will actually appear after all back filling and landscaping is done from finished ground up;

(iii) All plans must include a specifications list of proposed materials and samples of exterior materials and colors which cannot be adequately described on the plans, and of materials with which the ARC is unfamiliar; and

(iv) The name and address of the Lot Owner's Contractor who will construct the residence and all other improvements to the Lot.

The ARC may also require such additional information as reasonably may be necessary for the ARC to evaluate completely the proposed structure or improvement in accordance with this Declaration. All information submitted to the ARC shall be delivered to the office of McKay Management Corporation, One Riverchase Office Plaza, Suite 200, Birmingham, Alabama 35244, (205 )733-6700/(205 )733-6710 fax, Attn: Mr. Joe McKay, or such other address as may be reflected by the ARC in a duly recorded instrument filed in the Probate Court of Jefferson County, Alabama.

(b) To approve or disapprove the submitted plans and specification for any Dwelling, improvement, structure as herein above described prior to commencement of construction or such Dwelling, improvement, or structure within thirty (30) days of submission of the documentation required herein. Partial submissions shall not be permitted.

(c) In the event the ARC fails to approve or disapprove any submitted plans by notice in writing sent to the applicant within thirty (30) days following submission to the ARC, then, unless an extension of time has been accepted by the applicant, the applicant may (i) at any

time thereafter inform the ARC and the Board, by written notice sent separately to both the ARC and the Board, of the ARC's failure to approve or disapprove the applicant's submitted plans (which notice shall specifically list and identify all materials comprising the applicant's submitted plans), and (ii) if the ARC shall fail to approve or disapprove the applicant's submitted plans within thirty (30) days following its receipt of the said notice, the submitted plans will be deemed to be approved by the ARC to the extent same conform to all other express terms and provisions of this Declaration. The approval by the ARC of any plans and specifications for any Dwelling, improvement, or structure shall not be deemed a waiver of the right to object to any of the features or elements embodied in any subsequent plans and specifications if and when the same features and elements are embodied in any subsequent plans and specifications submitted for approval for use on other Lots. If any Dwelling, improvement, or structure as aforesaid shall be completed, changed, modified or altered without the prior approval of the ARC, or shall not be completed, changed, modified or altered in accordance with the approvals granted by the ARC, then the Owner shall, upon and in accordance with a demand by the ARC, cause the Dwelling, improvement, or structure either to be restored to its original condition or to comply with the plans and specification as approved by the ARC, and shall bear all costs and reasonable attorneys' fees of the ARC. Any agent or member of the ARC may at any reasonable time enter any building or property subject to the jurisdiction of the ARC which is under construction or on or in which the agent or member may believe that a violation of these Protective Covenants is occurring or has occurred. Prior to the use or occupancy of any Dwelling, improvement, or structure constructed or erected on any Lot, the Owner thereof shall apply for certification from the ARC that the construction thereof has been completed in accordance with the plans and specifications approved by the ARC. In the event that the ARC shall fail, for a period of thirty (30) days from the date of receipt of such application, to give or deny such certification, the same shall be deemed to have been given. The ARC, may from time to time, delegate to a person or persons the right to approve or disapprove plans and specifications and to issue such certification.

(d) To adopt fees which may be designed to reimburse the ARC for the necessary and reasonable costs incurred by it in processing requests for ARC approval of any matters under its jurisdiction. Such fees, if any, shall be payable to the ARC, in cash, at the time that any application for approval is sought from the ARC.

(e) Neither the ARC nor any architect or agent thereof nor the Developer shall be responsible to check 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.

(f) The initial three members of the ARC appointed by the Developer are as follows: Charles G. Arcara, Joe McKay, and Rhett Loveman.

**Section 4.6 Variances.** The ARC, in its discretion, shall have the authority to modify the requirements of the Protective Covenants upon the request for a variance from such requirements by an Owner with respect to its Lot. If the Committee grants a requested variance, the nonconforming improvements subject to said request shall not be deemed to be in violation of the Protective Covenants. The granting or denial of a request for variance shall be in writing

and 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.

Section 4.7 **Additional Remedies.** In addition to any other remedies set forth in this Declaration, in the event any of the provisions of this Article IV or any other provisions of this Declaration or any rules and regulations promulgated by the ARC or the Association hereunder are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the Association shall have the right, at its option, (subject to any applicable notice and/or cure periods expressly set forth herein) to do any or all of the following: (a) deny a contractor access to the subject Lot or Dwelling until the Owner, Occupant, or contractor submits a plan for correction of the violation that is approved by the ARC or the Association and undertakes to cure such violation in accordance with the approved plan, (b) require the cessation of any further construction on any Lot or Dwelling until any work in place which does not comply with the plans and specifications approved by the ARC or the Association for such improvements is removed or corrected, and/or (c) through its designated agents, employees, representatives and independent contractors, enter upon such Lot or Dwelling and take all action necessary to cure such violation or breach. All costs and expenses incurred by the Association in enforcing any of the provisions of this Article, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, contractors, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the Association in causing any Owner or such Owner's contractors, agents or invitees to comply with the terms and provisions of this Article shall be paid by such Owner as an Individual Assessment, and if the same is not paid when due, shall bear interest and shall be subject to the lien provided for herein and shall be subject to foreclosure as provided herein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the Association set forth herein shall not be deemed exclusive of any other rights and remedies which the ARC or the Association may exercise at law or in equity or any other enforcement rights specified in this Declaration.

## ARTICLE V RESTRICTIONS

Section 5.1 **Use Restrictions.** The Property will be used for residential purposes only, and no trade or business purposes (other than home offices to be approved by the ARC and subject to any restrictions and limitations as the ARC may reasonably request), including all types of home industry, will be permitted. No building or structure other than a Dwelling shall be erected on any Lot within the Property except as otherwise permitted herein. Prohibited uses include, but are not limited to:

(a) dangerous, noxious, offensive or excessively noisome activities which may be or become an annoyance or nuisance to Owners;

(b) raising, breeding, or keeping of any animals, birds, or fowl; provided that an Owner shall be permitted to keep not more than two dogs (2) and/or cats as domestic pets on a



single Lot and provided further that the ARC may approve more animals to be kept as domestic pets on a Lot if such animals are to be kept in an enclosed area approved by the ARC;

(c) exploring, mining, boring, quarrying, drilling or otherwise removing oil or other hydrocarbons, minerals, gravel or natural gas; and

(d) use of a Dwelling by more than a Single Family Unit.

Any Owner may request from the ARC at any time a determination of whether a prospective use of a Lot is permitted. A certificate to that effect signed by a member of the ARC shall be deemed to be dispositive of this issue.

**Section 5.2 Storm Drains.** Developer has installed, or will cause to be installed, pipes, swales, headwalls, flumes, surface inlets and other structures necessary for proper control of storm drainage and runoff. Owners shall not alter, modify, or in any way interfere with the functionality of these structures. Additionally, Owners shall not allow debris, grass clippings, fences, or any other items to impede the function of the drainage structure and shall maintain the same.

**Section 5.3 Common Areas.** The Developer shall deed to the Association, the title to the Common Areas as shown on the Subdivision Record Map for the benefit and use of the Owners. The conveyance to the Association is made upon the condition that the Association takes control of the Common Areas, assesses the Common Areas in the name of the Association for tax purposes, improves and maintains the Common Areas and obtains and maintains liability insurance coverage on the Common Areas in the name of the Association.

**Section 5.4 Amenity Center.** The Association will adopt rules and regulations governing the use of the Amenity Center by the Owners, their guests and invitees, and will publish the same to the Owners. The Association is hereby empowered and authorized to formulate and promulgate such additional rules, regulations, procedures, guidelines and policies affecting the use of the Amenity Center as the Association shall from time to time deem necessary, and shall publish such additional rules and regulations, procedures, guidelines and policies to the Owners.

**Section 5.5 Tenants.** It shall be the responsibility of each Owner to insure that any tenant of any Lot or portion thereof which is owned by him receives a copy of these Protective Covenants and that every lease utilized by such Owner contains a provision therein stating that every tenancy is subject to all of the terms and provisions of this Declaration. The Owner shall remain liable for the performance and observation of all terms and conditions in this Declaration and for all costs of enforcing the same.

**Section 5.6 Enforcement.** If a determination is made by the ARC that any of the restrictions in this Article V or the ARC Guidelines are being or have been violated upon any Lot, then the ARC shall so notify the Owner in writing, specifying the violation. If within fifteen (15) days from such notification, the ARC shall make a second determination that sufficient progress has not been made to remedy the violation, the ARC may itself, direct such actions to be taken as shall be necessary or appropriate to remedy such violation, including, without limitation, those remedies set forth in Section 4.7 herein. The Owner shall be liable for the cost

and expense of all such actions, including legal fees, and the ARC may treat all such costs and expenses therefor as a charge which shall become an appropriate proceeding at law or in equity.

Section 5.7 **Model Homes.** The Developer reserves the right to construct or allow others to construct and maintain one or more model homes on the Property during the Control Period (as herein defined), and to furnish and decorate same to show it and hold open houses as it in its discretion may determine.

Section 5.8 **Buffer Areas.** Any Owner who accepts title to its Lot subject to a landscape or planted "buffer area" as shown on the recorded plat for such Lot, will maintain such area solely as a planted buffer area as intended by the Plat and as prescribed by the ARC. No buffered area may be altered without the approval of the Architecture Committee (routine maintenance of such buffer area excluded). The Owner of such Lot shall be responsible for the maintenance of such buffer area, at such Owner's sole cost and expense.

Section 5.9 **Stormwater System Maintenance Plan.** A portion of the roads and the stormwater system within the Property constitute Common Areas and, as such, will be owned and maintained by the Association. Certain maintenance items are required to prevent the malfunctioning of this stormwater system. At a minimum, the maintenance and inspection listed below shall be performed by the Association (or its designated representative):

(a) **Daily Operations:**

(i) No Owner or Occupant shall deposit or place by any means into the stormwater system any item that would tend to block or obstruct the stormwater system. No Owner or Occupant shall place items in gutters, streets, ditches, or swales that could wash into the stormwater system.

(ii) Blockage of inlets can cause local flooding which would be a safety hazard. Common items that cause this type of problem are, blowing or raking leaves or other landscaping debris into inlets or gutters where the debris can wash into inlets, and placing garbage bags or can in gutters where flowing water can wash these items downstream and into inlets or block inlets. The foregoing are strictly prohibited.

(iii) The outlet structure for all detention ponds shall be kept free of debris and trash at all times. The outlet structures for all detention ponds shall be inspected before and after each rainfall event, with all trash and debris removed.

(b) **Monthly Inspections and Maintenance Items:**

(i) The Association will inspect all inlets, manholes, junction boxes, headwalls, ditches, swales and other drainage structures and features, on a monthly basis, and will remove any debris, rocks, silt, etc. found during inspection. **WARNING: MANHOLES, JUNCTION BOXES, PIPES, ETC. ARE CONSIDERED CONFINED SPACES AND MAY CONTAIN CERTAIN GASSES OR OTHER DANGERS WHICH COULD CAUSE INJURY OR DEATH. ONLY PERSONS PROPERLY TRAINED AND EQUIPPED TO WORK IN CONFINED SPACES SHALL ENTER THESE**

AREAS AND SHALL COMPLY WITH ALL LAWS AND INDUSTRY STANDARDS WHEN DOING SO.

(ii) The Association will inspect the riprap at the emergency spillway of the detention pond, on a monthly basis.

(iii) The Association will inspect the outlet of the detention/retention pond for any cracks, settlement, damage or erosion, on a monthly basis. In the event any cracks, settlement, damage or erosion is detected, the Association shall retain a Professional Engineer to inspect and make recommendations for repair of these structures, if the same is required by any governmental agency.

(iv) The Association will inspect the detention/retention pond basin for excessive sedimentation, on a monthly basis. Sediment shall be removed to approximately the original ground level. Care should be taken not to disturb any part of the pond basin not impacted by silt deposits. Erosion control shall be required per current ADEM standards while performing this work.

(v) The Association will inspect the site for any erosion or washes, on a monthly basis, especially slopes around the site which may be prone to erosion if the vegetation cover is lost or in exceptionally heavy rainfall events.

(c) Further Maintenance Items:

(i) Inspection of the detention/retention ponds shall not only occur at the monthly intervals, but also after any major rainfall event. Inspection shall be as stated above under "Monthly Inspections and Maintenance Items" with the same course of action taken if cracks, settlement, damage or erosion is detected.

Section 5.10 Additional Restrictions. Additional restrictions may be contained in the ARC Guidelines and each Owner shall be subject to the terms and conditions thereof.

## ARTICLE VI COVENANT FOR ASSESSMENTS

Section 6.1 Affirmative Covenant to Pay Assessments. Each Owner, by acceptance of a deed for a Lot, whether or not it should be so expressed in such deed, shall be obligated and hereby covenants and agrees to pay to the Association (or to an independent entity or agency which may be designated by the Association to receive such monies), in the manner set forth herein: (i) Annual Assessments or charges levied each year by the Association, (ii) Special Assessments for capital improvements, such Assessments to be established and collected as hereinafter provided, and (iii) Individual Assessments which may be levied against any Lot and the Owner thereof as a result of such Owner's or Occupant's failure to comply with the terms of these Protective Covenants. Lots owned by the Developer shall not be subject to any Assessment by the Association, be it Annual, Special or Individual Assessments. The Annual, Special and Individual Assessments, together with interest, late charges, costs and reasonable attorneys' fees, shall also be a charge on each Lot and shall be a continuing lien upon each Lot against which such Assessment is made, which lien may be enforced in the manner hereinafter

provided. Each such Assessment, together with interest, late charges, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment fell due or was due, but shall not constitute a charge or lien upon the Lot against which the Assessment is made.

Section 6.2 **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 VII below) and of any easement in favor of the Association and/or the Owners/Occupants, as well as for such other purposes as are properly undertaken by the Association. No profit, gain, or other benefit is to be derived by the Association from the Assessments, but, instead, such funds shall be expended only as agent for the Owners, and no part of the net earnings of the Association shall inure (other than by acquiring, constructing or providing management, maintenance, and care of the Common Areas) to the benefit of any individual.

Section 6.3 **Individual Assessment.** Any expenses incurred by the Association in enforcing any of the provisions of these Protective Covenants against any specific Owner or Occupant shall be deemed an Individual Assessment against such Owner and the respective Lot owned by such Owner. Such Individual Assessment shall be levied by the Association and shall be specified in a notice to the Owner, which notice shall also specify the due date for payment of the same.

Section 6.4 **Annual Assessments.** The Association shall levy Annual Assessments in such amounts as are necessary to meet the Common Expenses (as defined in Article VII below) and such other recurring or projected expenses as the Board of Directors of the Association may deem appropriate. The Annual Assessment for the Development shall commence on January 1 of each year, and shall be paid in advance.

Section 6.5 **Special Assessments.** In addition to the Annual Assessments specified in Section 6.4 above, the Association may levy, at anytime, one or more Special Assessments for the purpose of defraying, in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Areas, provided that any such Assessment must have the assent and approval of (a) at least fifty-one percent (51%) of the Owners who are voting in person or by proxy at a meeting duly called for this purpose, and (b) to the extent Developer is the Owner of any Lot in the Development, the approval of Developer.

Section 6.6 **Special Meeting.** Written notice of any meeting called for the purpose of taking any action authorized under Section 6.5 above shall be sent to all Owners not less than thirty (30) days but no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners, either in person or by proxy, entitled to cast fifty-one percent (51%) or more of all votes in the Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting.

Section 6.7 **Amount of Assessments.** Both Annual and Special Assessments must be fixed at a uniform rate for all Lots, shall commence when such Lot is improved with a completed Dwelling, and shall be due and payable in such manner as established by the Board of Directors of the Association. The Board of Directors of the Association shall fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written notice of the Annual Assessment shall be sent to every Owner. The due date for the payment of Annual Assessments shall be established by the Board of Directors in such notice (but such due date shall be, at a minimum, thirty (30) days from the date of such notice).

Section 6.8 **Certificate.** The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Association setting forth whether the Assessment on a Lot has been paid. A properly executed certification of the Association as the status of the Assessment on a Lot is binding upon the Association as of the date of its issuance.

Section 6.9 **Effect of Non-Payment of Assessments; Liens; Remedies.** Any Assessments (whether Annual, Special or Individual) which are not paid on or before the due date of the same shall bear interest from and after such due date at a rate equal to the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to such Owner by law. In addition to interest, any Assessments not paid by the due date for the same shall be subject to a late charge which the Board of Directors of the Association may from time to time establish. In the event any Assessments or other amounts due to the Association are not paid by any Owner when the same comes due, then, in addition to all other rights and remedies provided at law or in equity, the Association, acting through its Board of Directors or through any of its duly authorized officers or representatives, may undertake any of the following remedies:

(a) The Association may commence and maintain a suit at law against the Owner for a personal money judgment to enforce all such charges and obligations for Assessments and other amounts include the late charge and interest specified above as well as all attorneys' fees, court costs and all other costs and expenses paid or incurred by the Association in connection therewith; and/or

(b) The Association may enforce the lien created pursuant to Section 6.1 above as hereinafter provided. The lien created pursuant to Section 6.1 above shall secure the payment of any and all Assessments (Annual, Special and Individual) levied against any Lot or Owner, all late charges and interest as provided above as well as all attorneys' fees, court costs and all other expenses paid or incurred by the Association in attempting to collect the Assessments and in maintaining any legal action in connection therewith. If any Assessments and other charges remain unpaid for more than sixty (60) days following the due date of the same, then the Association shall make written demand on the defaulting Owner, which demand shall state the date and amount of delinquency. If such delinquency is not paid in full within ten (10) days after the giving of such demand notice, then the Association may file a claim of lien against the Lot of such delinquent Owner, which claim shall be executed by any member of the Board of Directors of the Association or any officer of the Association and shall be filed for record in the Probate Office of Jefferson County (Bessemer Division), Alabama. The lien provided for herein shall be in favor of the Association and may be foreclosed in the same manner as a foreclosure of a mortgage on real property under the laws of the State of Alabama, as the same may be modified

or amended from time to time. The Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot purchased at any such foreclosure proceeding. Each Owner, by acceptance of a deed to any Lot, shall be deemed to (i) grant and vest in the Association and/or its agents the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (ii) grant and vest in the Association and/or its agents the right and power to bring all actions against such Owner personally for the collection of all amount due from such Owner, (iii) expressly waive any objection to the enforcement in foreclosure of the lien created herein and (iv) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any suit or action for foreclosure. No Owner (other than Developer) may waive or otherwise be exempt from the liability to pay the Assessments provided herein.

Section 6.10 **Lien Subordinate to Mortgages.** The lien for Assessments and other charges provided for herein with respect to any Lot shall be subordinate to the lien of any first Mortgage encumbering such Lot. No Mortgagee shall be required to collect Assessments on behalf of any Owner. The sale or transfer of any Lot shall not affect any lien retained by the Association on a Lot; provided, however, that the sale or transfer of any Lot pursuant to mortgage foreclosure or any similar proceedings shall extinguish the lien of such assessment as to payments which became due more than six (6) months prior to such sale or transfer.

Section 6.11 **Damages.** In addition to the rights and remedies set forth above, if any Owner or Occupant (or any Owner's or Occupant's contractor, family members, guests or invitees) shall violate or attempt to violate any of the covenants and restrictions set forth herein, then Developer, the Association or the ARC, or any Member thereof, jointly and severally, shall each have the right to prosecute proceedings at law for the recovery of damages against such Owner as a result of such violations or maintain a proceeding in equity against such Owner to enjoin such violation; provided, however, that the rights and remedies set forth herein shall be deemed to be cumulative of all other rights and remedies available at law or in equity. In any such proceedings, Developer, the Association or the ARC, jointly and severally, shall be entitled to recover all costs and expenses, including reasonable attorneys' fees, incurred by any of them in such proceedings, as well as interest on all unpaid amounts as specified in Section 6.9(b) above. The failure of Developer, the Association or the ARC to institute proceedings for any one (1) or more violations of these Protective Covenants shall not constitute approval of the same or be construed as a waiver of any right of action contained herein for past or future violations of said covenants and restrictions.

Section 6.12 **Exempt Property.** The Board shall have the right to exempt any portion of the Property from the Assessment 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;
- (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 VII COMMON AREA EXPENSES

Section 7.1 Common Area 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 VI hereof; provided, however, that the enumeration below of these 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:

(a) Maintenance and Repair of Common Areas:

(i) 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 6.5 of this Declaration, as well as the following charges:

(ii) Any electrical costs to run all common lighting and any other electrical device necessary to the Common Areas;

(iii) Sanitary sewer and storm sewer lines within private drives;

(iv) Gas bills of the Association, if any;

(v) Water bills and sprinkler systems for use on the Common Areas;

(vi) Any insurance for the Common Areas;

(vii) Any management fees, accounting fees, and legal expenses incurred by the Association;

(viii) Any and all other property deeded to the Association by the Developer;  
and

(ix) Such other matters which involve the use of the Common Areas as determined by the Association.

(b) 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.

(c) Property Taxes. All ad valorem taxes and other Assessments relating and connected to the Common Areas, if any.

(d) Insurance:

(i) Fidelity and Directors' Insurance covering all directors, officers and employees of the Association and all managing agents who handle Association funds, if any;

(ii) Adequate property and casualty insurance for the benefit of the Association insuring all insurable improvements in and to the Common Areas against loss or damage by fire or other hazards, including, without limitation, extended coverage, flood, vandalism and malicious mischief, which coverage shall be in an amount, with such insurance carriers, at such costs and with such deductibles as the Association may determine;

(iii) Public liability insurance coverage covering all of the Common Areas and any damage or injury caused by the negligence of the Association and all members, directors, officers, partners, agents and employees thereof, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Association may determine;

(iv) If applicable, worker's compensation insurance, employer's liability insurance and all other types of insurance required by law, including, without limitation, errors and omissions insurance coverage, in such amounts, with such insurance carriers, at such costs and with such deductibles as the Association may determine; and

(v) All insurance coverage authorized hereunder shall be written in the name of the Association. To the extent the same may be obtained at a nominal cost, all such policies shall contain a waiver of subrogation clause pursuant to which the insurer waives any claims against the Association, and the Owners, Occupants and the family members, servants, agents, and guests of the Owners and/or Occupants.

Section 7.2 **Reserves.** The Association may establish reserves for the payment of Common Expenses in the future.

Section 7.3 **Interested Transactions.** 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.

Section 7.4 **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 VIII**  
**NATURE OF PROTECTIVE COVENANTS, DEFAULTS AND REMEDIES**

Section 8.1 **Protective Covenants Running with the Land.** The foregoing Protective Covenants shall constitute a servitude in and upon the Property and shall run with the Property and inure to the benefit of and be enforceable by the Developer, its designated successors and assigns, or by any Owner and its respective heirs, successors and assigns, 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 period 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 of the Property, agreeing to terminate or modify this Declaration, has been recorded in the Probate Court of Jefferson County (Bessemer Division), Alabama.

Section 8.2 **Remedies for Default.** The existence of any default hereunder by any person or entity subject to the terms, conditions, covenants and restrictions of this Declaration shall give the Developer, its successors or assigns, any Owner, and/or their respective heirs, successors and assigns, in addition to all other remedies specified therein, 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; provided, this Declaration shall be recorded for the benefit of the Developer, the ARC, the Association, the Owners and their respective Mortgagees, and the Occupants, and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or its operation and continuation, in the enforcement of any of the provisions of this Declaration or the right to consent to or approve any amendment or modification to this Declaration.

Section 8.3 **Nature of Remedies: Waiver.** All rights, remedies and privileges granted to the Developer, the ARC, the Association, the Owners, their respective heirs, successors and assigns, and the Occupants 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 covenant or restriction shall in no event be deemed a waiver of the right thereafter to enforce any such covenant or restriction.

Section 8.4 **No Reverter.** No restriction or provision herein is intended to be, or shall be construed as, a condition subsequent or as creating any possibility of a reverter.

**ARTICLE IX**  
**FUNCTION OF ASSOCIATION**

Section 9.1 **Name.** The name of the Association for the Property is Southern Trace Cottages Homeowners' Association, Inc., which shall be incorporated as a nonprofit corporation.

Section 9.2 **Maintenance Responsibilities.** The Association may, at any time, in the discretion of the Board, without any approval of the Members being required:

(a) Maintain, install, reinstall, construct and repair all of the improvements within the Common Areas, to include plantings and shrubbery, and to maintain, repair and operate any other easement area shown on the Subdivision Record Map which is not under the control or management of a public utility or governmental authority;

(b) Maintain and manage the Common Areas shown on the Subdivision Record Map so as to preserve the Common Areas in their improved state and prevent any unlawful or obnoxious activity to be conducted thereon;

(c) Replace injured and diseased trees or other cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes; and

(d) Do all such other acts which the Board deems necessary to preserve and protect the Property and the beauty thereof, in accordance with the general purposes specified in this Declaration.

Section 9.3 **Other Rights of Association.** The Board shall have the right to provide services, the cost of which shall be paid out of the charges provided for in Article VII hereof, and adopt rules, regulations, procedures and policies with respect to:

- (a) garbage and trash collection and removal;
- (b) motor vehicle operation;
- (c) parking of motor vehicles on streets or roads in the Property; and
- (d) such other matters including the general welfare of the Property as a whole.

## ARTICLE X AMENDMENT OF DECLARATION

Section 10.1 **Amendment by Association.** During the Control Period, this Declaration may be amended by the Developer in Developer's sole discretion. Following the expiration of the Control Period, an amendment to this Declaration may be proposed by written instruction signed by the Owners of not less than one-fourth (1/4) of the Lots within the Property. Such proposed amendment or amendments shall be considered at a meeting of the Owners after written or printed notice of such meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, shall be mailed to the Owners not less than ten (10) days nor more than thirty (30) days, before the date set for such meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States mail, addressed to each Owner at the street address of its Lot, the postage thereon being prepaid. Any Owner may, by written waiver of notice signed by such Owner, waive such notice, and such waiver whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such Owner. At such meeting, the amendment or amendments proposed must be approved by the affirmative vote of Owners who own not less than two-thirds (2/3) of the total Lots of 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 ARC 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 Court of Jefferson County (Bessemer Division), 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 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 Owner shall be recognized if such Owner is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered at or prior to such meeting.

Section 10.2 Scrivener's Error. Notwithstanding the foregoing amendment provisions, any scrivener's error omission may be corrected by the filing of any amendment to this Declaration consented to by Developer and any Owners or 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 of this Declaration executed by the Developer without the consent of any other party.

## ARTICLE XI PERIOD OF DEVELOPER CONTROL

Section 11.1 Developer Control. In view of the Developer's financial commitment to the Subdivision, Developer's obligations as an initial owner of the Lots to pay the expenses of the Subdivision and Developer's obligations and Developer's need to insure the success of the Subdivision, Developer hereby reserves unto itself, its successors and assigns, the right to manage all of the affairs of the Subdivision and all decisions of the Association, the exclusive right to elect the directors of the Association and members of the Architectural Committee (who need not be Owners) and the right to amend the By-Laws of the Association until the sale of all Lots within the Subdivision, or until the Developer elects to terminate its control of the Subdivision, whichever shall first occur. This period of time shall be known as the "Control Period." Developer may terminate its management rights and responsibilities, or any portion thereof, by relinquishing control of the Association in writing to the Owners at any time prior to the expiration of said Control Period. The Developer shall have the sole and exclusive right to take all actions and do all things in behalf of the Association. During the Control Period, Developer shall pay all expenses otherwise payable by the Association and as reimbursement therefor and as compensation for its management services, Developer shall be entitled to be reimbursed for such expenses out of the Assessments payable by the Owners during the Control Period, and Developer shall have all of the rights of the Association to levy and enforce payment of Assessments. At the termination of the Control Period and the assumption of the operation of the Association by the Members, Developer shall render an accounting of income and expenses incurred during said Control Period to the Owners. In the event that there is any conflict in the provisions of this Article and the other provisions contained in this Declaration, the Articles or the Bylaws, the provisions of this Article shall govern and prevail.

## ARTICLE XII GENERAL PROVISIONS

Section 12.1 [Intentionally Deleted].

Section 12.2 **Deeds Subject to Covenants.** Each deed for the sale of a Lot in the Subdivision will be subject to the terms and conditions of this Declaration and the said Deed will contain a reference to those Covenants and that Sections 1.10 contained herein can not and will not be amended by action of the Association.

Section 12.3 **Obligation of Owner to Build or Restore.**

(a) Each Owner of an unimproved Lot shall commence construction of a Dwelling in accordance with the requirements herein set forth on or before the expiration of two (2) years from the date of conveyance of such Lot to the Owner, and shall complete the construction of such Dwelling on or before the expiration date of one (1) year from the commencement of construction, but in no event later than three (3) years from the date of conveyance of said Lot, except by written approval of the ARC Control Committee.

(b) In the event a Dwelling on any Lot within the Property is damaged or destroyed in whole or in part, the Owner shall be obligated to repair or replace said structure within one (1) year from the date of such damage or destruction and such repair or replacement of such structure shall be in accordance with the covenants and restriction set forth in this Declaration. Further, all debris resulting from such damage or destruction must be removed and the Lot restored to a sightly condition with reasonable promptness, but not later than ninety (90) days after such damage or destruction.

Section 12.4 **Indemnity for Damages.** Each and every Owner and future Owner, in accepting a deed or contract for any lot subject to this Declaration, agrees to indemnify Developer for any damage caused by such Owner, or the contractor, agent or employee or such Owner, to roads, streets, gutters, walkways or other aspects of public ways, including all surfacing thereon, or to water drainage or storm sewer lines, or sanitary sewer lines owned by the Developer, or for which Developer has responsibilities at the time of such damage. Upon the purchase of any Lot within said Property by any said land owner, said owner accepts his/her knowledge of this Declaration, and ratifies the covenants contained herein and thus releases his/her right to prosecute Developer for the inconveniences said lot owner deems inadequate or unbecoming of said lot owner's needs.

Section 12.5 **No Trespass.** Whenever the Association, Developer, the ARC and their respective agents, employees, representatives, successors and assigns, are permitted by this Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.

Section 12.6 **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 United States mail, postage prepaid, return receipt requested, to the street address of the Lot owned by such Owner.

Section 12.7 **Severability**. Invalidation of any provision or provisions hereof by judgment or court order shall in no way affect any other provisions, all of which shall remain in full force and effect.

Section 12.8 **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.

Section 12.9 **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.

Section 12.10 **Usage**. Whenever used herein the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 12.11 **Conflict**. If any irreconcilable conflict shall exist, or hereafter arise, with respect to the interpretation of any provisions of this Declaration, and any covenant of a Lot, then the provisions of this Declaration shall prevail.

Section 12.12 **Effective Date**. This Declaration shall become effective upon its recordation in the Probate Court of Jefferson County, Alabama.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Developer has caused this Declaration to be executed on the \_\_\_\_ day of June, 2006.

**DEVELOPER:**

**WELLINGTON DEVELOPMENT  
CORPORATION**  
an Alabama corporation

By: \_\_\_\_\_

Charles G. Kessler  
Its President

**STATE OF ALABAMA    )  
JEFFERSON COUNTY    )**

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Charles G. Kessler, whose name as President of Wellington Development Corporation, an Alabama corporation, 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, as such officer, executed the same voluntarily and with full authority for and as the act of corporation.

Given under my hand and official seal this 16<sup>th</sup> day of June, 2006.

Gail d. Mills  
NOTARY PUBLIC

My Commission expires: 1-26-10

**THIS INSTRUMENT PREPARED BY:**

Gail Livingston Mills, Esq.  
Burr & Forman LLP  
420 North 20th Street  
3100 Wachovia Tower  
Birmingham, Alabama 35203  
(205) 251-3000

## EXHIBIT A

### **Legal Description**

#### **Southern Trace Cottages (Phase VI):**

Lots 601-678, according to the Map of Southern Trace Cottages, recorded in Map Book 219, Page 85, in the Office of the Judge of Probate of Jefferson County, Alabama.

#### **Southern Trace Cottages (Phase VII):**

A part of the Southwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Northwest corner of the Southwest quarter of the Northwest quarter of said Section 30; thence S 88 degrees 09 minutes 27 seconds W along the North line of said quarter-quarter section a distance of 517.79'; thence S 01 degrees 50 minutes 33 seconds W a distance of 6.78' to the Point of Beginning; thence S 39 degrees 30 minutes 17 seconds E a distance of 1180.99'; around a curve to the right through a central angle of 06 degrees 32 minutes 45 seconds an arc distance of 28.56' a chord bearing of S 48 degrees 56 minutes 33 seconds W a distance of 28.55'; thence S 52 degrees 12 minutes 56 seconds W a distance of 251.58'; thence N 39 degrees 30 minutes 17 seconds W a distance of 1065.49'; thence N 00 degrees 17 minutes 54 seconds E a distance of 141.52'; thence N 50 degrees 29 minutes 43 seconds E a distance of 189.41'; to the Point of Beginning containing 325017.61 square feet or 7.46 acres more or less.

#### **Southern Trace Cottages (Phase VIII):**

A part of the Southeast quarter of the Northeast quarter of Section 25, Township 17 South, Range 1 West and a part of the Southwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Southeast corner of the Southeast quarter of the Northeast quarter of said Section 25; thence N 01 degrees 49 minutes 25 seconds E along the West line of said quarter-quarter section a distance of 297.41' to the Point of Beginning; thence N 88 degrees 34 minutes 57 seconds W a distance of 604.61'; thence N 69 degrees 01 minutes 48 seconds W a distance of 107.95'; thence S 52 degrees 18 minutes 59 seconds W a distance of 107.87'; around a curve to the right through a central angle of 28 degrees 23 minutes 34 seconds an arc distance of 111.50' a chord bearing of N 23 degrees 29 minutes 14 seconds W a distance of 110.36'; thence S 80 degrees 42 minutes 33 seconds W a distance of 50.00'; around a curve to the right through a central angle of 19 degrees 36 minutes 14 seconds an arc distance of 94.09' a chord bearing of N 00 degrees 30 minutes 40 seconds E a distance of 93.63'; thence N 10 degrees 18 minutes 48 seconds E a distance of 127.30'; thence N 89 degrees 29 minutes 43 seconds E a distance of 50.91'; thence S 88 degrees 34 minutes 57 seconds E a distance of 1224.03'; thence N 45 degrees 24 minutes 01 seconds E a distance of 199.13'; thence S 44 degrees 35 minutes 59 seconds E a distance of 381.42'; thence S 41 degrees 17 minutes 19 seconds E a distance of 149.44'; thence S 65 degrees 04 minutes 57 seconds E a distance of 65.01'; thence S 87 degrees 01 minutes 42 seconds W a distance of 296.20'; thence N 88 degrees 34 minutes 57 seconds W a distance of 685.85' to the Point of Beginning; containing 493509.61 square feet or 11.33 acres more or less.

Southern Trace Cottages (Phase IX):

A part of the Southeast quarter of the Northeast quarter of Section 25, Township 17 South, Range 1 West and a part of the Southwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Northeast corner of the Southeast quarter of the Northeast quarter of said Section 25; thence S 01 degrees 49 minutes 25 seconds W along the West line of said quarter-quarter section a distance of 182.89' to the Point of Beginning; thence S 53 degrees 02 minutes 48 seconds W a distance of 55.43'; thence S 49 degrees 14 minutes 22 seconds W a distance of 50.12'; thence S 53 degrees 29 minutes 43 seconds W a distance of 119.24'; thence N 32 degrees 48 minutes 07 seconds W a distance of 101.09'; thence S 48 degrees 13 minutes 47 seconds W a distance of 133.44'; thence S 07 degrees 55 minutes 23 seconds W a distance of 65.57'; thence S 48 degrees 13 minutes 47 seconds W a distance of 309.18'; thence S 01 degrees 25 minutes 03 seconds W a distance of 152.14'; thence S 88 degrees 34 minutes 57 seconds E a distance of 962.86'; thence N 45 degrees 24 minutes 01 seconds E a distance of 199.13' to the Westerly most right of way of Alabama Power Company; thence N 44 degrees 36 minutes 00 seconds W a distance of 681.75'; thence S 53 degrees 02 minutes 48 seconds W a distance of 62.42' to the Point of Beginning; containing 428645.49 square feet or 9.84 acres more or less.

Southern Trace Cottages (Phase X):

A part of the Northeast quarter of Section 25, Township 17 South, Range 1 West and a part of the Northwest quarter of Section 30, Township 17 South, Range 1 East, being more particularly described as follows: Commence at the Northeast corner of the Southeast quarter of the Northeast quarter of said Section 25; thence S 01 degrees 49 minutes 25 seconds W along the West line of said quarter-quarter section a distance of 182.89' to the Point of Beginning; thence S 53 degrees 02 minutes 48 seconds W a distance of 55.43'; thence S 49 degrees 14 minutes 22 seconds W a distance of 50.12'; thence S 53 degrees 29 minutes 43 seconds W a distance of 119.24'; thence N 32 degrees 48 minutes 07 seconds W a distance of 101.09'; thence S 48 degrees 13 minutes 47 seconds W a distance of 133.44'; thence S 07 degrees 55 minutes 23 seconds W a distance of 65.57'; thence S 48 degrees 13 minutes 47 seconds W a distance of 309.18'; thence S 01 degrees 25 minutes 03 seconds W a distance of 152.14'; thence N 88 degrees 34 minutes 57 seconds W a distance of 261.16'; thence S 89 degrees 29 minutes 43 seconds W a distance of 50.91'; thence S 10 degrees 18 minutes 48 seconds W a distance of 127.30'; around a curve to the left through a central angle of 19 degrees 36 minutes 14 seconds an arc distance of 94.09' a chord bearing of S 00 degrees 30 minutes 40 seconds W a distance of 93.63'; around a curve to the right through a central angle of 75 degrees 31 minutes 21 seconds an arc distance of 32.95' a chord bearing of S 28 degrees 28 minutes 14 seconds W a distance of 30.62'; thence S 66 degrees 13 minutes 54 seconds W a distance of 27.82'; around a curve to the left through a central angle of 27 degrees 21 minutes 47 seconds an arc distance of 95.52' a chord bearing of S 52 degrees 33 minutes 01 seconds W a distance of 94.61'; thence N 26 degrees 19 minutes 43 seconds W a distance of 22.40'; thence N 00 degrees 23 minutes 14 seconds W a distance of 115.20'; thence N 10 degrees 18 minutes 48 seconds E a distance of 346.16'; thence N 48 degrees 13 minutes 47 seconds E a distance of 761.46'; thence N 65 degrees 17 minutes 13 seconds E a distance of 94.49'; thence N 04 degrees 14 minutes 47 seconds W a distance of 6.44'; thence N 79 degrees 31 minutes 57 seconds E a distance of 118.43'; around a curve to the right through a central angle of 07 degrees 14 minutes 32 seconds an arc distance of 60.04' a chord



bearing of N 06 degrees 50 minutes 47 seconds W a distance of 60.00'; thence N 77 degrees 39 minutes 10 seconds E a distance of 50.72'; thence N 29 degrees 56 minutes 40 seconds E a distance of 321.92'; thence N 45 degrees 10 minutes 31 seconds E a distance of 98.20'; thence N 44 degrees 49 minutes 29 seconds W a distance of 65.34'; thence N 79 degrees 05 minutes 09 seconds E a distance of 90.73' to the Westerly most right of way of Alabama Power Company; thence S 39 degrees 30 minutes 08 seconds E along said right of way a distance of 306.05'; thence S 45 degrees 10 minutes 31 seconds W a distance of 144.40'; thence S 29 degrees 56 minutes 40 seconds W a distance of 320.15'; thence S 44 degrees 36 minutes 03 seconds E a distance of 10.31'; thence S 53 degrees 02 minutes 48 seconds W a distance of 62.42' to the Point of Beginning; containing 488691.59 square feet or 11.22 acres more or less.

**Southern Trace Cottages (Phase XI):**

- Being a part of the Northeast quarter and the Southeast quarter of the Northeast quarter of Section 25, Township 17 South, Range 1 West, and also a part of the Northwest quarter of the Northwest quarter of Section 30, Township 17 South, Range 1 East; Being more particularly described as follows: Beginning at the Southwest corner of the Northeast quarter of the Northeast quarter of said Section 25; thence S 87 degrees 25 minutes 13 seconds E along the South line of said quarter-quarter section a distance of 282.13'; thence N 45 degrees 53 minutes 25 seconds E a distance of 809.19'; thence S 40 degrees 24 minutes 60 seconds E a distance of 187.42'; thence S 18 degrees 11 minutes 60 seconds E a distance of 121.00'; thence S 04 degrees 00 minutes 60 seconds W a distance of 274.06'; thence S 04 degrees 14 minutes 47 seconds E a distance of 51.95'; thence S 04 degrees 14 minutes 47 seconds E a distance of 55.43'; thence N 79 degrees 31 minutes 57 seconds E a distance of 118.43'; around a curve to the right through a central angle of 07 degrees 14 minutes 32 seconds an arc distance of 60.04' a chord bearing of N 06 degrees 50 minutes 47 seconds W a distance of 60.00'; thence N 77 degrees 39 minutes 10 seconds E a distance of 50.72'; thence N 29 degrees 56 minutes 40 seconds E a distance of 321.92'; thence N 45 degrees 10 minutes 31 seconds E a distance of 98.20'; thence N 44 degrees 49 minutes 29 seconds W a distance of 65.34'; thence N 79 degrees 05 minutes 09 seconds E a distance of 90.73' to the Westerly most right of way of Alabama Power Company; thence N 39 degrees 30 minutes 17 seconds W along said right of way a distance of 1163.45' to a point on the North line of said Section 25; thence N 87 degrees 00 minutes 53 seconds W along said North line a distance of 670.78' to the Northwest corner of said Northeast quarter; thence S 01 degrees 24 minutes 27 seconds W along the Westerly line of said Northeast quarter a distance of 1349.08' to the Point of Beginning; containing 1276009.05 square feet or 29.29 acres more or less.

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Fee - \$84.50

Total of Fees and Taxes--\$84.50  
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