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Judge of Probate- Alan L. King

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**CHACE LAKE RESIDENTIAL**

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

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**CHACE LAKE RESIDENTIAL  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

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**THIS CHACE LAKE RESIDENTIAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS** (this "Declaration") is made as of the 25<sup>th</sup> day of November, 2008, by **CHACE LAKE RESIDENTIAL, LLC**, a Delaware limited liability company (the "Developer").

**RECITALS:**

Developer and its Affiliate are the owners, respectively, of various parcels of real property situated in Jefferson and Shelby Counties, Alabama, containing approximately 123 acres in the aggregate, which Developer and its Affiliate intend to develop as a planned unit development (the "PUD") in accordance with the Master Plan hereafter described. The PUD will be comprised of mixed uses consisting of (1) single family residential housing on the Chace Lake Residential Property or the "Property" hereafter described and constituting the areas designated as "PR-1" on the Master Plan, (2) parks, lakes, and natural areas on the Chace Lake Open Space Property hereafter described and constituting the areas designated as "PR-1 Open Space" on the Master Plan, and (3) commercial and other related business uses (including common areas) on approximately 20.20 acres of the real property (hereafter described as the "Chace Lake Commercial Property" and constituting the areas designated as "PC" on the Master Plan).

Developer desires to develop, improve, lease and sell the Chace Lake Residential Property for single family residential uses, subject to certain easements, covenants, conditions, restrictions, requirements and obligations, in order to protect the value and desirability of the Property and to have a flexible and reasonable method for the development, administration and maintenance of the Property.

**NOW, THEREFORE,** Developer does hereby declare that all of the that certain real property situated in Jefferson and Shelby Counties, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference shall be held, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to the following easements, covenants, conditions, restrictions, charges, liens and regulations, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property described in Exhibit A attached hereto and any of the Additional Property, as hereinafter defined, and their respective heirs, executors, administrators, personal representatives, 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.** The term "Additional Property" shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Property) which Developer may from time to time submit and add to the provisions of this Declaration pursuant to the provisions of Section 2.2 below. The Additional Property may also include additional Common Areas.

Section 1.2 **Affiliate.** The term "Affiliate" shall mean, as to any Person, any other Person which, directly or indirectly, is in common control of, is controlled by, or is under direct or indirect common control with, such Person, and, if such Person is an individual, any member of the immediate family of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any Person which is controlled by any such member or trust. As used herein, the term "control" (and like terms) when used with respect to any Person, means the direct or indirect beneficial ownership of more than five percent (5%) of the outstanding voting securities or voting equity of such Person or possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of voting securities or by contract or otherwise.

Section 1.3 **Amenity Center.** The term "Amenity Center" shall mean the clubhouse and swimming pool to be constructed on approximately 0.81 acres of the Property in an area to be designated as the "Amenity Center" on a future subdivision map for "Phase 2" 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 1.4 **ARC.** The term "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 1.5 **Architectural Standards.** The term "Architectural Standards" shall mean the standards prepared, issued and amended from time to time by the ARC pursuant to Article IV below for the purpose of establishing policies, guidelines and minimum requirements with regard to the construction, location, landscaping, design, architectural style and elements and any other matters relating to the construction of Improvements on the Lots. In addition, the term "Architectural Standards" shall include, without limitation, any additional construction and development guidelines adopted from time to time by the ARC or the Board.

Section 1.6 **Articles of Incorporation.** The term "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as said Articles may be amended from time to time.

Section 1.7 **Assessment.** The term "Assessment" shall mean the assessments to be assessed against the Owners pursuant to the authority vested in the Association, and such term shall include the Annual Assessments, Special Assessments, Individual Assessments, and Common Area Assessments, all as described in Article VI hereof.

Section 1.8 **Association.** The term "Association" shall mean Chace Lake Residential Association, Inc., an Alabama nonprofit corporation, and its successors and assigns.

Section 1.9 **Board.** The term "Board" shall mean and refer to the Board of Directors of the Association and their duly elected successors as may be provided in the Articles of Incorporation and Bylaws.

Section 1.10 **Bylaws.** The term "Bylaws" shall mean the Bylaws of the Association, as such by-laws may be amended from time to time.

Section 1.11 **Building.** The term "Building," with an initial capital letter, shall mean and refer to any building or other structure of any nature constructed, situated, erected, maintained, placed or installed on any of the Lots.

Section 1.12 **Cahaba River Buffer Area.** The term "Cahaba River Buffer Area" shall mean a buffer area of 100' running along the Cahaba River which is shown on the Master Plan, and which provides a benefit for the Chace Lake Commercial Property, the Chace Lake Residential Property, and the Chace Lake Open Space Property, and which shall be maintained by the Commercial Association and the Residential Association pursuant to the separate agreement hereafter described.

Section 1.13 **Chace Lake Open Space Property.** The term "Chace Lake Open Space Property" means approximately 11.3 acres of land shown on the Master Plan as "PR-1 Open Space."

Section 1.14 **Chace Lake Commercial Property.** The term "Chace Lake Commercial Property" means approximately 20.20 acres of land shown on the Master Plan as "PC Planned Commercial" which such property is being developed by Chace Lake Commercial, LLC, a Delaware limited liability company and an Affiliate of Developer, for commercial use.

Section 1.15 **Chace Lake Commercial Association.** The term "Chace Lake Commercial Association" shall mean Chace Lake Commercial Association, Inc., an Alabama nonprofit corporation, and its successors and assigns, formed as the owner's association for the Chace Lake Commercial Property.

Section 1.16 **Common Areas.** The term "Common Areas" shall mean and refer to all real and personal property now or hereafter for the common use and enjoyment of the Owners and which shall include (regardless of whether legal title to the same has been conveyed to the Association) (a) the Amenity Center; (b) all signage for the Property situated on or within the Entrance Easement or within rights-of-way of any public roads within the Property (but specifically excluding any signage located within the boundaries of any Lot unless an easement has been granted to (and accepted by) Developer or the Association for signage on such Lot), including, without limitation, informational, traffic and street signage; (b) all street lights and

street and landscaping lighting situated within the right-of-way of any streets within any portion of the Property (to the extent the same are not being maintained by any Governmental Authority); (c) all sidewalks, paths and on-street parking spaces, if any, situated within any portion of the Property (other than such areas located within the boundary lines of any Lot or which are maintained by any Governmental Authority); (d) all gates, walls, fences, Improvements, landscaping and landscaped areas situated within the rights-of-way of any public roadways within the Property, including all medians within any public roadways (other than any such areas located within the boundary lines of any Lot or which are owned or maintained by any Governmental Authority); (e) all water features, storm drains and sewers, drainage and/or watershed protection or retention ponds, basins or other areas and facilities located within the Property (other than such areas located within the boundary lines of any Lot or which are maintained by any Governmental Authority); (f) all utility and irrigation lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which serve any portion of the Common Areas (which are not owned or maintained by any public or private utility providers or any Governmental Authorities), including sanitary sewer pumping stations; (g) any and all other areas designated on any Subdivision Record Map as a "Common Area"; and (h) any other areas or Improvements on or within the Property which are designated by Developer as Common Areas from time to time. The designation of any land and/or Improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment or any other rights, licenses or benefits therein or to the use thereof. The Common Areas shall also include the Chace Lake Open Space Property, which shall be held for the common use and enjoyment of the Owners in common with the common use and enjoyment of all Owners of the Chace Lake Commercial Property, until such time, if any, that the Chace Lake Open Space Property is conveyed to the City of Hoover as a public park.

Section 1.17 **Common Expenses.** The term "Common Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Association, including, without limitation, those expenses described in Section 7.1 below, together with all funds assessed for the creation or maintenance of reserves pursuant to the provisions of this Declaration

Section 1.18 **Declaration.** The term "Declaration" shall mean and refer to this Chace Lake Residential Declaration of Covenants, Conditions and Restrictions, together with all amendments thereto.

Section 1.19 **Developer.** The term "Developer" means Chace Lake Residential, LLC, a Delaware limited liability company and its successors and assigns.

Section 1.20 **Entrance Easement.** The term "Entrance Easement" shall have the meaning ascribed to it in Section 3.1 hereof.

Section 1.21 **Improvement.** The term "Improvement," with an initial capital letter, shall mean and refer to any Building, structure or device constructed, erected or placed upon any Lot which in any way affects, alters or causes a change in the exterior appearance of any Lot. Improvements shall include, by way of illustration and not limitation, any fence, wall, sign, lighting system, site paving, grading, screen enclosure, sewer drain, disposal system, statuary, signs, flags, flag poles, water fountains, yard sets, decorative building, landscaping, landscape device or object.



Section 1.23 **Lot.** The term "Lot" shall mean and refer to any portion of the Property upon which it is intended that a Building be constructed thereon. Upon the recordation of any subdivision plat for any portion of the Property, each Lot indicated thereon (other than any Lots designated thereon as Common Areas or which subsequently become Common Areas) shall be deemed a Lot for purposes of this Declaration; provided, however, that a Lot may be unplatted and may be described by metes and bounds legal description.

Section 1.24 **Master Plan.** The term "Master Plan" shall mean and refer the Chace Lake Master Plan, as the same has been approved by the City of Hoover, Alabama, a copy of which is attached hereto as Schedule I, together with all amendments or modifications as the same may hereafter be approved by the City of Hoover, Alabama, or other applicable Governmental Authority.

Section 1.25 **Member.** The term "Member" shall mean any person who is a member of the Association. Every Owner shall be a Member.

Section 1.26 **Mortgage.** The term "Mortgage," with an initial capital letter, shall mean any mortgage or other security device encumbering a Lot or Building or any interest therein and which shall have been duly and properly recorded in the Probate Office.

Section 1.27 **Mortgagee.** The term "Mortgagee," with an initial capital letter, shall mean the holder of any Mortgage.

Section 1.28 **Occupant.** The term "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 Building within the Subdivision. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Building.

Section 1.29 **Owner.** The term "Owner" shall mean and refer to the record owner, including Developer, of fee simple title to any Lot or Building, whether a corporation, partnership, proprietorship, association or other entity of any nature, including natural persons, but shall not include (i) any Mortgagee of Lot upon which a Building has been constructed, unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or Building 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 Building solely by virtue of a lease, contract, installment contract or other agreement.

Section 1.30 **Person.** The term "Person" with an initial capital letter, shall mean and refer to any individual, corporation, association, partnership, limited liability company, joint venture, trust, estate or other entity or organization.

Section 1.31 **Probate Office.** The term "Probate Office" shall mean and refer, collectively, to the Office of the Judge of Probate of Jefferson County, Alabama, and any successors thereto which serves as the official public registry for the public recording of real estate documents in Jefferson County, Alabama, and to the Office of the Judge of Probate of Shelby County, Alabama, and any successors thereto which serves as the official public registry for the public recording of real estate documents in Shelby County, Alabama.

Section 1.32 **Property.** The term "Property," with an initial capital letter, shall mean and refer to that certain real property situated in Jefferson and Shelby Counties, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference and which is shown on the Master Plan as the "PR-1 Single Family" areas. The Property shall also include any Additional Property made subject to this Declaration pursuant to Section 2.02 hereof. The Property is also sometimes referred to herein as the "Chace Lake Residential Property." The Property does not include the Cahaba River Buffer Area, the Chase Lake Commercial Property, or the PR-1 Open Space area shown on the Master Plan.

Section 1.33 **Protective Covenants.** The term "Protective Covenants" shall mean all of those covenants, conditions and restrictions contained in this Declaration.

Section 1.34 **Purchaser.** The term "Purchaser" shall mean any person who acquires any Lot.

Section 1.35 **Single Family Unit.** The term "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 Building.

Section 1.36 **Subdivision.** The term "Subdivision" shall mean all phases of Chace Lake Residential, collectively, and any amendments or supplements thereof.

Section 1.37 **Subdivision Record Maps.** The term "Subdivision Record Maps" shall mean each recorded map or plat for one or more phases of Chace Lake Residential, each as shall be recorded in the Probate Office, and any amendments or supplements thereof. The initial Subdivision Record Map for Chace Lake - Phase 2A is recorded in Map Book 230, Page 17, in the Office of the Judge of Probate of Jefferson County, Alabama, and in Map Book 40, Page 102 in the Office of the Judge of Probate of Shelby County, Alabama.

Section 1.38 **Turnover Date.** The term "Turnover Date" shall mean the later of the following:

- (a) five (5) years from the date hereof; or
- (b) the first to occur of the following: (i) the date on which Developer and any of its Affiliates cease to own any portion of the Property; or (ii) the date on which Developer elects, in its sole and absolute discretion, to terminate its management rights and responsibilities pursuant to Section 11.1 hereof;
- (c) the first to occur of the following: (i) the date on which Chace Lake Commercial, LLC ceases to own any portion of the Chace Lake Commercial Property; or (ii) the date on which Chace Lake Commercial, LLC elects, in its sole and absolute discretion, to relinquish (1) all rights to appoint and remove members of the board of directors of the Chace Lake Commercial Association, pursuant the protective covenants for the Chace Lake Commercial Property to be created hereafter, and (2) all voting rights in the Chace Lake Commercial Association reserved to Chace Lake Commercial, LLC.

**ARTICLE II**  
**PROPERTY SUBJECT TO RESTRICTIONS**

Section 2.1 **General Declaration.** Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Declaration and the Property, any part thereof and each Lot or Building 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 Building 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 Building, 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, 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 Building) and shall (a) refer to this Declaration stating the Instrument Number in the Probate Office 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 Subdivision. 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 Building.

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 Building within the Property and are intended to create mutual, equitable servitudes upon and in favor of each Lot and Building, (b) to create reciprocal rights and obligations between the respective Owners, Occupants and all future and subsequent Owners and Occupants of any Lot or Building 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 **Additional Covenants.** Developer may, in its sole and absolute discretion, create additional restrictive covenants, in addition to the terms and provisions of this Declaration, for any portions of the Property. Furthermore, other owner associations may be created for portions of the Property subject to any such additional covenants. Only those portions of the Property which are specifically subjected to and encumbered by any such additional restrictive covenants shall be bound by the terms and provisions thereof or shall be allowed to have any membership interest in any such additional owners' associations which may be established from time to time by Developer. In the event of any conflict or ambiguity between the terms and provisions of any such additional restriction covenants and the terms and provisions of this Declaration, the terms and provisions of this Declaration shall at all times control.

Section 2.6 **Development of Property.** At any time prior to the occurrence of the Turnover Date and at any time thereafter for so long as Developer owns any portion of the Property, Developer shall have the right to make improvements and changes to all Common Areas and to all Lots owned by Developer, including, without limitation, (a) installing and maintaining any Improvements in or to the Common Areas, (b) changing the location of the boundaries of any Lots owned by Developer or the boundaries of any of the Common Areas, (c) changing the boundaries of any portion of the Property owned by Developer, including any Additional Property owned by Developer, (d) installing and maintaining any water, sanitary sewer, storm sewer and any other utility systems and facilities within any of the Common Areas, (e) converting and changing any Lots or any portion thereof owned by Developer into Common Areas, streets, roadways, paths, parks or other uses and (f) removing or exempting any portion of the Property and any Lots or Common Areas from the terms and provisions of this Declaration. The exercise by Developer of any of the rights reserved unto Developer in this Section 2.6 may be exercised by Developer without any requirement that the consent or approval of any Owners or Mortgagees be obtained. Each Owner, by acceptance of a deed to any Lot, acknowledges and agrees that Developer and its respective Affiliates may either own or may in the future own real property situated adjacent to or in close proximity with the Property, which real property will not be subject to any of the terms and provisions of this Declaration unless Developer, in its sole and absolute discretion, elects to add such real property to the terms and provisions of this Declaration pursuant to the provisions of Section 2.2 above.

Section 2.7 **Subdivision.** 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, Buildings, 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, the rights reserved by Developer pursuant to this Section 2.7 may be exercised by Developer without any requirement that the consent or approval of any Owners or Mortgagees be obtained (other than the Owner or Mortgagee of any Lot which is being subdivided or re-subdivided) and shall include, without limitation, the right to (a) divide and re-subdivide, combine, subdivide and re-subdivide any Lots, Common Areas and other portions of the Property owned by Developer, and (b) amend from time to time and at any time Exhibit A to this Declaration to reflect any such subdivision or re-subdivision of any portion of the Property.

### **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 and their parties having a right or interest therein, and their respective successors and/or assigns. Subject to the remaining terms of this Declaration, the easements 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 Easements. Developer hereby declares an easement across (i) that area labeled as "Common Area B" as shown on the Subdivision Record Map for Chace Lake - Phase 2A is recorded in Map Book 230, Page 17, in the Office of the Judge of Probate of Jefferson County, Alabama, and in Map Book 40, Page 102 in the Office of the Judge of Probate of Shelby County, Alabama (the "Entrance Easement"), together with the monument signage and landscaping to be situated within such Common Area B. 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 **Reservation and Grant of General Access and Maintenance Easement**. Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant over, across, through and upon each Lot for the purposes of (a) providing ingress to and egress from each Lot for (i) inspecting each Lot and any Improvements thereon in order to determine compliance with the provisions of this Declaration and (ii) the performance of the respective duties of Developer, the ARC and the Association hereunder, including, without limitation, taking any action required or permitted to be taken by Developer, the ARC and the Association pursuant to any of the terms or provisions of this Declaration; provided, however, that upon completion and occupancy of any Building, then the foregoing easement shall not be deemed to allow or grant any rights to Developer, the ARC or the Association to enter into any

Buildings, shall, except in the case of emergencies, be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Lot directly affected thereby, and (b) mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Property; provided, however, that such easement shall not impose any duty or obligation upon Developer, the ARC or the Association to perform any of the foregoing actions.

Section 3.3 **Reservation and Grant of Easements With Respect to Common Areas.**

(a) Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the ARC, the Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant, over, across, under, through and upon all of the Common Areas, if any, situated on such Owner's Lot for the purposes of (i) constructing Improvements in and to any Lots and Common Areas, (ii) installing, maintaining, repairing and replacing any other Improvements to the Property or to the Common Areas, including, without limitation, sidewalks, walkways, signage and traffic directional signs and (iii) doing all other things reasonably necessary and proper in connection therewith; provided, however, that in no event shall Developer, the ARC or the Association have any obligation to undertake any of the foregoing.

(b) Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns, the permanent right to change, modify and realign the boundaries of any of the Common Areas, if any, situated on such Owner's Lot. Developer does further establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns (i) a permanent and perpetual non-exclusive easement to have access, ingress to and egress from and the right and privilege to use and enjoy all of the Common Areas and all Improvements thereon, if any, situated on such Owner's Lot for such purposes as Developer or the Association deems appropriate, (ii) the right to grant to third parties rights to use the Common Areas if any, situated on such Owner's Lot and (iii) the right to grant to third parties, other real property and the owners of such real property rights to use any of the Common Areas. Developer reserves the right, but shall not have any obligation, to convey by quitclaim deed to the Association at any time and from time to time any portion of the Property or any Improvements thereto to be utilized as Common Areas, as Developer may, in its sole discretion, determine.

Section 3.4 **Reservation and Grant of Easement for Utilities.** Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns, a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon all portions of the Property, including all Common Areas and all Lots, which are reasonably necessary for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and all utilities necessary or convenient for the use of any portion of the Property or other real property, including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sanitary sewer services, storm drains and sewers, drainage systems, retention ponds, lakes, basins and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in

order to provide any utility service to any portion of the Property or any other real property. The easements established, reserved and granted herein shall include the right of Developer and the Association and any of their respective successors and assigns to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair, operation and replacement of all such utility services and the systems, equipment and machinery used to provide the same. Notwithstanding anything provided in this Section 3.4 to the contrary, (i) the utilization of any of the easements and rights established, reserved and granted pursuant to this Section 3.4 shall not unreasonably interfere with the use or occupancy of any Building situated on any Lot, (ii) shall not be deemed to allow the exercise of any easement rights inside any Buildings situated on any Lot, (iii) Developer and the Association shall use good faith efforts to attempt to cause any utility company or other supplier or provider of any utility service which may utilize any of the easements and rights reserved, established or granted pursuant to this Section 3.4 to take reasonable action to repair any damage caused by such utility company or other supplier or provider of such utility service during the exercise of any rights established, reserved and granted herein and (iv) the establishment, reservation and grant of easements pursuant to this Section 3.4 shall not create any obligation, responsibility or liability of Developer or the Association to undertake any of the actions allowed or permitted pursuant to the terms of this Section 3.4.

**Section 3.5 Reservation and Grant of Easements for Sidewalks and Signs.**

(a) Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land ten (10) feet in width lying parallel to and running along the common exterior boundary between each Lot and any public roadway which is directly adjacent to and abuts such Lot for the purpose of constructing, installing, maintaining, repairing, operating, replacing and the use of sidewalks, traffic directional signs and related improvements; provided, however, that neither Developer nor the Association shall have any obligation to construct any of the foregoing improvements.

(b) Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land fifteen (15) feet in width running parallel to and along the boundary of any Lot which constitutes the perimeter boundary of the Property for the purpose of constructing, installing, maintaining, repairing, operating and replacing a perimeter wall, fence, mound or berm and landscaping around the perimeter boundary of the Property; provided, however, that (i) neither Developer nor the Association shall have any obligation to construct any such perimeter wall, fence, mound or berm or any landscaping and (ii) to the extent either Developer or the Association desires to exercise the easement rights reserved in this Section 3.5, then either Developer or the Association shall have the further right, at any time and from time to time, to alter, change, modify, terminate and remove any improvements constructed by either Developer or the Association on any portion of the Property pursuant to this Section 3.5.

**Section 3.6 Reservation and Grant of Environmental Easement.**

(a) Developer does hereby establish and reserve for itself and its successors and assigns and does hereby grant to the Association and its agents, employees, successors and assigns, a permanent and perpetual right and easement on, over, across, through and upon all Lots and all unimproved portions of any Lots for the purpose of taking any action necessary to effect compliance with the Architectural Standards and any watershed, soil erosion or environmental rules, regulations and procedures from time to time affecting or otherwise promulgated or instituted by any Governmental Authorities or the Board. The easement and right established, reserved and granted herein shall include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water and the right to take any other action which may be required in order to satisfy the requirements of the Architectural Standards or any Governmental Authorities, including, without limitation, any watershed, soil erosion, storm water discharge or environmental rules, regulations or procedures affecting the Property. Except in the case of an emergency situation or a perceived emergency situation, the exercise by Developer or the Association of the rights reserved or granted in this Section 3.6 shall not unreasonably interfere with the use or occupancy of any Building. .

#### **ARTICLE IV** **ARCHITECTURAL CONTROL**

Section 4.1 **Committee Composition.** The ARC shall consist of not less than three (3) nor more than seven (7) persons, each of whom shall be appointed or elected as provided in Section 4.2 below. The persons designated to serve on the ARC may, but shall not be required to be, Owners or Occupants. The regular term of office for each member of the ARC shall be three (3) years, coinciding with the fiscal year of the Association. Any member of the ARC may be removed with or without cause in the manner provided in Section 4.2 below

#### Section 4.2 **ARC Membership.**

(a) DEVELOPER SHALL HAVE THE SOLE AND EXCLUSIVE RIGHT AT ALL TIMES (EITHER PRIOR TO OR AFTER THE OCCURRENCE OF THE TURNOVER DATE) TO APPOINT AND REMOVE ALL MEMBERS OF THE ARC. Any person appointed as a member of the ARC by Developer may be removed, with or without cause, at any time by Developer. In the event of the death or resignation of a member of the ARC who has been appointed by Developer, then Developer shall appoint a substitute member of the ARC to fill such vacancy.

(b) Developer reserves the right, at any time either prior to or after the occurrence of the Turnover Date to elect, in a written notice given to the Association, to no longer retain the exclusive rights to appoint and remove members of the ARC as set forth in Section 4.2(a). Following the giving of such written notice by Developer to the Association, the Board shall, at all times thereafter, have the right to appoint and remove all persons who will serve on the ARC. Any person appointed as a member of the ARC by the Board may be removed, with or without cause, at any time by the Board. In the event of the death or resignation of a member of the ARC who has been appointed by the Board, then the Board shall appoint a substitute member of the ARC to fill such vacancy. Any person appointed by the Board to serve on the ARC shall be deemed an agent of the Association. The terms and provisions of this Section 4.2(b) shall not be effective until such time as Developer elects, in its sole and absolute discretion, to relinquish the



right to appoint and remove members of the ARC, which election must be evidenced by a written notice provided by Developer to the Association in accordance with the terms and provisions of Section 4.2(a) above.

Section 4.3 **Procedure and Meetings.** The ARC shall elect a chairman and he or she, or in his or her absence, any vice-chairman so elected, shall be the presiding officer at all meetings of the ARC. The ARC shall meet on a regular basis as well as upon call of the chairman or vice-chairman and all such meetings shall be held at such places as may be designated by the chairman or vice-chairman. The presence, either in person or by proxy, of a majority of the total number of members of the ARC shall constitute a quorum of the ARC for the transaction of business and the affirmative vote of a majority of those present in person or by proxy at a meeting of the ARC shall constitute the action of the ARC on any matter which comes before it. The ARC is authorized to retain the services of consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the ARC in performing its functions set forth herein. All such costs and expenses incurred by the ARC in the review of any plans shall be paid by the Owner submitting such plans to the ARC for review and approval. Each member of the ARC may be paid a stipend or honorarium as may from time to time be determined by the Board and shall otherwise be entitled to a reimbursement of expenses incurred on behalf of the ARC, subject to the approval of such expenses by the Board. The ARC shall have the right from time to time to adopt and establish such rules and regulations as may be determined to be necessary concerning the procedure, notice of meetings and all other matters concerning the conduct of the business of the ARC, including, without limitation, the right to designate one (1) person to act on behalf of the entire ARC in all matters in which the ARC is granted the right to act under the terms of this Declaration.

Section 4.4 **Architectural Standards.** The ARC is hereby authorized to promulgate and amend and modify from time to time written Architectural Standards governing policies, guidelines and minimum requirements to be satisfied with respect to the construction, location, landscaping and design of all Buildings and any other Improvements on any Lot, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Building or other Improvements on a Lot are to be submitted to and approved by the ARC and any other matters affecting the construction, repair or maintenance of any Building or other Improvements on any Lot; provided, however, that any such Architectural Standards and any amendments and modifications thereto must be approved by (a) Developer, at all times that Developer has the right to appoint and remove the members of the ARC or (b) the Board of the Association, at all times that the Board of the Association has the right to appoint and remove the members of the ARC. The Architectural Standards and any and all amendments thereto adopted from time to time by the ARC (and approved by Developer or the Board, as provided above) shall be in addition to the provisions and requirements set forth in this Declaration and shall be binding upon and enforceable against all Owners.

Section 4.5 **Approval of Plans and Specifications.**

(a) IN ORDER TO PRESERVE THE ARCHITECTURAL AND AESTHETIC APPEARANCE AND THE NATURAL SETTING AND BEAUTY OF THE PROPERTY, TO ESTABLISH AND PRESERVE A HARMONIOUS DESIGN FOR THE PROPERTY AND TO PROTECT AND PROMOTE THE VALUE OF THE PROPERTY, THE LOTS, THE

BUILDINGS AND ALL IMPROVEMENTS THEREON, NO IMPROVEMENTS OF ANY NATURE SHALL BE COMMENCED, ERECTED, INSTALLED, PLACED, MOVED ONTO, ALTERED, REPLACED, RELOCATED, PERMITTED TO REMAIN ON OR MAINTAINED ON ANY LOT (OTHER THAN BY DEVELOPER), WHICH AFFECT THE EXTERIOR APPEARANCE OF ANY LOT OR ANY BUILDING SITUATED THEREON UNLESS PLANS AND SPECIFICATIONS FOR THE SAME HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 4.5(b) BELOW. WITHOUT LIMITING THE FOREGOING, THE CONSTRUCTION AND INSTALLATION OF ANY BUILDINGS OR IMPROVEMENTS SHALL NOT BE UNDERTAKEN, NOR SHALL ANY EXTERIOR ADDITION TO OR CHANGE OR ALTERATION TO AN EXISTING BUILDING OR OTHER STRUCTURE ON A LOT BE MADE (INCLUDING, WITHOUT LIMITATION, PAINTING OR STAINING OF ANY EXTERIOR SURFACE), UNLESS THE PLANS AND SPECIFICATIONS FOR THE SAME HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 4.5(b) BELOW.

(b) The plans and specifications required under Section 4.5(a) 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 Buildings 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.

(v) 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 Developer at c/o Signature Homes, 3545 Market Street, Hoover, Alabama 35226, PHONE: (205) 989-5588, FAX: (205) 989-8884, Attention: Kris Keown, or such other address as may be reflected by the ARC in a duly recorded instrument filed in the Probate Office.

(c) The ARC shall, in its sole and absolute discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. The ARC shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, any failure to comply with any of the provisions of this Declaration or the

Architectural Standards, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed improvement with the scheme of development proposed for the Property, objection to the location of any proposed Improvements on any such Lot, objection to the landscaping plan for such Lot, objection to the color scheme, finish, proportions, style of architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole and absolute judgment of the ARC, would render the proposed Improvement inharmonious with the general plan of development contemplated for the Property. The ARC shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements. Approval of plans and specifications by the ARC for Improvements to one particular Lot shall not be deemed an approval or otherwise obligate the ARC to approve similar plans and specifications or any of the features or elements for the Improvements for any other Lot. One copy of all plans, specifications and related data so submitted to the ARC shall be retained in the records of the ARC and the other two (2) copies shall be returned to the Owner submitting the same marked "approved," "approved as noted" or "disapproved". Notwithstanding anything provided herein to the contrary, an Owner may make interior improvements and alterations within any Buildings situated on such Owner's Lot without the necessity or requirement that the approval or consent of the ARC be obtained so long as (i) such improvements and alterations do not affect the exterior appearance of such Building and (ii) the gross square footage of heated and cooled space within such Building is not increased.

(d) The ARC may, in its sole discretion, establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof. Such fee or fees shall be paid by the Owner who is seeking approval of plans and specifications. The ARC shall also have the right, in its sole and absolute discretion, to require the Owner of each Lot to deposit a construction escrow/security deposit with the ARC at the time the ARC approves the plans and specifications for any Improvements to such Owner's Lot. Such construction escrow/security deposit shall be held by the Association, shall serve as security for the full and faithful completion by such Owner of all Improvements to be made by such Owner on such Owner's Lot and the compliance with all of the terms, conditions and provisions of this Declaration and all interest earned on said deposit, if any, shall belong to and remain the property of the Association; provided, however, that the Association shall not be obligated to maintain such escrow/security deposit in an interest bearing account or to pay any interest, if any, earned on the escrow/security deposit to any Owner. Any such escrow/security deposit shall be returned to the Owner who has deposited the same upon completion of all Improvements on such Lot and the determination by the ARC, in its sole and absolute discretion, that all of the other terms and provisions of this Declaration have been satisfied and complied with in all respects by such Owner and such Owner's agents, employees and independent contractors. If the ARC, in its sole discretion, determines that such Improvements are not timely completed in accordance with the terms and provisions of this Declaration, or if, in the construction of such Improvements, such Owner or such Owner's agents, employees or independent contractors, fail to abide by all of the terms and provisions of this Declaration and any of the Architectural Standards, then the ARC shall have the right, in its sole and absolute discretion, to use all or any portion of such escrow/security deposit to complete, correct or remedy any such breach by such Owner or such Owner's agents,

employees or independent contractors; provided, however, that application of such escrow/security deposit to the costs to complete, correct or remedy any such breach or violation shall not be deemed a release or waiver of any rights of the ARC or the Association to exercise any of their respective rights or remedies set forth in this Declaration. In addition to the foregoing, the ARC reserves the right, in its sole and absolute discretion, to require each Owner and/or such Owner's contractor, to execute a soil erosion and storm water discharge indemnity in favor of the ARC, the Association and Developer to the extent such Owner does not obtain its own soil erosion and storm water discharge permit from the applicable Governmental Authorities.

(e) In the event the ARC fails to approve in writing any proposed plans and specifications within thirty (30) days after such plans and specifications have been submitted, then the plans and specifications so submitted to the ARC will be deemed to have been disapproved.

(f) Any revisions, modifications or changes in any plans and specifications previously approved by the ARC must be approved by the ARC in the same manner specified above.

(g) If construction of the Building or other Improvements approved by the ARC has not substantially commenced (e.g., by clearing and grading, pouring of footings and otherwise commencing framing and other related construction work) within one (1) year of approval by the ARC of the plans and specifications for such Building or other Improvements, then no construction may be commenced (or continued) on such Lot and the Owner of such Lot shall be required to resubmit all plans and specifications for any Building or other Improvements to the ARC for approval in the same manner specified above.

(h) The ARC shall have the right to review and approve any general contractors to be utilized by any Owner in connection with the construction of any Buildings on any Owner's Lot.

Section 4.6 **Landscaping Approval.** In order to preserve, to the extent practicable, the natural landscaping and plant life currently situated on the Property and in order to enhance the aesthetic appearance of the Property, no landscaping, grading, excavation or fill work of any nature shall be implemented or installed by any Owner (other than by Developer) on any Lot unless and until landscaping plans therefore have been submitted to and approved by the ARC. Notwithstanding the foregoing, an Owner may periodically remove, change, plant and replant annual flowers in any flower beds on such Owner's Lot designated for annual flowers (as shown on the landscaping plans approved by the ARC) on such Owner's Lot.

Section 4.7 **Construction Without Approval.** If (a) any Improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot without ARC approval of the plans and specifications for the same or (b) the ARC shall determine that any approved plans and specifications for any Improvements or the approved landscaping plans for any Lot are not being complied with, then, in either event, the Owner of such Lot shall be deemed to have violated this Declaration and the ARC shall have the right to exercise any of the rights and remedies set forth in Section 4.11 below.

Section 4.8 **Inspection.** The ARC and any agent, employee or representative thereof may at any reasonable time and from time to time enter upon and inspect any Lot or any Improvements being constructed thereon in order to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed to be a trespass or any other wrongful act by the ARC.

Section 4.9 **Subsurface Conditions.** The approval of plans and specifications by the ARC for any Building or other Improvements on a Lot shall not be construed in any respect as a representation or warranty by the ARC or Developer to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of any Lot for the construction of any contemplated Improvements thereon. Each Owner, for such Owner and all Occupants of any Improvements situated on the Lot owned by such Owner, does hereby irrevocably and unconditionally waive and release Developer the ARC, the Association and each agent, employee, representative, shareholder, partner, officer, director or the holder of any ownership or financial interest in any of the foregoing entities or committees (but specifically excluding a release of any members of the Association (which members also constitute Owners)), of and from any and all damage, loss, action, cause of action, liability, cost, expense or prejudice suffered, claimed, paid or incurred by any Owner or Occupant of such Owner's Lot or any buildings constructed thereon on account of the use of fill dirt or the possibility that underground mines, tunnels, sink holes and other subsurface conditions which may result in sinkholes or other types of ground subsidence exist on, upon or under any of the Lots.

Section 4.10 **Limitation of Liability.** Notwithstanding anything provided herein to the contrary, (a) neither Developer, the ARC, the Association, nor any agent, employee, representative, shareholder, partner, officer, director or the holder of any ownership or financial interest in any of the foregoing entities or committees (but specifically excluding a release of any members of the Association (which members also constitute Owners)) shall have any liability of any nature whatsoever for, and (b) each Owner, by acceptance of a deed to any Lot, does hereby irrevocably and unconditionally waive and release Developer, the ARC, the Association and each agent, employee, representative, shareholder, partner, officer, director, or the holder of any ownership or financial interest in any of the foregoing entities or committees (but specifically excluding a release of any members of the Association (which members also constitute Owners)) from, any and all damage, loss, action, cause of action, liability, cost, expense or prejudice suffered, claimed, paid or incurred by any Owner on account of (i) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article IV, (ii) any defects, structural or otherwise, in any work done according to such plans and specifications, (iii) the failure of the ARC to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article IV, (iv) the construction or performance of any work related to such plans, drawings and specifications, (v) bodily injuries (including death) to any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or Occupant, or any damage to any Buildings, Improvements or the personal property of any Owner, Occupant or the respective guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of, any defect, structural

or otherwise, in any Buildings or Improvements or the plans and specifications therefore, or any past, present or future soil and/or subsurface conditions, known or unknown (including, without limitation, sinkholes, underground mines, tunnels and water channels and limestone formations on or under any Lot) and (vi) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of or in connection with the use and occupancy of any Lot, or any Improvements situated thereon.

Section 4.11 **Enforcement and Remedies.** In the event any of the provisions of this Article IV are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective guests, invitees, agents, employees or contractors of any Owner or Occupant, then the ARC and the Association shall each have the right, at their option, to (a) enjoin any further construction on any Lot and require the removal or correction of any work in place which does not comply with the plans and specifications approved by the ARC for such Improvements and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot and take all action necessary to extinguish such violation or breach. All costs and expenses incurred by the ARC or the Association in enforcing any of the provisions of this Article IV including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, 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 ARC or the Association in causing any Owner or such Owner's contractors, agents or invitees to comply with the terms and provisions of this Article IV, shall be paid by such Owner, shall constitute an Individual Assessment to such Owner pursuant to Section 6.3 below and, if the same is not paid when due, shall be subject to the lien provided for in Section 6.9 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ARC and the Association set forth in this Section 4.11 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 rights and remedies specified in this Declaration.

Section 4.12 **Compliance Certification.** The ARC (or any authorized representative thereof) shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to an Owner a certificate in writing setting forth whether all necessary ARC approvals have been obtained and whether any Building or other Improvements to a Lot have been constructed in accordance with the provisions of 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 Building 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 Building 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 Architectural Standards 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.** Developer shall have the right to construct or allow others to construct and maintain one or more model homes on the Property Prior to the Turnover Date, 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 **Additional Restrictions.** Additional restrictions may be contained in the Architectural Standards 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. Notwithstanding the foregoing, Lots owned by Developer, shall not be subject to any Assessment by the Association, be it Individual, Annual, Special or Individual Assessments. The Annual, Special, Initial, 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 Subdivision shall commence on January 1 of each year, and shall be paid in advance. Each Lot Owner (other than Developer) will be required to prepay the Annual Assessment at the purchase of such Lot Owner's purchase of its Lot on a prorated basis based upon the number of days between the closing of such Lot and the following December 31.

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 Subdivision, 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 6.6 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 (1/2) 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 similar Building types within the Subdivision (i.e., single family or town home), and shall commence when such Lot is improved with a completed Building, 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, Initial, 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 including 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, Initial, 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. 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; or
- (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 EXPENSES**

Section 7.1 **Common Expenses.** The following are certain expenses with respect to the Common Areas which are hereby declared to be Common Expenses which the Association is obligated to collect by Assessment and which Owners are obligated to pay as provided in Article

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) Until such time (if any) that the Chace Lake Open Space Property is conveyed the City of Hoover, any expenses for the maintenance or improvement for the Chace Lake Open Space Property pursuant to a separate agreement between the Developer (or the Association) and Chace Lake Commercial, LLC (or the Chace Lake Commercial Association); pursuant to said separate agreement, the Association shall pay for fifty percent (50%) of the maintenance or improvement costs for the Chace Lake Open Space Property and the Chace Lake Commercial Association shall pay for the remaining fifty (50%) of the maintenance or improvement costs for the Chace Lake Open Space Property;

(ii) fifty percent (50%) of the annual maintenance of the Cahaba River Buffer Area;

(iii) The cost and expense to keep and maintain any of the Common Areas other than as described in items (i) and (ii) above, 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;

(iv) Any electrical costs to run all common lighting and any other electrical device necessary to any of the Common Areas other than as described in items (i) and (ii) above, including street lighting;

(v) Sanitary sewer and storm sewer lines within private drives, if applicable;

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

(vii) Water bills and sprinkler systems for use on any of the Common Areas other than as described in items (i) and (ii) above;

(viii) Any insurance for the any of the Common Areas other than as described in items (i) and (ii) above;

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

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

(xi) Maintenance costs of all detention ponds and storm water drainage areas, if applicable; and

(xii) Such other matters which involve the use of any of the Common Areas other than as described in items (i) and (ii) above 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 (including reserves for maintenance of the storm water detention system for the Subdivision).

Section 7.3 **Interested Transactions.** The Association may obtain materials and/or services from 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 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 Office.

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 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 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 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 Chace Lake Residential 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, maintenance of all storm water detention facilities, 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**. Prior to the Turnover Date, this Declaration may be amended by Developer in Developer's sole discretion. Following the Turnover Date, 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 Office, 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 Developer without the consent of any other party.

## **ARTICLE XI**

### **PERIOD OF DEVELOPER CONTROL**

#### Section 11.1 **Developer Control Prior to Turnover Date.**

(a) Notwithstanding any provision contained herein to the contrary, 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, then until the Turnover Date, the Developer shall have (a) the right to manage all of the affairs and decisions of the Association, (b) the exclusive right to elect the Directors of the Association (who need not be Owners), (c) the right to amend the this Declaration, the Articles, and the Bylaws of the Association.



(b) 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 Turnover Date. Prior to the Turnover Date, the Developer shall have the sole and exclusive right to take all actions and do all things in behalf of the Association.

(c) Prior to the Turnover Date, 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 receive and retain all of the Assessments payable by the Owners and Developer shall have all of the rights of the Association to levy and enforce payment of Assessments. Developer's contributions to the Subdivision via the development thereof shall be credited against any Assessments otherwise due by Developer for Lots owned by the Developer and upon which a Building has been completed. Prior to the Turnover Date, Developer shall not be required to assess or create any reserves and at the assumption of the operation of the Association by the Members, Developer shall not be required to render an accounting of income and expenses incurred prior to the Turnover Date.

## **ARTICLE XII**

### **GENERAL PROVISIONS**

Section 12.1 **Deeds Subject to Covenant.** 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 this Declaration.

Section 12.2 **Obligation of Owner to Build or Restore.**

(a) Each Owner of an unimproved Lot shall commence construction of a Building 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 Building 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.

(b) In the event a Building 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 slightly condition with reasonable promptness, but not later than ninety (90) days after such damage or destruction.

Section 12.3 **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 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 conveniences said lot owner deems inadequate or unbecoming of said lot owner's needs.

Section 12.4 **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 Building, the entering thereon and the taking of such action shall not be deemed a trespass.

Section 12.5 **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 12.6 **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 12.7 **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 12.8 **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 12.9 **Usage.** Whenever used herein the singular shall include the plural and the singular, and the use of any gender shall include all genders.

Section 12.10 **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 12.11 **Effective Date.** This Declaration shall become effective upon its recordation in the Probate Office.

25<sup>th</sup> IN WITNESS WHEREOF, Developer has caused this Declaration to be executed on the day of November, 2008.

**DEVELOPER:**

CHACE LAKE RESIDENTIAL, LLC,  
an Alabama limited liability company

By: NSH Corp., an Alabama corporation,  
Its Sole Member

By: *Jonathan Belcher*  
Printed Name: Jonathan Belcher  
Its: President

STATE OF ALABAMA            )  
  :  
COUNTY OF JEFFERSON    )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Jonathan Belcher, whose name as President of NSH Corp., an Alabama corporation, as Sole Member of **Chace Lake Residential, LLC**, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation in its capacity as sole member of the aforesaid limited liability company.

Given under my hand and seal of office, this the 25<sup>th</sup> day of November, 2008.

*Kristi M. Wilk*

Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: **Nov 30, 2011**  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

[NOTARIAL SEAL]

**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

**[SEE ATTACHED]**

Residential portion of Chace Lake development

STATE OF ALABAMA  
JEFFERSON AND SHELBY COUNTY

Parts of the South 1/2 of the Northeast 1/4, East 1/2 of Northwest 1/4 and North 1/2 of South 1/2, all in Section 24, Township 19 South, Range 3 West, situated partly in Jefferson County, and partly in Shelby County, Alabama, said parts being more particularly described as follows:

From the Northeast corner of said East 1/2 of the Northwest 1/4, looking West along the North line of said East 1/2 of the Northwest 1/4, turn an angle to the left of 62°48' and run Southwesterly for a distance of 658.60 feet; thence turn an angle to the right of 29°03' and run Southwesterly for a distance of 165.97 feet to the POINT OF BEGINNING of the property herein described; thence turn an angle to the left of 7°48'00" and run Southwesterly for a distance of 195.36 feet; thence turn an angle to the left of 9°06'03" and run Southwesterly for a distance of 115.47 feet; thence turn an angle to the left of 7°38'59" and run Southwesterly for a distance of 203.29 feet; thence turn an angle to the left of 7°58'50" and run Southwesterly for a distance of 155.25 feet; thence turn an angle to the left of 17°13'09" and run Southwesterly for a distance of 159.69 feet; thence turn an angle to the left of 12°09'54" and run Southerly for a distance of 199.73 feet; thence turn an angle to the left of 11°28'23" and run Southeasterly for a distance of 166.36 feet; thence turn an angle to the left of 4°43'42" and run Southeasterly for a distance of 100.39 feet; thence turn an angle to the right of 14°22'39" and run Southerly for a distance of 138.65 feet; thence turn an angle to the left of 00°46'50" and run Southerly for a distance of 54.56 feet; thence turn an angle to the left of 45°12'46" and run Southeasterly for a distance of 194.70 feet; thence turn an angle to the right of 30°21'29" and run Southeasterly for a distance of 129.55 feet; thence turn an angle to the right of 15°41'08" and run Southeasterly for a distance of 98.27 feet; thence turn an angle to the right of 18°23'03" and run Southwesterly for a distance of 101.22 feet; thence turn an angle to the right of 30°05'14" and run Southwesterly for a distance of 144.74 feet; thence turn an angle to the right of 6°47'21" and run Southwesterly for a distance of 163.75 feet; thence turn an angle to the right of 14°12'32" and run Southwesterly for a distance of 319.21 feet; thence turn an angle to the right of 5°52'22" and run Southwesterly for a distance of 235.89 feet; thence turn an angle to the right of 24°27'50" and run Westerly for a distance of 85.01 feet; thence turn an angle to the left of 14°56'15" and run Southwesterly for a distance of 136.28 feet; thence turn an angle to the right of 3°52'58" and run Southwesterly for a distance of 156.64 feet; thence turn an angle to the left of 0°31'17" and run Southwesterly for a distance of 88.54 feet; thence turn an angle to the left of 24°20'13" and run Southwesterly for a distance of 179.50 feet; thence turn an angle to the left of 3°19'25" and run Southwesterly for a distance of 243.56 feet; thence turn an angle to the left of 3°04'44" and run Southwesterly for a distance of 226.57 feet; thence turn an angle to the right of 1°46'30" and run Southwesterly for a distance of 116.45 feet; thence turn an angle to the left of 48°52'30" and run Southerly for a distance of 82.22 feet; thence turn an angle to the left of 13°10'45" and run Southeasterly for a distance of 119.70 feet; thence turn an angle to the left of 47°13'33" and run Southeasterly for a distance of 100.31 feet; thence turn an angle to the left of 2°02'00" and run Southeasterly for a distance of 143.58 feet to a point on the North Ordinary High Water Line of the Cahaba River; thence in an Easterly direction along the North Ordinary High Water Line of the Cahaba River for a distance of 4,314 feet, more or less, to the intersection of said North Ordinary High Water Line of the

river with the West line of the right-of-way of U.S. Highway #31, said right-of-way being 300 feet wide, or 150 feet on each side of the centerline of said highway; thence turn an angle to the left of 117°48'44" and run Northwesterly along the West right-of-way line of said highway for a distance of 364.06 feet; thence leaving said right-of-way line of said highway turn an angle to the left of 62°16'20" and run Westerly for a distance of 501.83 feet; thence turn an angle to the right of 17°18'30" and run Northwesterly for a distance of 474.62 feet; thence turn an angle to the left of 11°19'06" and run Westerly for a distance of 196.03 feet; thence turn an angle to the right of 80°41'16" and run Northerly for a distance of 130.34 feet; thence turn an angle to the right of 58°03'48" and run Northeasterly for a distance of 107.32 feet; thence turn an angle to the left of 72°01'28" and run Northwesterly for a distance of 367.49 feet; thence turn an angle to the left of 94°26'43" and run Southwesterly for a distance of 138.76 feet; thence turn an angle to the left of 90°00'00" and run Southeasterly for a distance of 36.00 feet; thence turn an angle to the right of 90°00'00" and run Southwesterly for a distance of 30.00 feet; thence turn an angle to the right of 90°00'00" and run Northwesterly for a distance of 36 feet; thence turn an angle to the left of 89°02'28" and run Southwesterly for a distance of 115.11 feet; thence turn an angle to the right of 49°09'29" and run Northwesterly for a distance of 47.11 feet; thence turn an angle to the right of 8°28'48" and run Northwesterly for a distance of 171.52 feet; thence turn an angle to the right of 4°35'33" and run Northwesterly for a distance of 130.71 feet; thence turn an angle to the right of 61°23'00" and run Northeasterly for a distance of 59.18 feet; thence turn an angle to the left of 57°38'52" and run Northwesterly for a distance of 173.48 feet; thence turn an angle to the left of 8°52'46" and run Northwesterly for a distance of 167.66 feet; thence turn an angle to the right of 21°15'33" and run Northwesterly for a distance of 58.69 feet; thence turn an angle to the left of 4°26'21" and run Northwesterly for a distance of 202.31 feet; thence turn an angle to the right of 7°29'03" and run Northwesterly for a distance of 93.64 feet; thence turn an angle to the right of 20°20'37" and run Northwesterly for a distance of 120.43 feet; thence turn an angle to the left of 0°04'35" and run Northwesterly for a distance of 101.12 feet; thence turn an angle to the right of 45°43'07" and run Northeasterly for a distance of 55.48 feet; thence turn an angle to the left of 16°44'22" and run Northeasterly for a distance of 116.66 feet; thence turn an angle to the left of 18°20'55" and run Northerly for a distance of 147.17 feet; thence turn an angle to the left of 73°23'03" and run Northwesterly for a distance of 134.40 feet; thence turn an angle to the right of 0°11'07" and run Northwesterly for a distance of 81.77 feet to the POINT OF BEGINNING.

Said parcel containing 101.6 Acres, more or less.

LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL

STATE OF ALABAMA  
JEFFERSON AND SHELBY COUNTY

Part of the South 1/2 of the Northeast 1/4 and the North 1/2 of the Southeast 1/4 of Section 24, Township 19 South, Range 3 West, situated partly in Jefferson County and partly in Shelby County, Alabama, said parts being more particularly described as follows:

Commence at the Northwest corner of the Northwest 1/4 of the Southwest 1/4 of said Section 24; thence South, along the West line of said Section 24, a distance of 525.57 feet; thence leaving said Section Line 90°00'00" left, in an Easterly direction, a distance of 4620.41 feet; thence 90°00'00" left, in a Northerly direction, a distance of 100.00 feet to a point on the Westerly right-

of-way line of U.S. Highway 31, said point being the POINT OF BEGINNING; thence 26°17'30" left, in a Northwesterly direction and along said Westerly right-of-way line, a distance of 580.60 feet; thence leaving said right-of-way line 67°33'06" left, in a Westerly direction, a distance of 459.32 feet; thence 12°27'29" right, in a Northwesterly direction, a distance of 318.44 feet; thence 38°27'49" right, in a Northwesterly direction, a distance of 257.25 feet; thence 33°47'18" right, in a Northwesterly direction, a distance of 481.47 feet; thence 158°22'52" left, in a Southwesterly direction, a distance of 140.47 feet; thence 57°13'21" right, in a Southwesterly direction, a distance of 80.05 feet; thence 80°39'31" left, in a Southeasterly direction, a distance of 290.38 feet; thence 54°51'45" right, in a Southwesterly direction, a distance of 87.85 feet; thence 39°50'36" left, in a Southerly direction, a distance of 65.71 feet; thence 24°03'50" left, in a Southeasterly direction, a distance of 104.62 feet; thence 10°03'37" right, in a Southeasterly direction, a distance of 641.55 feet to a point on the North Ordinary High Water Line of the Cahaba River; thence in an Easterly direction along the North Ordinary High Water Line of the Cahaba River for a distance of 1273 feet, more or less, to the POINT OF BEGINNING.

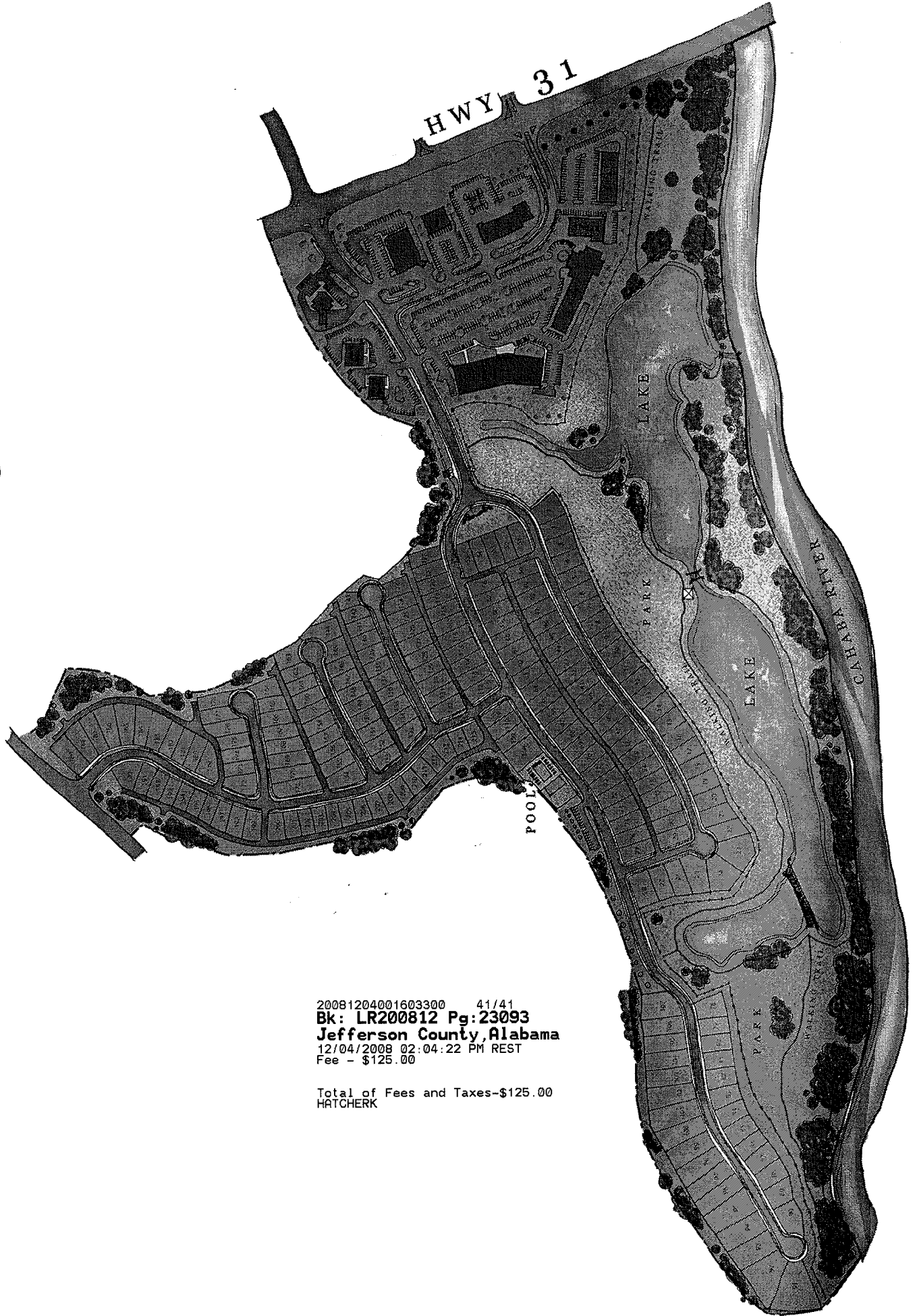
**SCHEDULE I**

**CHACE LAKE MASTER PLAN**

**[SEE ATTACHED]**



Chace Lake Master Plan



20081204001603300 41/41  
Bk: LR200812 Pg: 23093  
Jefferson County, Alabama  
12/04/2008 02:04:22 PM REST  
Fee - \$125.00

Total of Fees and Taxes-\$125.00  
HATCHERK