

1233

# SOUTHLAKE

DECLARATION OF PROTECTIVE COVENANTS  
OF  
SOUTHLAKE (RESIDENTIAL)

ARTICLES OF INCORPORATION  
OF  
SOUTHLAKE RESIDENTIAL ASSOCIATION, INC.  
(a corporation not for profit)

BY-LAWS  
OF  
SOUTHLAKE RESIDENTIAL ASSOCIATION, INC.

A Corporation not for Profit  
under the Laws of the State of Alabama

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OF  
SOUTHLAKE (RESIDENTIAL)

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EXHIBIT A -- SouthLake Property

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STATE OF ALABAMA     )  
                                  )  
COUNTY OF SHELBY    )

DECLARATION OF PROTECTIVE COVENANTS  
OF SOUTHLAKE (RESIDENTIAL)

KNOW ALL MEN BY THESE PRESENTS, That:

WHEREAS, SOUTHLAKE PROPERTIES, an Alabama General Partnership (herein referred to as "DEVELOPER"), has heretofore acquired the fee title interest in the land and real property described in Exhibit "A", annexed hereto and made a part hereof, said land being situated in Shelby County, Alabama, and referred to herein as "SouthLake Property"; and

WHEREAS, DEVELOPER intends to form a planned development (to be known as "SouthLake") on the SouthLake Property consisting of commercial, residential, recreational and other areas; and

WHEREAS, DEVELOPER has caused the SOUTHLAKE RESIDENTIAL ASSOCIATION, INC. ("SRA") to be formed for the purpose of providing a non-profit organization to serve as representative of DEVELOPER and owners of any part of SouthLake Property which hereafter is made subject to these protective covenants (herein collectively referred to as "Restrictions") with respect to: the assessment, collection and application of all charges imposed hereunder; the enforcement of all covenants contained herein and all liens created hereby; the creation, operation, management and maintenance of the facilities and services referred to hereafter and such other purposes described in its charter; and

WHEREAS, DEVELOPER may desire to subject, from time to time, portions of the SouthLake Property intended for residential and related development to this Declaration.

NOW, THEREFORE, DEVELOPER does hereby proclaim, publish and declare that any part of the SouthLake Property which becomes subject to these Restrictions shall

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be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved subject to this Declaration, which shall run with the land and shall be binding upon DEVELOPER and upon all parties having or acquiring any right, title or interest in any part of SouthLake Property which is subject to this Declaration. THE RESTRICTIONS CONTAINED HEREIN SHALL NOT APPLY TO OR AFFECT ANY SOUTHLAKE PROPERTY WHICH IS NOT SUBJECTED SPECIFICALLY BY WRITTEN INSTRUMENT TO THIS DECLARATION.

## ARTICLE I

### MUTUALITY OF BENEFIT AND OBLIGATION

The Restrictions set forth herein are made for the mutual and reciprocal benefit of each and every part of SouthLake Property subjected to the Restrictions (sometimes referred to as "Property" or "Member's Property") and are intended to create mutual, equitable servitudes upon each such part of the Property and in favor of each and all such parts of the Property therein, to create reciprocal rights between the respective owners and future owners of such Property; and to create a privity of contract and estate between the grantees of said Property, their heirs, successors and assigns. The Restrictions do not apply to or affect any part of the SouthLake Property which is not subjected specifically by written instrument to this Declaration. All Member's Property shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all the terms and provisions of this Declaration applicable to Member's Property, including, but not limited to, the lien provisions set forth in Section 10.1.

## ARTICLE II

### ARCHITECTURAL COMMITTEE; ARCHITECTURAL CONTROL

SECTION 2.1 Architectural Committee. The Residential Architectural Committee (herein the "Architectural Committee") shall be composed of at least three (but not more than five) individuals designated and redesignated from time to time (i) by DEVELOPER until control of the Architectural Committee is specifically delegated by the DEVELOPER to the SRA, and (ii) by the SRA after delegation of such control. Delegation of control of the Architectural Committee from the DEVELOPER to the SRA shall be evidenced by an instrument signed by the DEVELOPER and filed for record in the Probate records of Shelby County, Alabama. The delegation of such control of the Architectural Committee shall not be tied to the transfer of control of the SRA from the DEVELOPER to the Class A members of the SRA, but rather shall not occur until the DEVELOPER has sold all property described on Exhibit "A" hereto, or such sooner time as the DEVELOPER shall determine.

Except as hereinafter provided, the affirmative vote of a majority of the membership of the Architectural Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any findings, determinations, ruling or order, or to issue any permit, authorization or approval pursuant to directives or authorizations contained herein. With regard to review of plans and specifications as set forth in this Article II, however, and with regard to all other specific matters (other than the promulgation of rules and regulations) as may be specified by resolution of the entire Architectural Committee, each individual member of the Architectural Committee shall be authorized to exercise the full authority granted herein to the Architectural Committee. Any approval by one such member of any plans and specifications submitted under this Article II, or the granting of any approval, permit or authorization by one such member in accordance with the terms hereof, shall be final

and binding. Any disapproval, or approval based upon modification or specified conditions by one such member shall also be final and binding.

**2.2 Approval Required.** No Structure as defined in Section 17.20 shall be commenced, erected, placed, moved on to or permitted to remain on any Parcel, nor shall any existing Structure upon any Parcel be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced on any Parcel, unless plans and specifications (including a description of any proposed new use) thereof shall have been submitted to and approved in writing by the Architectural Committee. Such plans and specifications shall be in such form and shall contain such information as may be required by the Architectural Committee, including: (i) architectural plans, elevations and specifications showing the nature, kind, exterior color schemes, shape, height and materials of all Structures proposed for the Parcel; (ii) a site plan of the Parcel showing the location with respect to the particular Parcel (including proposed front, rear and side setbacks and free spaces, if any are proposed) of all Structures, the location thereof with reference to Structures on adjoining portions of the Property, and the number and location of all parking spaces and driveways on the Parcel; (iii) a grading plan for the particular Parcel; (iv) a drainage plan and (v) a plan for landscaping. All of said plans shall address the matters set forth in Article IV, as applicable.

**2.3 Basis For Disapproval of Plans.** The Architectural Committee shall have the right to disapprove any plans and specifications submitted hereunder because of any of the following:

- (a) Failure of such plans or specifications to comply with any of the Restrictions;
- (b) failure to include information in such plans and specifications as may have been reasonably requested;

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(c) objection to the exterior design, appearance or materials of any proposed Structure;

(d) incompatibility of any proposed Structure or use with existing Structures or uses upon other Parcels in the vicinity;

(e) objections to the location of any proposed Structure upon any Parcel or with reference to other Parcels in the vicinity;

(f) objection to the site plan, grading plan, drainage plan or landscaping plan for any Parcel;

(g) objection to the color scheme, finish, proportions, style of architecture, materials, height, bulk, or appropriateness of any proposed Structure;

(h) objection to parking areas proposed for any Parcel on the grounds of (i) incompatibility to proposed uses and Structures on such Parcel or (ii) the insufficiency of the size of parking areas in relation to the proposed use of the Parcel;

(i) failure of plans to take into consideration the particular topography, vegetative characteristics, natural environment and storm water runoff of the Parcel; or

(j) any other matter which, in the judgment of the Architectural Committee, would render the proposed Structure, Structures or uses inharmonious with the general plan of improvement of the Property or with Structures or uses located upon other Parcels in the vicinity.

Approval of any such plans shall terminate and be rendered void if construction is not begun within six (6) months after such approval unless such six (6) month period is extended by agreement with the Architectural Committee in which event the extended time period shall be applicable.

In any case where the Architectural Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon

specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal can be prepared and submitted for approval.

THE SCOPE OF REVIEW BY THE ARCHITECTURAL COMMITTEE IS LIMITED TO APPEARANCE ONLY AND DOES NOT INCLUDE ANY RESPONSIBILITY OR AUTHORITY TO REVIEW FOR STRUCTURAL SOUNDNESS, COMPLIANCE WITH BUILDING OR ZONING CODES OR STANDARDS, OR ANY OTHER SIMILAR OR DISSIMILAR FACTORS.

2.4 Retention of Copy of Plans. Upon approval by the Architectural Committee of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same.

2.5 Rules of Architectural Committee; Effect of Approval and Disapproval; Time for Approval. The Architectural Committee may promulgate rules governing the form and content of plans to be submitted for approval or requiring specific improvements on Parcels, including, without limitation, exterior lighting and planting, and may issue statements of policy with respect to approval or disapproval of the architectural styles or details, or other matters, which may be presented for approval. Such rules and such statements of policy may be amended or revoked by the Architectural Committee at any time, and no inclusion in, omission from or amendment of any such rule or statement shall be deemed to bind the Architectural Committee to approve or disapprove any feature or matter subject to approval, or to waive the exercise of the Architectural Committee's discretion as to any such matter, but no change of policy shall affect the finality of any approval granted prior to such change.

Approval for use on any Parcel of any plans or specifications shall not be deemed a waiver of the Architectural Committee's right, in its discretion, to disapprove such plans or specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use on any other Parcel or Parcels. Approval of any such plans and specifications relating to any Parcel, however, shall be final as to that Parcel and such approval may not be revoked or rescinded thereafter, provided, (i) that the Structures or uses shown or described on or in such plans and specifications do not violate any specific prohibition contained in the Restrictions, and (ii) that the plans and specifications, as approved, and any condition attached to any such approval, have been adhered to and complied with in regard to all Structures on and uses of the Parcel in question.

In the event that the Architectural Committee fails to approve, disapprove, or approve conditionally any plans and specifications as herein provided within thirty (30) days after proper submission thereof, the same shall be deemed to have been approved, as submitted, and no further action shall be required.

**2.6 Failure to Obtain Approval.** If any Structure shall be altered, erected, placed or maintained upon any Parcel, or any new use commenced on any Parcel, otherwise than in accordance with plans and specifications approved by the Architectural Committee pursuant to the provisions of this Article II, such alteration, erection, maintenance or use shall be deemed to have been undertaken in violation of this Article II, and without the approval required herein, and, upon written notice from the Architectural Committee, any such Structure so altered, erected, placed or maintained upon any Parcel in violation hereof shall be removed or realtered, and any such use shall be terminated, so as to extinguish such violation.

If fifteen (15) days after the notice of such a violation the Owner of the Parcel upon which such violation exists shall not have taken reasonable steps toward the



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removal or termination of the same, DEVELOPER or the SRA shall have the right, through its agents and employees, to enter upon such Parcel and to take such steps as may be necessary to extinguish such violation and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question. The lien provided in this Section 2.6 shall not be valid as against a *bona fide* purchaser (or *bona fide* mortgagee) of the Parcel in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County prior to the recordation among the Land Records of Shelby County of the deed (or mortgage) conveying the Parcel in question to such purchaser (or subjecting the same to such mortgage).

2.7 Certificate of Compliance. Upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Committee, the Architectural Committee shall, upon written request of the Owner thereof, issue a certificate of compliance in form suitable for recordation, identifying such Structure and the Parcel on which such Structure is placed, and stating that the plans and specifications, the location of such Structure and the use or uses to be conducted thereon have been approved and that such Structure complies with the requirements of the Committee. Preparation and recording of such certificate shall be at the expense of such Owner. Any certificate of compliance issued in accordance with the provisions of this Section 2.7 shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that, as of the date of the certificate, all Structures on the Parcel, and the use or uses described therein comply with all the requirements of this Article II, and with all other requirements of this Declaration as to which the Architectural Committee exercises any discretionary or interpretive powers.

2.8 **Inspection and Testing Rights.** Any agent of DEVELOPER, SRA or the Architectural Committee may at any reasonable time or times enter upon and inspect any Parcel and any improvements thereon for the purpose of ascertaining whether the maintenance of such Parcel and the maintenance, construction, or alteration of Structures thereon are in compliance with the provisions hereof; and neither DEVELOPER, SRA nor the Architectural Committee nor any such agent shall be deemed to have committed a trespass or other wrongful act by reason of such entry or inspection. Without limitation upon other inspection rights, in order to implement inspection and testing of sanitary sewer lines, each owner agrees to notify the Architectural Committee prior to its installation of the sanitary sewer service lines and to permit such inspection and testing thereof by the Architectural Committee both before and after backfill as is required by the Architectural Committee. Any such inspection shall be for the sole purpose of determining compliance with these Restrictions, and neither the making of any such inspection, nor the failure to make any such inspection, shall be relied upon by the Owner of a Parcel or any third persons or entities for any purpose whatsoever; nor shall any such inspection obligate the DEVELOPER, the SRA or the Architectural Committee to take any particular action based on the inspection.

2.9 **Waiver of Liability.** Neither the Architectural Committee nor any architect nor agent thereof, nor the SRA, nor the DEVELOPER, nor any agent or employee of the foregoing, shall be responsible in any way for any failure of Structures to comply with requirements of this Declaration, although a certificate of compliance has been issued, nor for any defects in any plans and specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, and all persons relying thereon or benefitting therefrom agree not to sue or claim against the entities

and persons referred to in this Section 2.9 for any cause arising out of the matters referred to in this Section 2.9 and further agree to and do hereby release said entities and persons for any and every such cause.

ARTICLE III  
ZONING AND SPECIFIC RESTRICTIONS

The Restrictions shall not be taken as permitting any action or thing prohibited by the applicable zoning laws, or the laws, rules or regulations of any governmental authority, or by specific restrictions imposed by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules regulations, deeds, leases or the Restrictions shall be taken to govern and control.

ARTICLE IV  
SITE DEVELOPMENT

SECTION 4.1 Site to be Staked Prior to Tree Cutting. After the plan for the Structure is approved, the site of the Structure must be staked out and such site approved by the Committee before tree cutting is done. Existing vegetation shall be saved whenever it is practical to do so. All areas on site and outside the areas of disturbance shall be "corded off" with high visibility surveyor's flagging tape and no vegetation shall be removed from the corded areas and no materials may be stored over the roots of this vegetation without prior approval of the Architectural Committee. Removal of "underbrush" from the corded areas is expressly prohibited except on Architectural Committee approval. No tree may be cut or removed without consent of the Architectural Committee until the building plans, site plans, and site staking are approved by the Architectural Committee.



**4.2 Erosion Control.** Erosion control measures shall be taken by the Owner of a Parcel, or his contractors, to protect adjacent properties during construction on such Parcel and thereafter until the soil is stabilized on the Parcel. This may be accomplished by the use of temporary retention ponds, silt fencing, or other protective measures intended to intercept and filter the excess storm water runoff from the Parcel. All erosion control measures, including slope stabilization, must be specified on the grading plan and must be approved by the Architectural Committee prior to commencement of grading activities.

Any storm water retention ponds created during construction on a Parcel shall not remain as permanent ponds after completion of construction unless so provided in the grading, site and landscaping plans submitted to and approved by the Architectural Committee.

**4.3 Utility Lines and Appurtenances.** All gas, water, sewer, telephone and electrical feeder and service lines shall be installed as underground service unless otherwise approved by the Architectural Committee. All transformer boxes, meters or other such fixtures shall be adequately screened with plants or other materials approved by the Architectural Committee; provided that no planting or screening devices shall be placed so as to obstruct the normal servicing of either transformers, telephone pedestals, or other utility hardware. To the extent of the interest of the Owner of a Parcel, the Owner of a Parcel will not erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical or telephone service on said real estate (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave the particular area) without the prior written consent of the Architectural Committee. Nothing herein shall be construed to prohibit overhead street lighting or ornamental yard lighting, where serviced by

underground wires or cables. Where underground electric service is to be installed, in order to permit installation of underground electric service to each Parcel for the mutual benefit of all owners therein, no Owner of any such Parcel will commence construction of any house on any such Parcel until such Owner (1) notifies the electric utility that such construction is proposed, (2) grants in writing to the electric utility such rights and easements as the electric utility requires in connection with its construction, operation, maintenance and removal of underground service lateral on each Parcel, and (3) otherwise complies with the Rules and Regulations for Underground Residential Distribution on file with and approved by the Alabama Public Service Commission.

If required by the electric utility, such electric utility, its successors and assigns, may retain title to the underground service lateral and outdoor metering trough or house power box (exclusive of circuit breakers) serving each said house, and said service entrance facilities provided by such utility will not in any way be considered a fixture or fixtures and thereby a part of said real estate, but will remain personal property belonging to such utility, its successors and assigns, in accordance with applicable Rules and Regulations filed with and approved by the Alabama Public Service Commission.

**4.4 Connection Points For Utility Service Lines.** To the extent of the interests of the Owner of each Parcel, such Owners agree to connect utility service lines (including, but not limited to, gas, water, sewer and electricity) at points designated by DEVELOPER.

**4.5 Sanitary Sewer Service Lines.** The material for sanitary sewer service lines must be approved by the Architectural Committee and ductile lines may be required in some or all sections of the Property.

**4.6 Landscaping.** The landscape plan must be approved by the Architectural Committee prior to any site disturbance. The landscape plan shall indicate



the proposed type, location, size and quantity of all plant materials to be planted on the Parcel. The Owner must faithfully execute the landscape plan as submitted to and approved by the Architectural Committee. If the Owner should fail to faithfully execute the landscape plan, the SRA shall have the right to enter into a contract with a third party for the execution of the landscape plan as approved, and the cost thereof shall be a binding, personal obligation of the Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question. The lien provided in this Section 4.7 shall not be valid as against a *bona fide* purchaser (or *bona fide* mortgagee) of the Parcel in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County, Alabama prior to the recordation among the Land Records of Shelby County of the deed (or mortgage) conveying the Parcel in question to such purchaser (or subjecting the same to such mortgage).

4.7 Colors; Architectural Styles. All exterior building materials must be earth tones or other similar colors, and shall be approved by the Architectural Committee. Excessively bright colors or objectionably noticeable colors are prohibited. All architecture must be compatible with the "park-like" atmosphere of the SouthLake development and must be compatible with surrounding buildings.

4.8 Exterior Lighting. Exterior lighting plans must be set forth on the architectural or landscape plans for a Parcel, and must be approved by the Architectural Committee. Exterior lighting shall be "low-key" and shall be compatible with lighting used on other residential structures in SouthLake.

4.9 Construction Period. With respect to each Residential Parcel, construction of the residential building is to be completed within two (2) years from the date of purchase of the Parcel and within one (1) year from the date of beginning construction. In addition to all other rights and remedies for breach of these Restrictions, in the event this restriction is not fully complied with, DEVELOPER shall

have the right, but not the obligation, to repurchase the Parcel for an amount not to exceed the purchase price paid DEVELOPER for the Parcel without interest.

## ARTICLE V

### COVENANTS FOR MAINTENANCE

**SECTION 5.1 Keep Parcel in Repair; Liens.** Each Owner shall keep all Parcels owned by him, and all improvements therein or thereon, in good order and repair, including the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management. If, in the opinion of the SRA any Owner fails to perform the duties imposed by the preceding sentence after fifteen (15) days' written notice from the SRA to the Owner to remedy the condition in question, the SRA shall have the right, through its agents and employees, to enter upon the Parcel in question and to repair, maintain, repaint and restore the Parcel or such improvements and the cost thereof shall be a binding, personal obligation of such Owner as well as a lien (enforceable in the same manner as a mortgage) upon the Parcel in question; provided, however, that after control the SRA has been given to the Class A members of the SRA, the approval of 51% of the votes of Class A members of the SRA will be required to continue to remedy a violation on a specific Parcel as provided above if the aggregate cost charged hereunder against a single Owner exceeds \$500 per calendar year, as may be adjusted upward annually in an amount not to exceed five percent (5%) of the maximum amount which could have been charged the preceding year. Any landscaping approved by the Architectural Committee cannot be changed pursuant to this Section 5.1.

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5.2 Priority of Lien. The lien provided in Section 5.1 hereof shall not be valid as against a *bona fide* purchaser (or *bona fide* mortgagee) of the Parcel in question unless a suit to enforce said lien shall have been filed in a court of record in Shelby County, Alabama prior to the recordation among the Land Records of Shelby County of the deed (or mortgage) conveying the Parcel in question to such purchaser (or subjecting the same to such mortgage).

## ARTICLE VI

### GENERAL COVENANTS AND RESTRICTIONS

SECTION 6.1 General Prohibitions. Without the prior written approval of the Architectural Committee:

6.1.1 No previously approved Structure shall be used for any purpose other than that for which it was originally designed.

6.1.2 No Parcel shall be split, divided, or subdivided for sale, resale, gift, transfer or otherwise;

6.1.3 To the extent of the interest of the Owner of a Parcel, no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground of any Parcel, and no external or outside antennas of any kind (including but not limited to satellite dishes) shall be maintained on a Parcel; and

6.1.4 No boat, boat trailer, house trailer, trailer, motor home or any similar items shall be stored in the open on any Parcel for a period of time in excess of twenty-four (24) hours unless such item is not visible from any public street.

6.2 Preservation of Trees. No tree having a diameter of six (6) inches or more (measured from a point two feet above ground level) shall be removed from any Parcel without the express written authorization of the Architectural Committee. The



Architectural Committee, in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife upon the Property. If it shall deem it appropriate, the Architectural Committee may mark certain trees, regardless of size, as not removable without written authorization. In carrying out the provisions of this Section 6.2, the DEVELOPER, the SRA and the Architectural Committee and the respective agents of each may come upon any Parcel during reasonable hours for the purpose of inspecting or marking trees or in relation to the enforcement and administration of any rules and regulations adopted and promulgated pursuant to the provisions hereof. Neither SRA, nor the Architectural Committee, nor DEVELOPER, nor their respective agents shall be deemed to have committed a trespass or wrongful act by reason of any such entry or inspection.

6.3 Animals. No birds, livestock, animals, poultry or insects shall be kept or maintained on any Parcel without the express written consent of the Architectural Committee except the usual household pets may be kept on a Parcel for purposes other than breeding or commercial.

6.4 Signs. No sign or other advertising device of any nature shall be placed upon any Parcel except as provided herein. The Architectural Committee may, in its discretion, adopt and promulgate rules and regulations relating to signs which may be employed. Signs and other advertising devices may be erected and maintained upon any portion of the Property if approved by the Architectural Committee, as to color, location, nature, size and other characteristics of such signs or devices.

6.5 Temporary Structures. No temporary building, trailer, ga-rage or building in the course of construction or other temporary structure shall be used, temporarily or permanently, as a residence or temporary housing or the like on any Parcel. If approved by the Architectural Committee, such a structure may be used as a security station during construction or other special purpose.

6.6 Accumulation of Refuse. No lumber, metals or bulk materials (except lumber, metals and bulk materials as is usual in the maintenance of a private residence and which must be stored in such a manner so that it cannot be seen from adjacent and surrounding property), refuse or trash shall be kept, stored, or allowed to accumulate on any Parcel, except building materials during the course of construction of any approved Structure. No harmful or noxious materials shall be stored, either inside any Structure, or outside any Structure, if said materials pose any significant threat to public health and safety or to individuals employed or living within or in proximity to such Structures. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open on any day a pick-up is to be made. At all other times, trash and garbage containers shall be screened in such a manner so that they cannot be seen from adjacent and surrounding property, and as approved by the Architectural Committee. All trash and garbage containers shall be kept in a clean and sanitary condition. The Architectural Committee, in its discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage and screening of the same on the Property.

6.7 Pipes. To the extent of the interest of the Owners of a Parcel, no water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Parcel above the surface of the ground, except hoses and movable pipes used for irrigation purposes.

6.8 Mining. To the extent of the interest of the Owner of a Parcel, and except for construction approved under Article II, no Parcel shall be used for the purpose of boring, mining, quarrying, exploring for or removing gas, coal, oil or other hydrocarbons, sulfur or other minerals, gravel or earth.

6.9 Maintenance of Hedges and Plants. The SRA shall have the right to

enter upon any Parcel and trim or prune, at the expense of the Owner (subject to any applicable limitations set forth in Section 5.1), any hedge or other planting which in the opinion of the SRA, by reason of its location upon the Parcel or the height to which it is permitted to grow, is unreasonably detrimental to the adjoining property or obscures the view of street traffic or is unattractive in appearance; provided, however, that the Owner shall be given fifteen (15) days' prior written notice of such action.

6.10 **Business Activity.** No profession or home industry shall be conducted in or on any part of a Parcel or in any improvement thereon on the Property without the specific written approval of the Architectural Committee. The Architectural Committee, in its discretion, upon consideration of the circumstances in each case, and particularly the effect on surrounding property, may permit a Parcel or any improvement thereon to be used in whole or in part for the conduct of a profession or home industry. No such profession or home industry shall be permitted, however, unless it is considered, by the Architectural Committee, to be compatible with a high quality residential neighborhood. The following activities, without limitation, may be permitted by the Architectural Committee in its discretion: music, art and dancing classes; day nurseries; and seamstress services.

6.11 **Model House, Real Estate Office.** All else herein notwithstanding, with the written approval of the Architectural Committee, any Parcel may be used by the DEVELOPER or its agent for a model home or for a real estate office until 1999, or such earlier time as the DEVELOPER so designates.

6.12 **Clothes Lines.** No clothing or any other household fabrics shall be hung in the open on any Parcel unless the same are hung from an umbrella or retractable clothes hanging device which is removed from view when not in use or unless the same are enclosed by a fence or other enclosure at least six inches higher than such hanging articles, provided such fence or other enclosure is approved by the



Architectural Committee.

6.13 Machinery. No machinery shall be placed or operated upon any Parcel except such machinery as is usual in maintenance of a private residence.

6.14 Use Authorized by Architectural Committee. Notwithstanding other provisions herein, the Architectural Committee may authorize any Owner with respect to his Parcel to:

- (a) temporarily use a single family dwelling house for more than one family;
- (b) maintain a sign other than as expressly permitted herein;
- (c) locate Structures other than the principal dwelling house within set-back areas; or
- (d) use Structures other than the principal dwelling house for residence purposes on a temporary basis

6.15 Mail boxes. The design of all mailboxes must be approved by the Architectural Committee and free-standing mail boxes equipped with lighting may be required in some or all sections of the Property.

6.16 Outside Burning. Outside or open burning of trash, refuse or other material upon any Parcel is prohibited.

6.17 Nuisance. No obnoxious, offensive or illegal activities shall be carried on upon any Parcel nor shall anything be done on any Parcel which may be or may become an annoyance or nuisance to the neighborhood.

## ARTICLE VII

### WATERFRONT AREAS AND WATERWAYS

SECTION 7.1 Lakes. Indian Valley Lake, SouthLake Lake, Rutherford Lake, Egret Lake and Heron Lake (the "Lakes") have been or will be conveyed to the Association by

the DEVELOPER. Among other rights and obligations of the SouthLake Residential Association, Inc. (the "Association"), the Association shall maintain and keep in repair the Lakes and their respective dams, except to the extent that Indian Valley Lake dam may be maintained, if at all, by any governmental entity in connection with the maintenance of the public road crossing said dam.

7.2 Use of Lakes. Use of the Lakes shall be subject to rules and regulations promulgated from time to time by the Association. Violation of established rules and regulations of the Association with respect to the Lakes will be cause for terminating the violator's right to use the Lakes.

7.3 Construction Along Waterway. Any Parcel which shall abut upon any of the Lakes, or any stream, river, canal or other waterway (hereinafter collectively referred to as "Waterways") shall be subject to the following additional restrictions:

7.3.1 No wharf, bulkhead, or other structure or obstruction shall be built or maintained upon any waterfront site or into or upon any Waterway on the Property or adjacent thereto except with the specific written approval of the Architectural Committee. In no event shall any such structure or obstruction be permitted if it is deemed to offer any threat whatsoever to safe navigation upon such Waterway or to the safe and convenient use of such Waterway as a recreation facility.

7.3.2 Except with prior written approval of the SRA, no boat canal shall be constructed upon any Parcel nor shall any facility or device be constructed or installed upon any Parcel which shall in any way alter the course of or natural boundaries of any Waterway or which shall involve or result in the removal of water from any Waterway.

7.3.3 Except with prior written approval of the SRA, no boats, boat railways, launching facilities or any similar type of structures or equipment shall be installed, constructed or maintained upon any Parcel, nor shall any boat or boat trailer



be stored on any Parcel in such manner as to be visible from surrounding properties or from the abutting Waterway.

7.4 No Boats on Waterway. No boat of any kind shall be operated upon any Waterway on the Property without the prior written approval of the SRA. Further, if such approval is granted, such operation shall conform to all rules and regulations promulgated by the SRA concerning the use of boats.

7.5 Trash and Refuse. No garbage, trash or other refuse shall be dumped into any Waterway on the Property.

7.6 Use of Waterway. No consent or authority to use any Water-way on the Property is granted or implied by these Restrictions and such use may be prohibited or unauthorized.

## ARTICLE VIII

### EASEMENTS

SECTION 8.1 Drainage Easements. Except with prior written permission from DEVELOPER, or (when so designated by DEVELOPER) from the Architectural Committee, drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to these Restrictions. DEVELOPER may cut drainways for surface water wherever and whenever such action may appear to DEVELOPER to be necessary in order to maintain reasonable standards of health, safety and appearance; provided, however, that DEVELOPER's right to cut drainways on an Owner's Property shall terminate when the principal structure and approved landscaping on such property have been completed. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility

installation and to maintain reasonable standards of health and appearance. The provisions hereof shall not be construed to impose any obligation upon DEVELOPER to cut such drainways.

8.2 Grading. DEVELOPER may at any time make such cuts and fills upon any Parcel or other part of the SouthLake Property and do such grading and moving of earth as, in its judgment, may be necessary to improve or maintain the streets in or adjacent to the SouthLake Property and to drain surface waters therefrom; and may assign such rights to Shelby County or to the City of Hoover, Alabama; provided however, that after plans for the principal Structure upon a Parcel shall have been approved by the Architectural Committee as provided herein, the rights of DEVELOPER under this Section 8.2 shall terminate with respect to all parts of such Parcel other than the easement area thereof, except that DEVELOPER or any such municipal or public authority shall thereafter have the right to maintain existing streets and drainage structures.

## ARTICLE IX

### ASSESSMENT OF ANNUAL CHARGE

SECTION 9.1 Assessment. For the purpose of providing funds for use as specified in Article X hereof, the SRA shall in each year, commencing with the year 1987, assess against the Assessable Property a charge (which shall be uniform with respect to all Assessable Property) equal to a specified number of dollars per Parcel. Each such Parcel shall be charged with and subject to a lien for the amount of such separate assessment which shall be deemed the "Annual Charge" with respect to such Parcel. Provided however, that so long as there are Class B Members of the SRA, and unless otherwise approved by 51% of the Class A Members of the SRA, the maximum annual charge per Parcel shall not exceed \$100.00 as may be adjusted upward annually

in an amount not to exceed ten percent (10%) of the maximum amount (of such \$100.00, as escalated) which could have been charged the preceding year. It is specifically understood and represented that the utility charges to each Parcel, including sewer, water, electricity, telephone, gas (if any) and other utilities are the separate and personal responsibility of the Parcel Owner and are not part of any assessments provided for herein.

**9.2 Date of Commencement of Annual Charge.** As soon as may be practical in each year, SRA shall send a written bill to each Member stating (i) the amount of the Annual Charge assessed against each such Parcel (as limited in Section 9.1 during the time when there are Class B Members of the SRA), stated in terms of the total sum due and owing as the Annual Charge, and (ii) that unless the Member shall pay the Annual Charge within thirty (30) days following the date of receipt of the bill the same shall be deemed delinquent and will bear interest at the rate of twelve percent (12%) per annum until paid.

**9.3 Effect of Nonpayment of Assessments; Remedies of SRA.** If the Member shall fail to pay the Annual Charge within sixty (60) days following receipt of the bill referred to in Section 9.2 hereof, and within thirty (30) days after additional written notice that the Member is delinquent in his payment, in addition to the right to sue the Member for a personal judgment, the SRA shall have the right to enforce the lien hereinafter imposed to the same extent, including a foreclosure sale and deficiency decree, and subject to the same procedures, as in the case of mortgages under applicable law, and the amount due by such Member shall include the Annual Charge, as well as the cost of such proceedings, including a reasonable attorney's fee, and the aforesaid interest. In addition, the SRA shall have the right to sell the property at public or private sale after giving notice to the Member (by registered mail or by publication in a newspaper of general circulation in the County where the Parcel is



situated at least once a week for three successive weeks) prior to such sale.

9.4 **Certificate of Payment.** Upon written demand by a Member, the SRA shall within a reasonable period of time issue and furnish to such Member a written certificate stating that all Annual Charges (including interest and costs, if any) have been paid with respect to any specified Parcel as of the date of such certificate, or if all Annual Charges have not been paid, setting forth the amount of such Annual Charges (including interest and costs, if any) due and payable as of such date. The SRA may make a reasonable charge for the issuance of such certificates which must be paid at the time that the request for such certificate is made. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the SRA and any *bona fide* purchaser of, or lender on, the Parcel in question.

## ARTICLE X

### IMPOSITION OF CHARGE AND LIEN UPON PROPERTY

SECTION 10.1 **Creation of Lien for Assessments.** All Member's Property shall be subject to a continuing lien for assessments levied by the SRA in accordance with the provisions of this Declaration. The Annual Charge together with interest thereon and the costs of collection thereof including reasonable attorney's fees) as herein provided, shall be a charge on and shall be a continuing lien upon the Member's Property against which each such assessment or charge is made.

10.2 **Submission of Portions of SouthLake Property.** DEVELOPER may desire to subject from time to time portions of the SouthLake Property intended for residential and related development to this Declaration in accordance with Article XV, and the same will thereby be subjected to this Declaration as Member's Property for the purpose, among others, of submitting such property to the lien described in Section 10.1. Except as provided herein, Member's Property shall hereafter be held, transferred, sold,

conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all the terms and provisions of this Declaration applicable to Member's Property, including, but not limited to, the lien provisions set forth in Section 10.1.

10.3 **Personal Obligation of Members.** Each Member, by acceptance of a deed or other conveyance to Member's Property, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay the SRA the Annual Charges. Each such assessment, together with interest and costs of collection, including reasonable attorney's fees, shall be the personal obligation of the person who was the owner of such Member's Property at the time when the assessment fell due.

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10.4 **Subordination of Lien to Mortgages.** The lien of any assessment or charge authorized herein with respect to Member's Property is hereby made subordinate to the lien of any *bona fide* mortgage on such member's Property if, but only if, all assessments and charges levied against such Member's Property falling due on or prior to the date such mortgage is recorded has been paid. The sale or transfer of any Member's Property pursuant to a mortgage foreclosure proceeding or a proceeding in lieu of foreclosure or the sale or transfer of such Member's Property pursuant to a sale under power contained in a mortgage on such property shall extinguish the lien for assessments falling due prior to the date of such sale, transfer or foreclosure, but the SRA shall have a lien on the proceeds of such sale senior to the equity of redemption of the mortgagor. The foregoing subordination shall not relieve a Member whose Member's Property has been mortgaged of his personal obligation to pay all assessments and charges falling due during the time when he is the owner of such property. The Board may at any time, either before or after the mortgaging of any Member's Property, waive, relinquish or quitclaim in whole or in part the right of the SRA to assessments and other charges collectible by the SRA with respect to such property coming due

during the period while such property is or may be held by a mortgagee or mortgagees pursuant to such sale or transfer.

## ARTICLE XI

### USE OF FUNDS

SECTION 11.1 Use of Funds. The SRA shall apply all funds received by it pursuant to these Restrictions, and from any other source, reasonably for the benefit of property owned by SRA Members and specifically to the following uses, unless other uses are approved by 51% of the votes of Class A Members of the SRA, and with the understanding that, at the SRA's discretion, funds shall be applied to operations and maintenance before being applied to capital improvements: repayment of principal and interest of any loans of the SRA, the costs and expenses of the SRA for the benefit of the Property, Owners and Residents by devoting the same to the acquisition, construction, reconstruction, conduct, alteration, enlargement, laying, renewal, replacement, repair, maintenance, operation and subsidizing of such of the following as the Board, in its discretion, may from time to time establish or provide: any or all projects, services, facilities, studies, programs, systems and properties relating to: parks, lakes and dams, recreational facilities or services; walkways, curbing, gutters, sidewalks and landscaping; the Lakes (Indian Valley Lake, SouthLake Lake, Rutherford Lake, Egret Lake and Heron Lake); directional and informational signs; street, road and highway lighting facilities; sewer lift and pump stations; facilities or arrangement for facilities for the collection, treatment and disposal of garbage, trash and refuse; facilities for the fighting and preventing of fires; traffic engineering programs, traffic signals and parking facilities; facilities and provisions for the security of Members, members' Property, Residents and SRA Land; and general maintenance and clean-up.



11.2 **Obligations of SRA with Respect to Funds.** The SRA shall not be obligated to spend in any calendar year all the sums collected in such year by way of Annual Charges or otherwise, and may carry forward as surplus any balances remaining; nor shall the SRA be obligated to apply any such surpluses to the reduction of the amount of the Annual Charge in the succeeding year, but may carry forward from year to year such surplus as the Board in its absolute discretion may determine to be desirable for the greater financial security of SRA and the effectuation of its purposes. The SRA does not assure that the services described in Section 11.1 will be provided and nothing herein shall obligate the SRA or its Directors to undertake to provide such services. The SRA shall provide to all Members of the SRA an annual accounting of funds expended and balances remaining within one hundred twenty (120) days after the end of any calendar year, such accounting to be at the SRA's expense.

11.3 **Authority of SRA to Contract.** The SRA shall be entitled to contract with any corporation, firm or other entity for the performance of the various undertakings of the SRA specified in Section 11.1, and such other undertakings as may be approved by 51% of the votes of Class A Members of the SRA, and the performance by any such entity shall be deemed the performance of the SRA hereunder. Without limiting the foregoing, and in order to provide for the enhancement of the entrance road to a portion of the residential areas of SouthLake, it is specifically provided that the SRA may contract with the SouthLake Business Association for common maintenance and beautification of the medians, entrance ways and lands bordering that portion of SouthLake Parkway beginning at Valleydale Road and running along the SouthLake Parkway until the Indian Valley Lake Dam. No such contract shall provide for contractual payments from the SRA to the SouthLake Business Association in excess of the lesser of: (i) 20% of the actual cost of such common maintenance and beautification; or (ii) \$50.00 per year per Parcel submitted to this Declaration (such \$50 amount to be

increased each year after 1987 in accordance with any increases in the Revised Consumer Price Index for Urban Wage Earners and Clerical Workers, All Items, 1967 = 100, as published by the Bureau of Labor Statistics of the U.S. Department of Labor, from the September, 1987 Index).

11.4 Authority of SRA to Borrow Money. The SRA shall be entitled to borrow money for the uses specified in Section 11.1, or other uses if approved by 51% of the votes of the Class A members of the SRA, up to an outstanding principal balance of \$30,000. Any borrowing over such amount shall require the approval of 51% of the votes of Class A Members of the SRA.

11.5 Authority of SRA to make Capital Expenditures. The SRA shall be entitled to make capital expenditures for the uses specified in Section 11.1 or other uses as may be approved as provided herein, as limited by Section 11.4.

## ARTICLE XII

### RIGHTS OF ENJOYMENT IN COMMUNITY FACILITIES

SECTION 12.1 Community Facilities. Subject to the provisions hereinbelow, DEVELOPER may convey to the SRA, subsequent to the recordation of this Declaration, certain tracts of land within the SouthLake Property for park and other recreational and related purposes. Such tracts, together with such other parts of the SRA land as the Board may by resolution from time to time hereafter designate for use by Members and Residents are sometimes hereinafter collectively referred to as "Community Facilities". Before any properties may be designated as or become a Community Facility, the approval of 51% of the votes of the Class A Members of the SRA must be obtained. Thereafter, upon designation of any part of SRA Land as a Community Facility, as herein provided, the Board shall cause a deed to be executed and recorded among the Land Records of Shelby County, Alabama which deed shall include a

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description of the land so designated and shall state that such land has been designated as a Community Facility for purposes of this Section 12.1. No SRA land, or any part thereof, shall be a Community Facility subject to the rights and easements of enjoyment and privileges hereinafter granted unless and until the same shall have been approved as such by 51% of the votes of Class A Members of the SRA and have been so designated and the above described declaration filed in accordance with the procedure provided herein.

**12.2 Easement of Enjoyment of Community.** Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Community Facilities, and such easement shall be appurtenant to and shall pass with every Parcel upon transfer. All Residents who are not Members shall have a non-transferable privilege to use and enjoy all Community Facilities for so long as they are Residents within the defined meaning of that term. All such rights, easements, and privileges, however, shall be subject to the right of the SRA to adopt and promulgate reasonable rules and regulations pertaining to the use of Community Facilities which shall enhance the preservation of such facilities, the safety and convenience of the users thereof, or which, in the discretion of the Board, shall serve to promote the best interests of the Owners and Residents, including the making available of certain Community Facilities to school children, with or without charge. The SRA shall have the right to charge Owners and Residents reasonable admission and other fees in connection with the use of any Community Facility. In establishing such admission and other fees, the Board may, in its absolute discretion, establish reasonable classifications of Owners and of Residents; such admission and other fees must be uniform within each such class but need not be uniform from class to class. The SRA shall have the right to borrow money, subject to the limitations in Section 11.4, for the purpose of improving any Community Facility and, in aid thereof, to mortgage the same and the rights of any

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such mortgagee shall be superior to the easements herein granted and assured.

12.3 **Suspension of Rights.** The SRA shall have the right to suspend the right of any Member (and the privilege of each Resident claiming through such Member) for any period during which the Annual Charge assessed under Article IX hereof remains overdue and unpaid, or in connection with the enforcement of any rules or regulations relating to such facilities in accordance with the provisions of this Article XII.

12.4 **Right of SRA to Convey.** Notwithstanding the rights, easements and privileges granted under this Article XII, the SRA shall nevertheless have the right and power to convey any property referred to in Section 12.1 hereof free and clear of all such rights, easements and privileges if such conveyance is to a public body for public use.

12.5 **Restrictions and Easements Over Open Spaces.** DEVELOPER will either create prior to or as a part of any conveyances to the SRA easements and rights of way over and/or affecting the property conveyed to the SRA including but not limited to easements relating to utilities, sewers, construction and roads. Any such conveyance to the SRA by DEVELOPER shall be subject to all restrictions, easements, rights of way and agreements of record.

## ARTICLE XIII

### MEMBERSHIP AND VOTING RIGHTS

SECTION 13.1 **General.** The structure of the SRA is contained in its Charter and by-laws. The matters discussed in Sections 13.2 to 13.5 are summaries of some of the provisions of the Charter of the SRA. The Charter and by-laws of the SRA cover each of these matters, in addition to others, in greater detail, and should be consulted for a full explanation of the rights and obligations appurtenant to membership in the SRA.

13.2 All Parcel Owner's Are Members of SRA. Every owner of a Parcel constituting member's Property shall, by virtue of such ownership, be a Member of the SRA. Membership shall be appurtenant to, and may not be separated from the ownership of any property which is Member's Property.

13.3 Classes of Membership. The classes of membership are contained in the Charter and by-laws of the SRA.

(a) Class A Members shall be all persons owning one or more Residential Parcels constituting Member's Property excepting those persons who are Class B Members. A Class B Member cannot be a Class A Member so long as it retains its Class B membership.

(b) Class B Members shall be SouthLake Properties, an Alabama General Partnership, and any successor in ownership to all or part of the DEVELOPER's interest in SouthLake.

The Class B membership shall terminate and the then Class B Members shall become Class A Members at such time as (a) all the then Class B Members so designate in a writing delivered to the Association or (b) on December 31, 1999, whichever shall first occur; provided, that notwithstanding the foregoing, the Class B membership shall not terminate so long as the DEVELOPER shall own any undeveloped Parcel.

13.4 Voting Rights: Class B Members. Each Class B member shall have one vote for each Residential Parcel owned by such Member. Except on such matters as to which this Declaration, the Charter, or the By-Laws of the SRA specifically require the votes of the Class A Members, and until December 31, 1993, or such earlier time as the Class B membership shall terminate, as provided herein, the Class B Members shall be vested with the sole voting rights in SRA, and the Class A Membership shall have no voting rights.



13.5 Voting Rights: Class A Members. Subject to the provisions of Section 13.4, each Class A Member shall have one vote for each Parcel owned by such Member. After December 31, 1993, the Class A Members shall have the right to elect a minority of the Board of Directors of the SRA. After December 31, 1999, the Class A Members shall have the right to elect a majority of the Board of Directors of the SRA.

13.6 Conflict. In the event of a conflict between the terms of this Declaration and the Charter of the SRA, the terms of the Charter shall control.

#### ARTICLE XIV

##### THE ADDITION OF OPEN SPACES

SECTION 14.1 Additions to Open Space. DEVELOPER, or such of its successors and assigns as shall have been specifically granted the right to submit additional property to this Declaration as set forth in this Article, may from time to time during the development of SouthLake but on or before December 31, 1999, and subject to the limitations set forth herein, convey additional property to SRA and such property shall become Open Spaces provided

(a) either the deed of conveyance to the SRA or a subsequent declaration recorded in the Records of Shelby County, Alabama, submits such additional property to the terms, covenants and provisions of this Declaration; and

(b) the additional property is part of the SouthLake Property.

The following properties, or any one or more of them, may be conveyed or may be caused to be conveyed by DEVELOPER, its successors or assigns, to SRA as Open Spaces without any vote of approval from Class A Members:

(1) The existing lake known as Indian Valley Lake.

This property may include the dam and associated



facilities of the lake.

- (2) The existing lake known as SouthLake Lake. This property may include the dam and associated facilities of the lake.
- (3) The existing lake known as Rutherford Lake. This property may include the dam and associated facilities of the lake.
- (4) The existing lake known as Egret Lake. This property may include the dam and associated facilities of the lake.
- (5) The existing lake known as Heron Lake. This property may include the dam and associated facilities of the lake.

Any other property must be approved by 51% of the votes of Class A Members of the SRA before such property may be designated or conveyed to the SRA as Open Space.

#### 14.2 Permissible Conditions or Restrictions on Additional Open Space.

Property conveyed to the SRA as additional Open Spaces may be improved or unimproved land and may be subject to permanent or periodic flooding or may be land under water. The grantor may convey such additional Open Spaces subject to easements for the construction, installation, maintenance, repair, use and access of roadways, service roads, or utility sewer, or other public service facilities, and subject to the reserved right in favor of a person owning SouthLake Property for reasonable use and access to facilitate the development of such property and subject to other rights of way, easements, restrictions, and agreements of record.

ARTICLE XV

THE SUBMISSION OF ADDITIONAL MEMBER'S PROPERTY

SECTION 15.1 Submission of Additional Member's Property. DEVELOPER may at any time during the pendency of this Declaration add all or a portion of SouthLake Property to the Property which is covered by this Declaration. Additional member's Property may be submitted to the provisions of this Declaration by an instrument executed by DEVELOPER, its successors or assigns in the manner required for the execution of deeds. Such instrument shall:

15.1.1 refer to this Declaration stating the book or books of the records of Shelby County, Alabama, and the page numbers where this Declaration is recorded;

15.1.2 contain a statement that such Additional member's Property is conveyed subject to the provisions of this Declaration, or some specified part thereof (as limited by Section 16.4);

15.1.3 contain an exact description of such Additional Member's Property; and

15.1.4 such other or different covenants, conditions and restrictions as DEVELOPER shall, in its discretion, specify to regulate and control the use, occupancy and improvement of such Additional Member's Property.

Upon the recording of such instrument in the Land Records of Shelby County, Alabama, such additional property shall be Member's Property and the owner or owners of such Member's Property shall thereupon be members of the SRA.

15.2 All Member's Property Bears the Burdens and Enjoys the Benefits of this Declaration. Every person who is an owner of a fee interest in any portion of the Member's Property does by reason of taking such title agree to all of the terms and provisions of this Declaration (except as they may be modified in the deed to such

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Property, subject to the limitations in Section 16.4 hereof). All present and later added Member's Property is subject to the burdens and shall enjoy the benefits made applicable hereunder to Member's Property.

## ARTICLE XVI

### GENERAL

SECTION 16.1 **Grantee's Acceptance.** The grantee of any Parcel subject to the coverage of these Restrictions, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from DEVELOPER or a subsequent owner of such Parcel, shall accept such deed or other contract upon and subject to each and all of these Restrictions herein contained.

16.2 **Indemnity For Damages.** Each and every Parcel Owner and future Parcel Owner, in accepting a deed or contract for any Parcel subject to these Restrictions, agrees to indemnify DEVELOPER for any damage caused by such Owner, or the contractor, agent, or employees of 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 responsibility, at the time of such damage.

16.3 **Severability.** Every one of the provisions and restrictions is hereby declared to be independent of, and severable from the rest of the provisions and restrictions and of and from every other one of the provisions and restrictions and of and from every combination of the provisions and restriction in this Declaration shall in no way affect any of the other provisions or restrictions which shall remain in full force and effect.

16.4 **Right of DEVELOPER to Modify Restrictions With Respect to Unsold Parcels.** With respect to any unsold Parcel, DEVELOPER may include in any contract or deed hereinafter made or entered into such modifications and/or additions to these Restrictions as DEVELOPER in his discretion desires; provided, however, that these Restrictions may not be modified in any contract or deed to except such Parcel from the assessment provisions of Article IX or to lessen or extend the voting rights as provided in these Restrictions or in the Charter and by-laws of the SRA.

16.5 **Captions.** The captions preceding the various sections, paragraphs and subparagraphs of these Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

16.6 **Effect of Violation on Mortgage Lien.** No violation of any of these Restrictions shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgagee in actual possession, or any purchaser at any mortgagees' or foreclosure sale shall be bound by and subject to these Restrictions as fully as any other Owner of any portion of the Property.

16.7 **No Reverter.** No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

16.8 **Duration and Amendment.** The Restrictions contained in this Declaration shall run with and bind the Property, shall inure to the benefit of and shall be enforceable by DEVELOPER, the SRA, the Architectural Committee, and the Owner of any Residential Parcel included in the Property, their respective legal representatives, heirs, successors and assigns until the 31st day of December in the year 2010, after

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which time said Restrictions shall be automatically extended for successive periods of ten years. This Declaration may not be amended in any respect (except with regard to the annexation of Additional member's Property) except by the execution of an instrument signed by not less than 75% of the Parcel Owners, which instrument shall be filed for recording among the Land Records of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument. After December 31, 2010, this Declaration may be amended and/or terminated in its entirety by an instrument signed by not less than 55% of the Parcel Owners which instrument shall be filed for recording among the Land Records of Shelby County, Alabama, or in such other place of recording as may be appropriate at the time of the execution of such instrument.

16.9 **Enforcement.** In the event of a violation or breach of any of these Restrictions or any amendments thereto by any Residential Owner, or employee, agent, or lessee of such Owner, the Owner(s) of Residential Parcel(s), the SRA, DEVELOPER (so long as it is a member of the SRA), their successors and assigns, or any business party to whose benefit these Restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violation or breach of said Restrictions, to sue for and recover damages or other dues, or take all such courses of action at the same time, or such other legal remedy it may deem appropriate. No delay or failure on the part of an aggrieved party to initiate an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

Damages shall not be deemed adequate compensation for any breach or violation of any provision hereof, but any person or entity entitled to enforce any provision hereof

shall be entitled specifically to relief by way of injunction as well as any other available relief either at law or in equity.

Any party to a proceeding who succeeds in enforcing a Restriction or enjoining the violation of a Restriction against a Parcel Owner may be awarded a reasonable attorney's fee against such Parcel Owner.

**16.10 Certificate of Violation.** In addition to any other rights or remedies available to the SRA hereunder or at law or equity, the SRA shall have the right to file in the Records of Shelby County, Alabama a Certificate or Notice of Violation of these Restrictions (which violation shall include, without limitation, nonpayment of the Annual Charges and/or failure to comply with architectural guidelines) upon failure of a Parcel Owner to correct a violation of these Restrictions within thirty (30) days after written notice of the violation has been given by the SRA to the Parcel Owner.

**16.11 Interpretation by SRA.** The SRA shall have the right to construe and interpret the provisions of this Declaration, and in absence of an adjudication by a court of competent jurisdiction to the contrary, its construction or interpretation shall be final and binding as to all persons or property benefited or bound by the provisions hereof.

**16.12 Assignment by SRA.** The SRA shall be empowered to assign its rights hereunder to any successor nonprofit membership corporation (herein referred to as the "Successor Corporation") and, upon such assignment the Successor Corporation shall have all the rights and be subject to all the duties of the SRA hereunder.

**16.13 No Waiver.** The failure of any party entitled to enforce any of these Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to such a violation or breach occurring prior or subsequent thereto; provided, however, that approval of

plans pursuant to Article II shall be binding on any and all parties as a conclusive determination that such plans are in conformity with these Restrictions.

## ARTICLE XVII

### DEFINITIONS

**SECTION 17.1 Assessable Property.** That part of SouthLake Property which is subjected to these Restrictions except such part or parts thereof as may from time to time constitute "Exempt Property" as defined in Section 17.9.

**17.2 Association or "SRA".** The SouthLake Residential Association, Inc., its successors and assigns.

**17.3 Association Land or SRA Land.** That part of SouthLake Property which may at any time hereafter be owned by the Association for so long as the Association or successor thereof may be the owner thereof.

**17.4 Board.** The Board of Directors of the Association.

**17.5 Charter.** The Articles of Incorporation of the SouthLake Residential Association, Inc.

**17.6 Declaration.** This Declaration of Protective Covenants of SouthLake (Residential) applicable to Member's Property which shall be recorded in the Probate Records of Shelby County, Alabama, as the same may from time to time be supplemented or amended in the manner described therein.

**17.7 Deed.** Any deed, assignment, lease, or other instrument conveying fee title or a leasehold interest in any part of SouthLake Property subjected to these Restrictions.

**17.8 Developer.** SouthLake Properties, an Alabama General Partnership, its successors and assigns.





17.9 Exempt Property. Shall mean and refer to the following portions or parts of the Property:

(i) all land owned by the United States, the State of Alabama, Shelby County, or any instrumentality or agency of any such entity, for so long as (a) any such entity or any such instrumentality or agency shall be the owner thereof, and (b) such land is being used or held for public purposes (land which is owned by any such entities and leased to non-public persons or entities shall not be exempt during the period of lease to such non-public persons or entities);

(ii) all land owned by SouthLake Residential Association, Inc. ("SRA") (or a "Successor Corporation" as defined in Section 16.12 hereof) for so long as SRA (or such Successor Corporation) shall be the owner thereof;

17.10 Member. A person or other entity who is a record owner of Member's Property.

17.11 Member's Property. That portion of SouthLake Property which shall have been submitted to this Declaration for the purpose of creating a lien for assessments in favor of SRA.

17.12 Open Spaces or Common Areas. SouthLake Property which is conveyed to the Association by the owners or Developers of SouthLake or a part thereof and which is designated as an open space or area.

17.13 Owner. The Owner of Member's Property.

17.14 Parcel. A Residential Parcel.

17.15 Property or Subject Property or Member's Property. That part of SouthLake Property subjected to this Declaration. The term "Property" shall also include each such new parcel of land at the time that the same is subjected to the Declaration.

17.16 Resident. Any persons or persons occupying or leasing Member's Property.

17.17 Residential Parcel. Any unit, lot, part or parcel of SouthLake Property designed, designated or used for a residential purpose or use, including residential condominiums and townhouses located on a parcel or parcels which are subjected to this Declaration.

17.18 Restrictions. The covenants, agreements, easements, charges and liens created or imposed by this Declaration.

17.19 SouthLake or SouthLake Property. The property described as SouthLake in the Declaration and other property which may be acquired by DEVELOPER and developed as a part of SouthLake. That part of SouthLake subjected to the Declaration is referred to as "Property", "Subject Property", or "Member's Property".

17.20 Structure. Any thing or device [other than trees, shrubbery (less than two (2) feet high if in the form of a hedge), and landscaping], the placement of which upon any Parcel may affect the appearance of such Parcel, including by way of illustration and not limitation, any building, garage, porch, shed, greenhouse or bathhouse, cop or cage, covered or uncovered patio, mailbox, swimming pool, clothes line, radio or television antenna, fence, curbing, paving, wall or hedge more than two (2) feet in height, signboard or any temporary or permanent living quarters (including any house trailer or motor home) or any other temporary or permanent improvement to such Parcel. "Structure" shall also mean (i) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Parcel, or which affects or alters the flow of any waters in any natural or artificial stream, wash or drainage channel from, upon or across any Parcel and (ii) any change in the grade of any Parcel of more than six inches from that

existing at the time of purchase by each Owner.

17.21 Tract. A contiguous piece of Property under one Ownership.

IN WITNESS WHEREOF, this Declaration of Protective Covenants of SouthLake (Residential) has been executed by the SOUTHLAKE PROPERTIES, an Alabama General Partnership, effective the 18 day of November, 1987.

ATTEST:  
By: [Signature]  
Its Secretary

SOUTHLAKE PROPERTIES, an Alabama general partnership

By: ARONOV DEVELOPERS, INC., its general partner

By: [Signature] as agent  
Its President

ATTEST:  
By: \_\_\_\_\_  
Its Secretary

By: RIME DEVELOPERS, INC., its general partner

By: [Signature]  
Its President

THIS INSTRUMENT PREPARED BY:  
Randolph H. Lanier  
Balch & Bingham  
P. O. Box 306  
Birmingham, Alabama 35201

RECORDING FEES	
Recording Fee	\$ <u>122.50</u>
Index Fee	<u>1.00</u>
TOTAL	\$ <u>123.50</u>

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