

STATE OF ALA. MARSHALL CO.  
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**DECLARATION OF CONDOMINIUM OF  
CHEROKEE RIDGE COURT, A CONDOMINIUM**

This Declaration is made and entered into this 20<sup>TH</sup> day of December, 1995, by Cherokee Ridge Corporation, hereinafter referred to as the "Declarant", for itself, and for its successors, grantees, and assigns, for the purpose of creating a condominium and establishing certain easements, covenants, and restrictions to run with the land.

**RECITALS**

The Declarant is the owner of certain real estate described in Article IV below, and located in Marshall County, Alabama, hereinafter referred to as the "Parcel."

The Declarant intends to and does hereby submit the Parcel together with all buildings, structures, improvements, and other permanent fixtures thereon, and all rights and privileges belonging or in any way pertaining thereto, to the provisions of the Alabama Uniform Condominium Act of 1991 as set forth in Alabama Code §§ 35-8A-101 *et seq.* (1991).

The Declarant further desires to establish for its own benefit and for the mutual benefit of all future owners or occupants of the Parcel or any part thereof, a condominium form of ownership, and intends that all future owners, occupants, mortgagees, and any other persons hereinafter acquiring an interest in the Parcel shall hold that interest subject to certain rights, easements, and privileges in the Parcel, and certain mutual beneficial restrictions and obligations with respect to the property use, conduct, and maintenance of the property, as hereinafter set forth.

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NOW THEREFORE, the Declarant, as the owner of the Parcel, and for the purposes above set forth, declares as follows:

**ARTICLE I**

**DEFINITIONS**

The terms used herein shall have the meaning specified in the Act and as follows, unless the context otherwise requires:

- (1) "Act" means the Alabama Uniform Condominium Act, Alabama Code §§ 35-8A-101 *et seq.*
- (2) "Articles" means the Articles of Incorporation of the Condominium Association, recorded in the Office of the Judge of Probate of Marshall County, Alabama.
- (3) "Assessment" means a proportionate share of the funds required for the payment of the Common Expenses and Limited Common Expenses, which from time to time may be levied

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against each Unit Owner.

- (4) "Attic" means the space above each unit intended for storage for that particular unit.
- (5) "Board" means the Board of Directors of the Condominium Association.
- (6) "Buildings" means all structures or structural improvements located on the Parcel and forming part of the Condominium.
- (7) "Bylaws" means the duly adopted Bylaws of the Condominium Association.
- (8) "Cherokee Ridge Property Owners' Association, Inc." means the Property Owners' Association referred in the Declaration of Covenants, Conditions and Restrictions of Cherokee Ridge Subdivision as recorded in Deed Book 1114 Page 22 in the Probate Office of Marshall County, Alabama, and as amended by those certain instruments recorded in Deed Book 1142 Page 82, Deed Book 1204 Page 167, and Deed Book 1432 Page 242 in the Probate Office of Marshall County, Alabama, and as may be further amended or supplemented from time to time, whose Articles of Incorporation are recorded in Corporate Volume 40 page 63 in the Probate Office of Marshall County, Alabama.
- (9) "Cherokee Ridge Subdivision" means that certain subdivision set forth in Plat Book 7 Pages 263, 281, & 300 in the Probate Office of Marshall County, Alabama.
- (10) "Common Expenses" means the expenses arising out of the ownership of the Common Elements, including expenses incurred in the maintenance, administration, improvement, and repair of the Condominium Common Elements, whether incurred or estimated by the Board, for which the Unit Owners are liable to the Association in accordance with the terms of the Condominium Documents.
- (11) "Common Surplus" means the excess of all receipts of the Condominium Association over the amount of the Common Expenses.
- (12) "Condominium" means Creekwood Court, A Condominium, and consists of the Condominium Property submitted to the condominium form of ownership by this Declaration.
- (13) "Condominium Association" means Creekwood Court Property Owners' Association, Inc., an Alabama non-profit corporation, and its successors, that is the entity responsible for the administration and management of the Condominium, which articles of incorporation were recorded on August 3, 1995 in the Probate Office of Marshall County, Alabama.
- (14) "Condominium Common Elements" means any part of the Condominium Property, except the Units, as set forth and defined in Paragraph 4.04 of this Declaration, in which all of the Unit Owners have an undivided interest.
- (15) "Condominium Documents" means the Declaration, Bylaws, Articles, and all exhibits attached thereto as the same may be amended from time to time.

(16) "Condominium Property" or "Property" means all property covered by the Declaration, and includes the parcel of land described in Paragraph 4.01 of this Declaration and all improvements now existing or hereafter placed thereon, all easements, rights, interests and appurtenances thereto, and all personal property now or hereafter used in connection therewith.

(17) "Declaration" means this Declaration as it may be amended from time to time.

(18) "Declarant" means Cherokee Ridge Corporation and its successors, grantees, and assigns.

(19) "Property Owners' Association" means the Cherokee Ridge Property Owners' Association, Inc. as incorporated in Corporation Book 40 Page 63 in the Probate Office of Marshall County, Alabama and described in the Subdivision Covenants.

(20) "Institutional Mortgagee" means a bank, a savings and loan association, an insurance company, a FHA-approved mortgage lender, a pension fund, a credit union, a real estate or mortgage investment trust, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, a mortgage banker or any other lender generally recognized in the community as an institutional lender or its loan correspondent, or the Declarant, holding a Mortgage on one or more individual Units.

(21) "Limited Common Elements" means the part or parts of the Condominium Property as set forth in Paragraph 4.05 of this Declaration, in which more than one, but not all of the Unit Owners have an undivided interest.

(22) "Member" means a member of Creekwood Court Property Owners' Association, Inc.; membership in which is confined to persons holding fee ownership in a Unit.

(23) "Occupant" means a person or persons in possession of a Unit, regardless of whether that person is the Unit Owner.

(24) "Plans" means the site plan, building plans, floor plans, and sections prepared by Smith, Kranert, Tomblin & Associates, Architects, P.C., A.I.A., of Huntsville, Alabama, and Jerry O. Peery, PLS, 7650 Sherry Lane, McCalla, Alabama, which depict the location, layout, identifying numbers and dimensions of the Units and the Limited Common Elements and the Common Area, identified as Creekwood Court, A Condominium, that are attached hereto as Exhibits 1, 2, 4-A, 4-B, 4-C, 4-D and 5, and by this reference are made a part hereof.

(25) "Special Assessments" means the costs and expenses, other than Common Expenses, for which the Unit Owners are liable to the Condominium Association.

(26) "Subdivision" means Cherokee Ridge Subdivision as set forth in Plat Book 7 Pages 263, 281, and 300 in the Probate Office of Marshall County, Alabama.

(27) "Subdivision Covenants" means the Declaration of Covenants, Conditions and Restrictions of Cherokee Ridge Subdivision as recorded in Deed Book 1114 Page 22 in the Probate

Office of Marshall County, Alabama, and as amended by those certain instruments recorded in Deed Book 1142 Page 82, Deed Book 1204 Page 167, and Deed Book 1432 Page 242 in the Probate Office of Marshall County, Alabama, and as may be further amended or supplemented from time to time.

(28) "Unit" means a part of the Property designed and intended for any type of independent use and consisting of one or more rooms situated on one or more floors of the Buildings or a part or parts thereof, so specified as a Unit on the Plat. Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as shown on the Plan, including the attic space that serves each unit, but shall not include the boundaries of the Unit, that are as follows:

(a) Upper and Lower Boundaries. The upper and lower boundaries extended to their planar intersections with the perimetrical boundaries of the Unit as follows:

- i. Upper Boundary - the horizontal plane of the unfinished lower interior surface of the ceiling
- ii. Lower Boundary - the horizontal plane of the unfinished upper interior surface of the floor.

(b) Perimetrical Boundaries. The perimetrical boundaries of each Unit shall be the vertical planes of the exterior surfaces of exterior windows and glass doors bounding a Unit and the unfinished interior surfaces of the walls and entry doors bounding the Unit, excluding paint, wallpaper and like coverings intended to their planar intersections with each other and with the upper and lower boundaries.

Each Unit shall include all improvements contained within such area, including any attic, all heating and cooling equipment that service that Unit and the plumbing and electrical fixtures; provided, however, that no bearing walls and bearing columns of the Buildings in which such Unit is located, and no pipes, wires, conduits, ducts, flues, shafts, and public utility lines situated within such Unit and forming part of any system serving one or more other Units or the Common Elements shall be deemed to be a part of the Unit.

When a Unit is conveyed, the following shall pass with it as appurtenances thereto: (a) an undivided share in the Common Elements and Common Surplus; (b) the exclusive right to use such portion of the Common Elements as may be provided by this Declaration and as may not be separately conveyed in accordance with this Declaration; (c) an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, provided that an easement in a space that is vacated shall be terminated automatically; and (d) the exclusive easement for the use of the airspace occupied by the Attic of each respective Unit.

(29) "Unit Owner" means the person or persons whose estates or interests, individually or collectively, aggregate fee simple ownership of a Unit and of the attached undivided interest in the Common Elements.

Whenever the context permits hereunder, use of the plural shall include the singular, use of the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

**ARTICLE II**

**SUBMISSION OF PROPERTY TO ACT**

By this Declaration, the Declarant hereby submits the Parcel and the Property to the provisions of the Act.

**ARTICLE III**

**NAME AND ADDRESS**

The name of the Condominium is Creekwood Court, A Condominium. The Condominium is located on Creekwood Court, at Cherokee Ridge Subdivision in the County of Marshall, State of Alabama.

**ARTICLE IV**

**DESCRIPTION OF PROPERTY**

**Land**

4.01. The following property is hereby submitted to the condominium form of ownership:

A parcel of land situated in the Northwest Quarter of the Southwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 17, Township 7 South, Range 1 East, Huntsville Meridian, Marshall County, Alabama, and being more particularly shown on the Plat of the parcel attached hereto and incorporated herein as Exhibit 1 and the description attached thereto as Exhibit 2.

**Improvements**

4.02. The Developer has constructed and has submitted to the condominium form of ownership two (2) buildings and the appurtenant driveway and currently containing a total of eight (8) Units. The two existing buildings are designated as Buildings 40 & 60 on the plat attached as Exhibit 1. An additional building and/or buildings may be constructed by the Developer on the Condominium Property. These buildings are designated as Buildings 20 & 80 on Exhibit 1. The Declarant is under no obligation to construct either of these buildings. The maximum number of units, if all buildings were constructed, would be sixteen (16) units.

#### Units

4.03. Each Unit is assigned a number and letter combination, which is indicated on the Plats and Plans made Exhibits 1, 3, 4, 4A - 4D and 5 hereto, so that no Unit bears the same designation as any other Unit. The legal description of each Unit, whether currently constructed or not, shall consist of the identifying number and letter as shown on the Plan, the name of the Condominium, the name of the county in which the Parcel is situated, the name of the office in which this Declaration is recorded, and the condominium book and page number where the first page of this Declaration is recorded. For example, the legal description for Unit 40-B would read as follows:

Unit 40-B of the Creekwood Court Condominium, Marshall County, Alabama, according to the Declaration of Condominium recorded in Condominium Book 1 Page 196, et seq., in the Probate Office of Marshall County, Alabama, together with an undivided interest in the Common Elements of such Condominium as provided in said Declaration.

#### Common Elements

4.04. The Condominium Common Elements shall include the common areas and facilities located substantially as shown on the Plans. Such Condominium Common Elements will include the following, unless specifically included within a Unit:

- (1) The Land described in Paragraph 4.01, hereof.
- (2) The foundations and footings, exterior walls, roofs, girders, beams, supports, stairs and stairways, decks, entry walks, and entry porches of any Building.
- (3) The yard, streets, walkways, parking areas, recreational areas, mailbox unit and landscaping.
- (4) The mechanical systems and installations providing service to any Buildings, or to any Unit, such as electrical power, gas, light, hot and cold water, heating and air conditioning, sanitary and storm sewer facilities, and including all lines, pipes, ducts, flues, chutes, conduits, cables, wires, and other apparatus and installations in connection therewith.
- (5) All maintenance facilities, water storage tanks, pumps, outdoor lighting, and the like.
- (6) All easements, rights or appurtenances affecting or relating to the use of the Condominium Property unless specially included in any Unit.

#### Limited Common Elements

4.05. The Limited Common Elements shall include those common areas located substantially as shown on the Plans. Such Limited Common Elements will include the following:

(1) Porches. All porches connected to the Units as shown on the Plans, are Limited Common Elements, the right to the exclusive use of which shall be assigned to each Unit Owner at the time such Unit is acquired from the Declarant.

(2) Attic. Attic space for each unit which is served by a pull-down staircase.

#### ARTICLE V

#### COMMON ELEMENTS

##### Ownership of Common Elements

5.01. Each Unit Owner shall be entitled to the percentage of Ownership in the Condominium Common Elements allocated to the respective Unit, as set forth in Exhibit 3. The owners of the original eight (8) Units shall have an undivided 1/8th interest in the Common Elements, but this interest is subject to being diminished in direct proportion to the number of Units constructed, and such interest shall not be less than a 1/16th interest. If all Units are constructed, the minimum interest that each Unit Owner would own will be a 1/16th interest. The ownership interest in the Condominium Common Elements shall be an undivided interest, and except as provided in the Act and this Declaration, shall remain undivided. No Unit Owner shall bring any action for partition or division of the Condominium Common Elements. The ownership interest in the Condominium Common Elements shall not be conveyed, transferred, encumbered, or otherwise affected separate from the ownership of the Unit, and any agreement to the contrary shall be void.

##### Use of Condominium Common Elements

5.02. Each Unit Owner shall have the right to use the Condominium Common Elements (except any portions of the Property subject to leases made by or assigned to the Board) in common with all other Unit Owners, as may be required for the purposes of access, ingress to, egress from, use, occupancy, and enjoyment of the respective Unit owned by such Unit Owner. The Unit Owner shall have the right to the exclusive use and possession of the Limited Common Elements serving his Unit. The rights to use the Condominium Common Elements and Limited Common Elements shall be subject to and governed by the provisions of the Act, Declaration, Bylaws, and the rules and regulations of the Condominium Association. In addition, the Condominium Association shall have the authority to lease, grant concessions, or grant easements with respect to parts of the Condominium Common Elements, subject to the provisions of the Declaration and Bylaws.

##### Share of Condominium Common Elements

5.03. Each Unit Owner shall be liable for a proportionate share of the Common Expenses, and the proportionate share of Common Expenses shall be the same ratio as his percentage of ownership in the Condominium Common Elements. Payment of Common Expenses shall be in such amounts and at such times as determined in the Bylaws. No Unit Owner shall be exempt from payment of his, her, or its proportionate share of the Common Expenses by waiver or nonuse or nonenjoyment of the Common Elements, or by abandonment of his Unit. As set out herein, the initial

share of the Common Expenses shall be a 1/8th share and may be reduced to not less than a 1/16th share.

#### **Lien for Expenses**

5.04. If any Unit Owner shall fail or refuse to make any payment of the Common Expenses when due, the amount due, together with interest thereon at the rate of ten percent (10%) per annum or such greater percentage as may then be permitted under the laws of the State of Alabama, from and after the date said Common Expenses become due and payable, shall constitute a lien on the interest of the Unit Owner in the Property.

#### **Disposition of Common Surplus**

5.05. The Common Surplus shall appertain to the Units in proportion to the liability for Common Expenses appertaining to each Unit; or, in the alternative, such Surplus or any portion thereof may be added to a reserve fund for maintenance, repair, and replacement of the Condominium Common Elements, at the sole discretion of the Board.

#### **Use of Subdivision Common Elements**

5.06. The Unit Owners have the right to use the Subdivision Common Elements of Cherokee Ridge Subdivision and they are obligated to pay assessments for the Subdivision Common Elements. The rights and obligations regarding the Subdivision Common Elements are set forth in the Subdivision Covenants and Articles VI & VII of this Declaration.

### **ARTICLE VI**

#### **THE ASSOCIATIONS**

##### **Powers and Duties**

6.01. The Condominium Association shall be responsible for the maintenance, repair, replacement, administration, and operation of the Property. The Condominium Association shall have all the powers and duties set forth in the Act, as well as all the powers and duties granted to or imposed on it under the Condominium Documents as they may be amended from time to time. The Condominium Association is specifically authorized to enter into agreements by which its powers and duties, or some of them, may be exercised or performed by some other person or persons.

##### **Membership in Condominium Association**

6.02. Each Unit Owner shall be a member of the Condominium Association so long as he is a Unit Owner. A Unit Owner's membership shall automatically terminate when he ceases to be a Unit Owner. The membership of a Unit Owner cannot be assigned or transferred in any manner except as an appurtenance to his Unit.



#### Voting Rights

6.03. Each Unit is entitled to one vote, which vote is not divisible. Where the Unit Owner is more than one person, if only one person is present at a meeting of the Condominium Association, that person shall be entitled to cast the vote pertaining to that Unit. If more than one such person is present at a meeting, the vote pertaining to that Unit shall be cast.

#### Membership in Property Owners' Association

6.04. Each Unit Owner shall be a Member of the Cherokee Ridge Property Owners' Association, Inc. by virtue of his ownership of a Unit. The inclusion of Creekwood Court Condominium under the provisions and terms of the Subdivision Covenants is pursuant to Article III of the Subdivision Covenants. Under such provision, the Condominium Unit Owners are deemed members of the Property Owners' Association and thereby subject to the terms and conditions, and obligations, set out therein, except those provisions of the Subdivision Covenants that are not reasonably applicable to a condominium form of owners. The duties and obligations of the Members of the Property Owners' Association are set forth in the Subdivision Covenants, the Articles of Incorporation, and the By-laws of the Cherokee Ridge Property Owners' Association, Inc., as they may have been amended from time to time.

### ARTICLE VII

#### OCCUPANCY, USE, AND LEASING RESTRICTIONS

##### Residential Use

7.01. Each Unit or any two or more adjoining Units used together shall be used only as a residence, except that, if permitted by applicable zoning ordinances, a professional or quasi-professional Unit Owner or Occupant using a Unit as a residence may also use that Unit as an ancillary or secondary facility to an office established elsewhere. The foregoing restrictions as to residence shall not, however, be construed in such manner as to prohibit an Occupant from: (1) maintaining his personal professional library; (2) keeping his personal business or professional records or accounts; or (3) handling telephone calls or correspondence relating to his personal business or profession. Such uses are expressly declared customarily incidental to the principal residential use and not in violation of said restrictions.

##### Use of Condominium Common Elements

7.02. The Condominium Common Elements shall be used only by the Unit Owners and their agents, servants, tenants, family members, invitees, and licensees for access, ingress to, and egress from the respective Units and for such other purposes incidental to use of the Units. However, the storage areas and other areas designed for a specific use shall be used for the purposes approved by the Board. The use, maintenance, and operation of the Condominium Common Elements shall not be obstructed, damaged, or unreasonably interfered with by any Unit Owner, and shall be subject to any lease, concession, or easement, presently in existence or entered into by the Board at some future

time, affecting any part or all of said Condominium Common Elements. No Unit Owner or Occupant shall place, distribute, or maintain any sign, poster, or bill in any portion of the Condominium Common Elements outside his Unit without the approval of the Board.

#### **Nuisances**

7.03. No nuisances shall be allowed on the Condominium Property, nor any use or practice that is the source of unreasonable annoyance to residents or that interferes with the peaceful possession and proper use of the Condominium Property by its residents. All parts of the Condominium Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate nor any fire hazard allowed to exist.

#### **Lawful Use**

7.04. No offensive or unlawful use shall be made of the Condominium Property, nor any part thereof, and all valid laws, zoning ordinances, and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies that require maintenance, modification, or repair of the Condominium Property shall be the same as the responsibility for the maintenance and repair of the Condominium Property concerned.

#### **Leases**

7.05. Units may be leased by the Unit Owners, provided, however, that such lease and the rights of any tenant thereunder are hereby made expressly subject to the power of the Condominium Association to prescribe reasonable rules and regulations relating to the lease and rental of Units, and to enforce the same directly against such tenant or other occupant by the exercise of such remedies as the Board deems appropriate, including eviction.

#### **Application of Subdivision Covenants and Restrictions**

7.06. Each Unit Owner, by acceptance of a deed for such Unit, is deemed to have accepted and agreed to the terms and conditions of the "Subdivision Covenants" as such subdivision covenants are or may be reasonably applicable to the condominium form of property ownership and to these units. The subdivision covenants that are not consistent with the condominium form of ownership of property are hereby declared inapplicable, null and void with regard to Creeewood Court Condominium. The non-applicable provisions include, but are not limited to, the following Articles of the Subdivision Covenants: Article IV, § 1 and Article VI. The terms and conditions of this Declaration are to be deemed to supplement and be in addition to the Subdivision Covenants, but are not in any way applicable to any portion of Cherokee Ridge Subdivision other than the Condominium Property.

#### **Use of Subdivision Common Elements**

7.07. The Unit Owners as members of the Property Owners' Association shall have a permanent and perpetual non-exclusive right and easement of enjoyment in and to the subdivision common area or areas, existing now or in the future, which shall be appurtenant to and shall pass with

the title to any Unit, subject to the rights, rules and regulations of the Property Owners' Association as set forth in the Subdivision Covenants, the Articles of Incorporation, and the By-laws of the Cherokee Ridge Property Owners' Association, as they may have been amended from time to time, including dedicating the roads and rights-of-way for said roads to Marshall County, Alabama, or to other any appropriate political entity or subdivision pursuant to the terms of the Subdivision Covenants. The Unit Owners as members of the Property Owners' Association are subject to uniform assessments of the Property Owners' Association of both annual charges and special charges pursuant to Article V of the Subdivision Covenants and to the other terms and obligations of that Article. The lien of the Unit and personal obligation of the Unit Owner created by Article V of the Subdivision Covenants shall be superior to the lien for expenses set forth in Article V of this Declaration of Condominium.

#### ARTICLE VIII

#### EASEMENTS

Each of the following easements is reserved to the Condominium Association for the benefit of its Members, their guests and lessees, is a covenant running with the land, may not be amended or revoked, and shall survive the termination of the Condominium:

(1) Utilities. Each Unit shall have an easement as may be required for Utility Services needed to serve the Condominium adequately; provided, however, easements through a Unit shall be according to the plans and specifications for the Building or as the Building is actually constructed or reconstructed, unless otherwise approved in writing by the Unit Owner. The Board or its designee shall have a right of access to each Unit to inspect such Unit, to maintain, repair or replace drainage facilities and the pipes, wires, ducts, vents, cables, conduits and other facilities related to the providing of Utility Services, and the Condominium Common Elements contained in the Unit or elsewhere in the Condominium Property, and to remove any improvements interfering with or impairing the Utility Services, drainage facilities, and easements herein reserved; provided such right of access, except in the event of an emergency, shall not unreasonably interfere with the Unit Owner's permitted use of the Unit, and except in the event of an emergency, entries shall not be made without prior notice to the Unit Owners.

(2) Ingress and Egress. Each Unit shall have an easement for pedestrian traffic over, through, and across sidewalks, paths, walks, lobbies, stairways, walkways, lanes, and like passageways, as the same may from time to time exist on the Condominium Common Elements; and for vehicular traffic over, through, and across such portions of the Condominium Common Elements as from time to time may be paved and intended for such purposes, but the same shall not give or create in any person the right to park on any portion of the Condominium Property not designated as a parking area. This easement shall be nonexclusive and shall include the right of ingress and egress.

(3) Drainage. Each Unit shall have an easement as may be required to drain the Condominium Property adequately.

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(4) Support. Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and of necessity in favor of all other Units and the Condominium Common Elements.

#### ARTICLE IX

#### MAINTENANCE, ALTERATION, AND IMPROVEMENTS

##### Maintenance by the Condominium Association

9.01. (1) The Condominium Association shall, as a Condominium Common Expense, maintain, repair, and replace if necessary the following:

(a) All portions of the, as a Condominium Common Expense, Common Elements and Limited Common Elements not the responsibility of a Unit Owner under the provisions of Paragraph 9.02, hereof.

(b) All conduits, ducts, plumbing, wiring, and other facilities for the furnishing of utility services that are contained within a Unit but service part or parts of the Condominium other than the Unit within which contained and that are not the responsibility of a Unit Owner under Paragraph 9.02, hereof.

(2) The Condominium Association may enter into a contract with any firm, person, or corporation, or may join with other entities in contracting for the maintenance and repair of the Condominium Property and other type properties, and may delegate to such agent all or any portion of the powers and duties of the Condominium Association, except such as are specifically required by the Condominium Documents to have the approval of the Members of the Condominium Association, provided, however, that any such contract shall be for a term not to exceed one year, and shall provide that it may be terminated by either party, without cause or payment of any fee, on not less than ninety (90) days' prior written notice.

##### Maintenance by Unit Owners

9.02. Each Unit Owner shall maintain his Unit and the interior thereof in good tenable condition and repair, and shall repair, maintain, and replace if necessary the following:

(1) The fixtures and equipment in his Unit, including the refrigerator, stove, fans, dishwasher, and all other appliances, drains, plumbing fixtures and connections, sinks, and plumbing within the Unit, electric panels, wiring, outlets, and electric fixtures within the Unit; interior doors, windows, screening and glass, including glass between the Unit and any patio or deck adjacent to such Unit, all exterior doors, except the painting of the exterior faces of exterior doors which shall be a responsibility of the Condominium Association, and all wall coverings and carpeting within a Unit.

(2) The plumbing, heating, ventilation, air conditioning, and electrical systems serving only that Unit, whether located within or without the boundary of that Unit, including the heater and air conditioning compressor, hot water heaters, fuse boxes, wiring, fireplace flues, and all other plumbing, electrical, gas, or mechanical systems. In the event any such system or portion thereof is within another Unit, or requires access to another Unit, the repair, maintenance, or replacement thereof shall be performed by the Condominium Association, and the cost thereof shall constitute an Assessment against the Unit Owner responsible therefor.

#### Unit Owners' Covenants

9.03. Each Unit Owner agrees as follows:

(1) To perform all maintenance, repairs, and replacements that are his obligation under Paragraph 9.02, hereof.

(2) To pay for all of his utilities, including electricity, gas, water and sewer, and telephone used within the Unit and all taxes levied against his Unit.

(3) Not to make, or cause to be made, any repairs to any plumbing, heating, ventilation or air conditioning systems located outside his Unit but required to be maintained by him under Paragraph 9.02(2), hereof, except by licensed plumbers or electricians authorized to do such work by the Condominium Association or its delegate.

(4) Not to make any addition or alteration to his Unit or to the Condominium Common Elements or do any act that would impair the structural soundness or safety of any part of the Condominium Property. Structural alterations within a Unit may be made only with the written consent of the Condominium Association.

(5) To make no alterations, additions, improvements, decoration, repair, replacement, or change to the Condominium Common Elements, or to any outside or exterior portion of the building, specifically including, but not limited to, screening or enclosing private balconies, install garage or other exterior doors, or affixing shutters to windows, without the prior written consent of the Condominium Association. If consent is granted, the Unit Owner shall use only a licensed contractor who shall comply with all Rules and Regulations with respect to the work which may be adopted by the Association. The Unit Owner shall be liable for all damages to another Unit and to the Condominium Common Elements caused by any contractor employed by such Unit Owner or by the subcontractors or employees of such contractor, whether said damages are caused by negligence, accident, or otherwise.

(6) To allow the Condominium Association, its delegates, agents, or employees at all reasonable times to enter into any Unit for the purpose of maintaining, inspecting, repairing, or replacing Condominium Common Elements, or for repairing, maintaining or replacing any plumbing, heating, ventilation or air-conditioning system located within such Unit but serving other parts of the Condominium Property, or to determine, in case of emergency, the circumstances threatening Units or Condominium Common Elements and to correct the same, or, to determine compliance with the provisions of the Condominium Documents.

(7) To promptly report to the Condominium Association any defects or needed repairs for which the Condominium Association is responsible.

**Facade**

9.04. The Condominium Association shall determine the exterior color scheme of the Buildings and shall be responsible for the maintenance thereof, except as may be otherwise provided for herein. No Unit Owner shall paint any exterior surface or add or replace anything hereon or affixed thereto without written consent of the Condominium Association.

**Repairs**

9.05. The Condominium Association shall be responsible for the maintenance, repair, and replacement of the Condominium Common Elements, except as otherwise provided for in Paragraph 9.02; provided, however, that if any repairs or replacements are made necessary because of abuse or negligent use thereof by a Unit Owner, the cost of such repair or replacement may be assessed against such Unit Owner.

**Alteration and Improvement**

9.06. Except for repairs and maintenance of the existing improvements, after the completion of the improvements in accordance with the Plans, there shall be no alteration or further improvement of the Condominium Common Elements without the prior approval of not less than fifty-six percent (56%) of the Members. Any such alterations or improvements shall be financed and constructed in accordance with the provisions of the Bylaws.

**ARTICLE X**

**INSURANCE**

**Specified Insurance**

10.01. Insurance, other than title insurance, that shall be carried on the Property and the property of the Unit Owners shall be governed by the provisions of this Article. Insurance coverage maintained by the Condominium Association pursuant to these provisions is hereafter referred to as "Specified Insurance."

**Location of Policies**

10.02. The Condominium Association shall retain the original of all insurance policies for Specified Insurance in a place of safekeeping such as a safe or a safety deposit box and shall provide copies of such policies to Institutional Mortgagees requesting such copies.

**Notice of Change in Insurance Coverage**

10.03. No material adverse change as such materiality is determined by the Board in the Specified Insurance provisions, including changes in the amount of coverage, the risks covered, the ratio to value of coverage, or endorsements or other changes in the coverage provisions, may be effected by the Condominium Association without written notice to the Mortgage Holder.

**Qualification of Insurance Company**

10.04. Each company issuing Specified Insurance must be specifically authorized by the laws of the State of Alabama to transact such business as is necessary to provide the Specified Insurance, and must have an A. M. Best rating of A+ XV, A IX, or B XII, or better.

**Named Insured**

10.05. The named insured on all policies of Specified Insurance shall be the Condominium Association, and in the case of property damage insurance, the Condominium Association, as agent for all Unit Owners (without naming them) and their mortgagees (without naming them), as their interests may appear.

**Property Damage Insurance**

10.06. The Board shall secure and maintain in effect a policy of property damage insurance providing coverage in an amount not less than the full replacement value of the Buildings, excluding coverage of improvements and betterments of Units made by Unit Owners, and including coverage for all improvements, fixtures and personal property included in the Condominium Common Elements. The policy shall include an "Agreed Amount Endorsement" or its equivalent, if available, or an "Inflation Guard Endorsement," if available. Such coverage shall afford protection against:

- (1) Risks as are covered by an all-risk form; and
- (2) Other risks as from time to time shall be customarily covered with respect to condominium buildings similar in construction, location and use as the Buildings.

**Public Liability Insurance**

10.07. The Board shall secure and maintain in effect a comprehensive general liability and automobile liability insurance policy covering loss or damage resulting from an occurrence on the Property, in such amounts as may be required by the Board, but not less than a general aggregate of \$2,000,000.00; a products/completed operations aggregate of \$2,000,000.00; a personal/advertising injury limit of \$1,000,000.00; a per occurrence limit of \$1,000,000.00; an automobile liability limit of \$1,000,000.00 for owned, hired and non-owned vehicles; and an umbrella liability limit of \$10,000,000.00, covering all claims for bodily injury or property damage, or both. The coverage shall include protection against such other risks as shall customarily be covered with respect to condominium buildings similar in construction, location, and use.

**Personnel Coverages**

10.08. Should the Condominium Association employ personnel, all coverages required by law, including workers' compensation, shall be obtained so as to meet the requirements of the law.

**Other Coverage**

10.10. The Board shall secure boiler and machinery insurance, directors' and officers' liability insurance as it deems necessary, and shall also have authority to obtain such other insurance as it deems desirable, in such amounts, from such sources and in such forms as it deems desirable. The premiums for such insurance shall be a Condominium Common Expense.

**Unit Owners' Individual Responsibilities**

10.11. A Unit Owner shall be liable for any claim, damage, or judgment entered as a result of the use or operation of his Unit by his own conduct. Each Unit Owner shall be responsible for obtaining his own insurance on the contents of his own Unit and the contents of any Limited Common Elements serving his Unit, as well as additions and improvements thereto, decorations, furnishings, and personal property therein, and personal property stored elsewhere on the Property.

**Premiums**

10.12. Premiums for insurance maintained by the Condominium Association shall be paid by the Condominium Association as a Condominium Common Expense. Should the Condominium Association fail to pay such premiums when due, or should the Condominium Association fail to comply with other insurance requirements of the Mortgage Holder, the Mortgage Holder shall have the right, at its option, to order insurance policies and to advance such sums as are required to maintain or procure such insurance. To the extent of any money so advanced, the Mortgage Holder shall be subrogated to the Assessment and lien rights of the Association as against the individual Unit Owners for the payment of such item of Condominium Common Expense.

**Condominium Association as Agent**

10.13. All insurance policies purchased by the Condominium Association shall provide that all proceeds covering property losses shall be paid to the Condominium Association. The Condominium Association is hereby irrevocably appointed agent with full power of substitution, for each Unit Owner and for each owner of any other insured interest in the Property. The Condominium Association shall have power to adjust all claims arising under insurance policies purchased by the Condominium Association; to bring suit thereon in its name and/or in the name of other insureds; to deliver releases on payments of claims; to compromise and settle such claims; and otherwise to exercise all of the rights, powers, and privileges of the Condominium Association and each Unit Owner or any other holder of an insured interest in the Property under such insurance policies. However, the actions of the Condominium Association shall be subject to the approval of the Mortgage Holder if the claim shall involve more than one Unit, and if only one Unit is involved, such actions shall be subject to the approval of any Institutional Mortgagee holding a Mortgage encumbering such Unit.



#### Shares of Proceeds

10.14. The Condominium Association shall receive such insurance proceeds as are paid to it and shall hold the same in trust for the purposes stated herein and for the benefit of the Unit Owners and their mortgagees in the following shares:

(1) **Condominium Common Elements.** An undivided share of the proceeds on account of damage to Condominium Common Elements shall be held for each Unit Owner, with such share's portion of the total proceeds being the same percentage as the share of the Condominium Common Elements appurtenant to his Unit as set forth in Exhibit 3.

(2) **Units.** Except as provided in subparagraph (3), below, proceeds on account of damage to Units shall be held in the following undivided shares:

(a) When the Buildings are to be restored, the proceeds shall be held for the Unit Owners of damaged Units, with the share of each in the total proceeds being in the proportion to that of the cost of repairing the damage suffered by such Unit Owner bears to the total cost of repair, which costs shall be determined by the Board.

(b) When the Buildings are not to be restored, the proceeds shall be held for the Unit Owners in undivided shares that are the same as their respective shares of the Condominium Common Elements as set forth in Exhibit 3.

(3) **Mortgagees.** In the event a mortgagee endorsement has been issued with respect to a Unit, the share of the Owner of that Unit shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination of whether any damaged property shall be reconstructed or repaired except as may be specifically provided to the contrary elsewhere in this Declaration.

#### Distribution of Proceeds

10.15. Proceeds of insurance policies received by the Association shall be distributed to or for the benefit of the beneficial owners in the following manner:

(1) **Reconstruction or Repair.** First, if the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners, with remittances to Unit Owners and mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee.

(2) **Failure to Reconstruct or Repair.** If it is determined that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial owners, with remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee.

**ARTICLE XI**

**DAMAGE, DESTRUCTION, AND TERMINATION**

**Determination to Reconstruct or Repair**

11.01. If any part of the Condominium Common Elements shall be damaged to the extent that reconstruction or repair is necessary, the determination of whether or not it shall be reconstructed or repaired shall be made in the following manner:

(1) Common Elements. If the damage is solely to a portion or portions of the Condominium Common Elements and does not extend to the Units, the same shall be reconstructed or repaired.

(2) Condominium Common Elements and Units. If the damage extends to one or more Units as well as the Condominium Common Elements, then the Buildings shall be reconstructed and repaired pursuant to the provisions of this Article, unless within thirty (30) days after notice is given to all Unit Owners and Institutional Mortgagees of the extent of the damage and the amount of such insurance that is forthcoming, Unit Owners of Units to which not less than 75% of the votes in the Condominium Association appertain and the holders of all Mortgages on all such Units shall agree in writing that the same shall not be reconstructed or repaired.

**Plans and Specifications**

11.02. Any reconstruction or repair must be sufficient to restore the Property to substantially the same condition in which it existed prior to the casualty and must be made substantially in accordance with the plans and specifications of the original Buildings. In the alternative, reconstruction may be according to plans and specifications approved by the Board. If the damaged property includes part or all of the Buildings, approval shall be by the Unit Owners of all damaged Units and by the Mortgage Holder if it shall hold a Mortgage on one or more of the damaged Units. If the Mortgage Holder does not hold a Mortgage on at least one of the damaged Units, approval shall be by all Institutional Mortgagees holding Mortgages on the damaged Units. No approvals shall be unreasonably withheld.

**Responsibility**

11.03. If the damage is only to those parts of Units for which the responsibility of maintenance and repair is that of the respective Unit Owners, then those Unit Owners shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Condominium Association.

11.04. When the Condominium Association shall have the responsibility of reconstruction or repair, prior to the commencement of reconstruction and repair the Condominium Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

#### Assessments for Reconstruction and Repair

11.05. If the proceeds of insurance are not sufficient to defray completely the estimated cost of reconstruction and repair by the Condominium Association, Special Assessments shall be levied against the Unit Owners who own damaged Units, and, in the case of damage to Condominium Common Elements, Special Assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs. Special Assessments against Unit Owners for damage to Units shall be in the proportion that the cost of reconstruction and repair of their respective Unit bears to the total cost of such reconstruction and repair. Special Assessment against a Unit Owner on account of damage to Condominium Common Elements shall be in proportion to the Unit Owner's share in the Condominium Common Elements. Special Assessments for reconstruction and repair may be collected, and the collection enforced, in the same manner as an Assessment.

#### Construction Funds

11.06. The funds for the payment of costs for reconstruction and repair after casualty, which shall consist of the proceeds of insurance held by the Condominium Association and funds collected by the Condominium Association from Assessments and Special Assessments against Unit Owners, shall be disbursed in payment of such costs in the following manner:

(1) Lesser Damage. If the amount of the estimated cost of reconstruction and repair that is the responsibility of the Condominium Association is less than 0.6% of the insured value of the Buildings, then the construction fund shall be disbursed in payment of such costs on the order of the Board. However, on request to the Board by an Institutional Mortgagee that is the beneficiary of an insurance policy, the proceeds of which are included in the construction fund, the fund shall be disbursed in accordance with the procedure set forth in Paragraph (b), below.

(2) Major Damage. If the amount of the estimated cost of reconstruction and repair that is the responsibility of the Association is 0.6% of the insured value of the Buildings or more, then the construction fund shall be disbursed in payment of such costs in the manner provided by the Board.

(3) Unit Owner. If there is a balance of insurance proceeds after the payment of the costs of reconstruction and repair that are the responsibility of the Condominium Association, this balance shall be distributed to Unit Owners of damaged Units who are responsible for the reconstruction and repair of the damaged portions of their Units. The distribution to each such Unit Owner shall be made in the proportion that the estimated cost of reconstruction and repair of such damage to his Unit bears to the total of such estimated costs in all damaged Units. However, no Unit Owner shall be paid an amount in excess of such estimated costs for his Unit. If an Institutional Mortgagee holds a Mortgage upon a Unit, the distribution shall be paid to the Unit Owner and the Institutional Mortgagee jointly.

(4) Surplus. It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be distributed to the beneficial owners of the fund.

**Termination**

11.07. The termination of the Condominium may be effected by the agreement of Unit Owners of Units to which not less than 100% of the votes in the Condominium Association appertain, and the unanimous consent of all Mortgagees on such Units. The agreement shall be evidenced by a written instrument executed in the manner required for conveyance of land, and recorded in the public records of Marshall County, Alabama. After termination of the Condominium, the Unit Owners shall own the Condominium Property and all assets of the Condominium Association as tenants in common in undivided shares.

**ARTICLE XII**

**CONDEMNATION**

**Determination Whether to Continue Condominium**

12.01. Whether the Condominium will be continued after condemnation will be determined in the manner provided in Article XI, hereof, for determining whether damaged Condominium Common Elements will be reconstructed and repaired after casualty. For this purpose, the taking by condemnation shall be deemed to be a casualty.

**Disbursement of Funds**

12.02. If the Condominium is terminated after condemnation, the proceeds of the condemnation awards will be deemed to be insurance proceeds and shall be owned and distributed in the manner provided in this Declaration for the distribution of insurance proceeds if the Condominium is terminated after damage to the Condominium Common Elements. If the Condominium is not terminated after condemnation, the size of the Building will be reduced and the property damaged by the taking will be made usable in the manner provided below. The proceeds of said awards shall be used for these purposes and shall be disbursed in the manner provided for disbursement of funds by the Association after damage to the Condominium Common Elements.

**Unit Reduced but Habitable**

12.03. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the award for the taking of a portion of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) Restoration of Unit. The Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, and the Owner of the Unit does not within a reasonable period of time provide the additional funds required for restoration, such additional funds may, in the discretion of the Board of Directors, be expended for restoration by the Association and be assessed against the Unit Owner as a Special Assessment.

(2) Distribution of Surplus. The balance of the award, if any, shall be distributed to the

Owner of the Unit and to the holder of any Institutional Mortgage encumbering the Unit, the remittance being made payable jointly to the Owner and any such Institutional Mortgagee.

(3) Adjustment of Shares in Condominium Common Elements. If the floor area of the Unit is reduced by the taking, the percentage representing the share in the Condominium Common Elements, the Common Expenses and the Common Surplus appurtenant to the Unit shall be reduced in the proportion by which the floor area of the Unit is reduced by the taking, and then the shares in the Condominium Common Elements, Common Expenses, and Common Surplus appurtenant to the other Units shall be restated as percentages of the difference between 100% and the total of the new shares as reduced by the taking so that the shares of such other Units shall be in the same proportions to each other as before the taking and so that the total of the percentages of such shares shall still equal 100%.

#### Unit Made Uninhabitable

12.04. If the taking is of the entire Unit, or so reduces the size of a Unit that it cannot be made habitable, the award for the taking of the Unit shall be used for the following purposes in the order stated, and the following changes shall be effected in the Condominium:

(1) Payment of Award. The award shall be paid first to any Institutional Mortgagee in an amount sufficient to pay off its mortgage on such Unit; and then jointly to the Unit Owner and other mortgagees of the Unit in an amount not to exceed the market value of the Condominium Parcel immediately prior to the taking as diminished by any sums from the award previously reserved for any Institutional Mortgagee; and the balance, if any, to the repairing and replacing of the Condominium Common Elements damaged by the taking.

(2) Addition to Condominium Common Elements. The remaining portion of the Unit, if any, shall become part of the Condominium Common Elements and shall be placed in condition for use by all of the Unit Owners in the manner approved by the Board; provided that if the cost of the work shall exceed the balance of the fund from the award for the taking, the work shall be approved in the manner elsewhere required in this Declaration for further improvement of the Condominium Common Elements.

(3) Adjustment of Shares in Condominium Common Elements, Common Expenses, and Condominium Common Surplus. The shares in the Condominium Common Elements, the Common Expenses, and the Common Surplus appurtenant to the Units that continue as part of the Condominium shall be adjusted to distribute the ownership of the other shares among the reduced number of Unit Owners. This adjustment shall be done by restating said shares of the continuing Unit Owners as percentages aggregating 100% so that the shares appurtenant to the Units of the continuing Owners shall be in the same proportions to each other as before the adjustment.

(4) Assessments. If the balance of the award (after payments to the Unit Owner and such Owner's mortgagees as above provided) for the taking is not sufficient to finance the alteration of the remaining portion of the Unit for use as a part of the Condominium Common Elements, the additional funds required for such purposes shall be raised by Special Assessments against all of the Unit Owners who will continue as Owners of Units after the changes in the Condominium effected by the

taking. Such Special Assessments shall be made in proportion to the shares of those Owners in the Condominium Common Elements after the changes effected by the taking.

(5) Arbitration. If the market value of a Condominium Property prior to the taking cannot be determined by agreement among the Unit Owner, mortgagees of the Unit, and the Association within thirty days after notice by either party, the value shall be determined by arbitration in accordance with the then existing rules of the American Arbitration Association, except that the arbitrators shall be two appraisers appointed by the American Arbitration Association who shall base their determination on an average of their appraisals of the Condominium Property; and a judgment of specific performance on the decision rendered by the arbitrators may be entered in any court of competent jurisdiction. The cost of arbitration proceedings shall be assessed against all Owners of Units, prior to the taking, in proportion to the shares of the Owners in the Condominium Common Elements as they exist prior to the changes affected by the taking.

#### **Taking of Common Elements**

12.05. Awards for the taking of Condominium Common Elements shall be used to make the remaining portion of the Condominium Common Elements usable in the manner approved by the Board; provided that if the cost of the work shall exceed the balance of the funds from the awards for the taking, the work shall be approved in the manner required elsewhere in this Declaration for further improvement of the Common Elements. The balance of the awards for the taking of the Condominium Common Elements, if any, shall be distributed to the Unit Owners in the shares in which they own the Condominium Common Elements after adjustment of these shares on account of the condemnation, except that if a Condominium Parcel is encumbered by an Institutional Mortgage, the distribution shall be paid jointly to the owner and the Institutional Mortgagee of the Condominium Property.

### **ARTICLE XIII**

#### **PURCHASE OF CONDOMINIUM PARCEL BY CONDOMINIUM ASSOCIATION**

##### **Decision**

13.01. The decision of the Condominium Association to purchase a Condominium Property shall be made by the Board without the approval of the members except as provided in Paragraph 13.02, hereof.

##### **Limitation**

13.02. If at any one time the Condominium Association is already the owner of, or has agreed to purchase, one or more Condominium Properties, it may not purchase any additional Condominium Properties without the prior written approval of members holding 75% of the votes of those members eligible to vote thereon. A member whose Condominium Property is the subject matter of the proposed purchase shall be ineligible to vote thereon. Notwithstanding the foregoing, however, the

foregoing limitation shall not apply to Condominium Properties either to be purchased at a public sale resulting from a foreclosure of the Condominium Association's lien for delinquent Assessments, Special Assessments, or both where the bid of the Association does not exceed the amount found due the Condominium Association, or to be acquired by the Condominium Association in lieu of foreclosure of such lien if the consideration therefor does not exceed the cancellation of such lien. In any event, the Board, or a designee thereof, acting on behalf of the Condominium Association, may only purchase a Condominium Property in accordance with Paragraph 13.01 hereof, or as the result of a sale pursuant to the foreclosure of (i) a lien on the Condominium Property for unpaid taxes; (ii) the lien of a mortgage; (iii) the lien for unpaid Assessments, Special Assessments or both; or (iv) any other judgment lien or lien attaching to such Condominium Property by operation of law.

#### ARTICLE XIV

##### NOTICE OF LIEN OR SUIT

###### Notice of Lien

14.01. A Unit Owner shall give notice in writing to the Secretary of the Condominium Association of every lien on his Condominium Property, other than liens for Institutional Mortgages, taxes, and special assessments, within five (5) days after he learns of the attaching of the lien.

###### Notice of Suit

14.02. A Unit Owner shall give notice in writing to the Secretary of the Condominium Association of every suit or other proceeding that may affect the title to his Condominium Property, with such notice to be given within five (5) days after the Unit Owner obtains knowledge thereof.

###### Failure to Comply

14.03. Failure to comply with this section will not affect the validity of any judicial proceeding.

#### ARTICLE XV

##### RULES AND REGULATIONS

###### Compliance

15.01. Each Unit Owner and the Condominium Association shall be governed by and shall comply with the terms of the Condominium Documents and the rules and regulations applicable to the Condominium Property. Failure of the Unit Owner to comply therewith shall entitle the Condominium Association or other Unit Owners to the following relief in addition to other remedies provided in the Condominium Documents and the Act:

**Enforcement**

15.02. The Condominium Association, through the Board, is hereby empowered to enforce the Condominium Documents and all rules and regulations of the Condominium Association by such means as are provided by the laws of the State of Alabama, including the imposition of reasonable fines from time to time as set forth in the Bylaws. In the event a Unit Owner fails to maintain his Unit in the manner required in the Condominium Documents and any rules and regulations of the Condominium Association, the Condominium Association, through the Board, shall have the right to assess the Unit Owner and the Unit for the sums necessary to do the work required to effect compliance and to collect, and enforce the collection of, a Special Assessment therefor as provided in this Declaration. In addition, the Condominium Association shall have the right, for itself and its employees and agents, to enter such Owner's Unit and perform the necessary work to effect compliance.

**Negligence**

15.03. A Unit Owner shall be liable for the expense of any maintenance, repair, or replacement rendered necessary by his act, neglect, or carelessness or by that of any member of his family, his lessees, or his or their guests, invitees, employees, or agents, but only to the extent that such expense is not met by the proceeds of insurance carried by the Condominium Association. Such liability shall include any increase in fire and casualty insurance rates occasioned by the use, misuse, occupancy, or abandonment of a Unit, or of the Condominium Common Elements or of the Limited Common Elements. The liability for such increases in insurance rates shall equal five times the first resulting increase in the annual premium rate for such insurance.

**No Waiver of Rights**

15.04. The failure of the Condominium Association or any Unit Owner to enforce any covenants, restriction, or other provision of the Condominium Act, the Condominium Documents, or any rules and regulations adopted pursuant thereto shall not constitute a waiver of the right to do so.

**ARTICLE XVI**

**AMENDMENT OF THE DECLARATION**

**Notice**

16.01. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Condominium Association or the Board at which a proposed amendment is considered.

**Resolution**

16.02. An amendment may be proposed by either a majority of the Board or by members holding 25% of the votes of the Condominium Association. A resolution adopting a proposed



amendment must be adopted by an affirmative vote of not less than a majority of the Board of Directors and by members holding not less than two thirds of the votes of the Condominium Association.

**Agreement**

16.03. In the alternative, an amendment may be made by an agreement signed and acknowledged by the record owners of all Units in the manner required for the execution of a deed.

**Amendment by Declarant**

16.04. (1) In addition to the procedures described above in this Article, as long as the Declarant shall hold fee simple title to any Unit, this Declaration may be amended by the Declarant if such amendment does not violate the terms of the Act or this Declaration. The subject matter of any such amendment may include, without limitation, the combining of two or more Units or the subdividing of one or more Units owned by the Declarant (without, however, changing the aggregate percentage of Condominium Common Elements appurtenant to such Units) or any matter required by a governmental agency or an Institutional Mortgagee willing to make or purchase a permanent mortgage loan secured by a Unit. Any amendment by the Declarant pursuant to this subsection shall be effective without the joinder of any record owner of any Unit, or the joinder of any owner of any lien thereon, provided, however, that no such amendment shall adversely affect the lien or priority of any previously recorded Institutional Mortgage as it affects a Condominium Property, or change the size or dimensions of any Unit not owned by the Declarant without the written consent of the Owner of such Unit and the holder of any Institutional Mortgage encumbering such Unit. If such an amendment makes any changes in the size or dimension of any Unit, such changes shall be reflected by an amendment to this Declaration with a survey attached, and said amendment need only be executed and acknowledged by the Declarant and any holders of Institutional Mortgages encumbering any such Unit. Such a survey shall be certified in the manner required by the Act. If more than one Unit is changed, the Declarant shall apportion among the Units the shares in the Condominium Common Elements, Common Expenses, Common Surplus, and voting rights of the Units concerned, and such shares of the Condominium Common Elements, Common Expenses, Common Surplus, and voting rights shall be set forth in the amendment to this Declaration.

(2) As long as the Declarant is the Owner of any Unit, no amendment to this Declaration may be made unless the Declarant shall join in the execution of such amendment, nor shall any amendment make any change that would in any way affect the rights, privileges, or powers of the Declarant unless the Declarant shall join in the execution thereof.

**Proviso**

16.05. Any provision in this section to the contrary notwithstanding, however, no amendment shall discriminate against any Unit Owner or against any Unit or class or group of Unit Owners or Units unless the Unit Owners so affected and the holders of Institutional Mortgages on such Units shall unanimously consent thereto; no amendment shall change any Unit or change the percentage of its share in the Condominium Common Elements appurtenant thereto or any other of its appurtenances, or increase the percentage of any Unit Owner's share of the Common Expenses,

unless the Owners of Units that would be changed or the percentage of whose shares would be changed and all holders of Institutional Mortgages on such Units shall join in the execution of the amendment; and except for amendment adopted pursuant to Paragraph 16.04 hereof, no amendment shall restrict the terms of any Unit Owner's occupancy of his Unit or his right to convey or lease his Unit, unless Unit Owners owning not less than 66% of the Units shall join in the execution of the amendment.

#### **Execution and Recording**

16.06. A copy of each amendment shall be attached to a certificate which shall include the recording data identifying this Declaration, certifying that the amendment was duly adopted, which certificate shall be executed by the President and Secretary of the Association with formalities of a deed. The amendment shall be effective when such certificate and copy of the amendment are recorded in the Public Records of Marshall County, Alabama.

### **ARTICLE XVII**

#### **MISCELLANEOUS**

##### **Intent**

17.01. It is the intent of the Declarant to create a condominium pursuant to the Act. In the event that the condominium created by this Declaration shall fail in any respect to comply with the Act, then the common law as the same exists on the filing date of this Declaration shall control, and the condominium hereby created shall be governed in accordance with the several laws of the State of Alabama, the Bylaws, the Articles, and all other instruments and exhibits attached to or made a part of this Declaration.

##### **Covenants, Conditions, and Restrictions**

17.02. All provisions of the Condominium Documents shall, to the extent applicable and unless otherwise expressly therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein; and all of the provisions of the Condominium Documents shall be binding on and inure to the benefit of any Owner of all or any part thereof, or interest therein, and his heirs, executors, administrators, legal representatives, successors, and assigns, but said provisions are not intended to create nor shall they be construed as creating any rights in or for the benefit of the general public. All Unit Owners and Occupants shall be subject to and shall comply with the provisions of the Condominium Documents, and (to the extent that they are applicable or made applicable by this Declaration) the Subdivision Covenants, and any rules and regulations promulgated thereunder.

##### **Severability**

17.03. The invalidity in whole or in part of any covenant or restriction or any paragraph, subparagraph, sentence, clause, phrase, word, or other provision in this Declaration, the Articles, the Bylaws, any rules and regulations of the Condominium Association promulgated pursuant thereto,

and any exhibits attached hereto, as the same may be amended from time to time, or the Act, or the invalidity in whole or in part of the application of any such covenant, restriction, paragraph, subparagraph, sentence, clause, phrase, word, or other provision shall not affect the remaining portions thereof.

#### **Taxation of Condominium Properties**

17.04. For the purpose of ad valorem taxation, the interests of a Unit Owner in his Unit and in the Condominium Common Elements shall be inseparable. In any year in which either or both of such interests are not taxed separately to a Unit Owner, the total value of said interests shall be equal to the product obtained by multiplying the entire value of the Condominium Property for purposes of ad valorem taxation by the decimal equivalent of the share of the Condominium Common Elements appurtenant to such Unit. No provision of this Declaration shall be construed as giving any Unit Owner the right of contribution or any right of adjustment against any other Unit Owner on account of any deviation by the taxing authorities from the valuation herein prescribed; each Unit Owner being required to pay ad valorem taxes and special assessments as are separately assessed by governmental authorities against his Condominium Property.

#### **Notice**

17.05. The following provisions shall govern the construction of the Condominium Documents, except as may be specifically provided to the contrary herein: All notices required or desired under the Condominium Documents to be sent to the Condominium Association shall be sent certified mail, return receipt requested, to the Secretary of the Condominium Association, at 15 Ridgewood Circle, Union Grove, Alabama, 35175, or to such other address as the Condominium Association may hereafter designate from time to time by notice in writing to all Unit Owners. Except as provided specifically to the contrary in the Act, all notices to any Unit Owner shall be delivered in person or sent by first-class mail to the address of such Unit Owner at the Condominium, or to such other address as he may have designated from time to time in writing duly received for, to the Condominium Association. Proof of such mailing or personal delivery to him by the Condominium Association may be provided by the affidavit to the person personally delivering said notice or by a post office certificate of mailing. All notices to the Association or a Unit Owner shall be deemed to have been given when delivered to the addressee in person in accordance with the provisions of this Declaration or when mailed in a postage-paid, sealed envelope, except notices of address changes, which shall be deemed to have been given when received.

#### **Governing Law**

17.06. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by the Condominium Documents or any rules and regulations adopted pursuant to such documents, such dispute or litigation shall be governed by the laws of the State of Alabama.

**Waiver**

17.07. No provisions contained in the Condominium Documents shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

**Ratification**

17.08. Each Unit Owner, by reason of having acquired ownership of his Condominium Property, whether by purchase, gift, operation of law, or otherwise, shall be deemed to have acknowledged and agreed that all the provisions of the Condominium Documents and any rules and regulations promulgated thereunder are fair and reasonable in all material respects.

**Preparation of Declaration**

17.09. This Declaration was prepared by Wade K. Wright, P.O. Box 70, Guntersville, AL 35976, and who is an attorney authorized to practice law in the State of Alabama.

**Captions**

17.10. The captions used in the Condominium Documents are inserted solely as a matter of convenience and reference and shall not be relied on and/or used to construe the effect or meaning of any of the text of the Condominium Documents.

**Assignment**

17.11. All rights in favor of the Declarant reserved in this Declaration are freely assignable in whole or in part by the Declarant and may be exercised by any nominee of the Declarant and/or exercised by the successors in interest of the Declarant.


IN WITNESS WHEREOF, the Declarant has executed this Declaration of Condominium this 26TH day of December, 1995.

Signed, sealed and delivered,

**CHEROKEE RIDGE CORPORATION**

Corporate Seal

BY:

  
SIDNEY L. McDONALD, Its President

ATTEST:

  
Its Secretary

STATE OF ALABAMA       )  
COUNTY OF MARSHALL    )

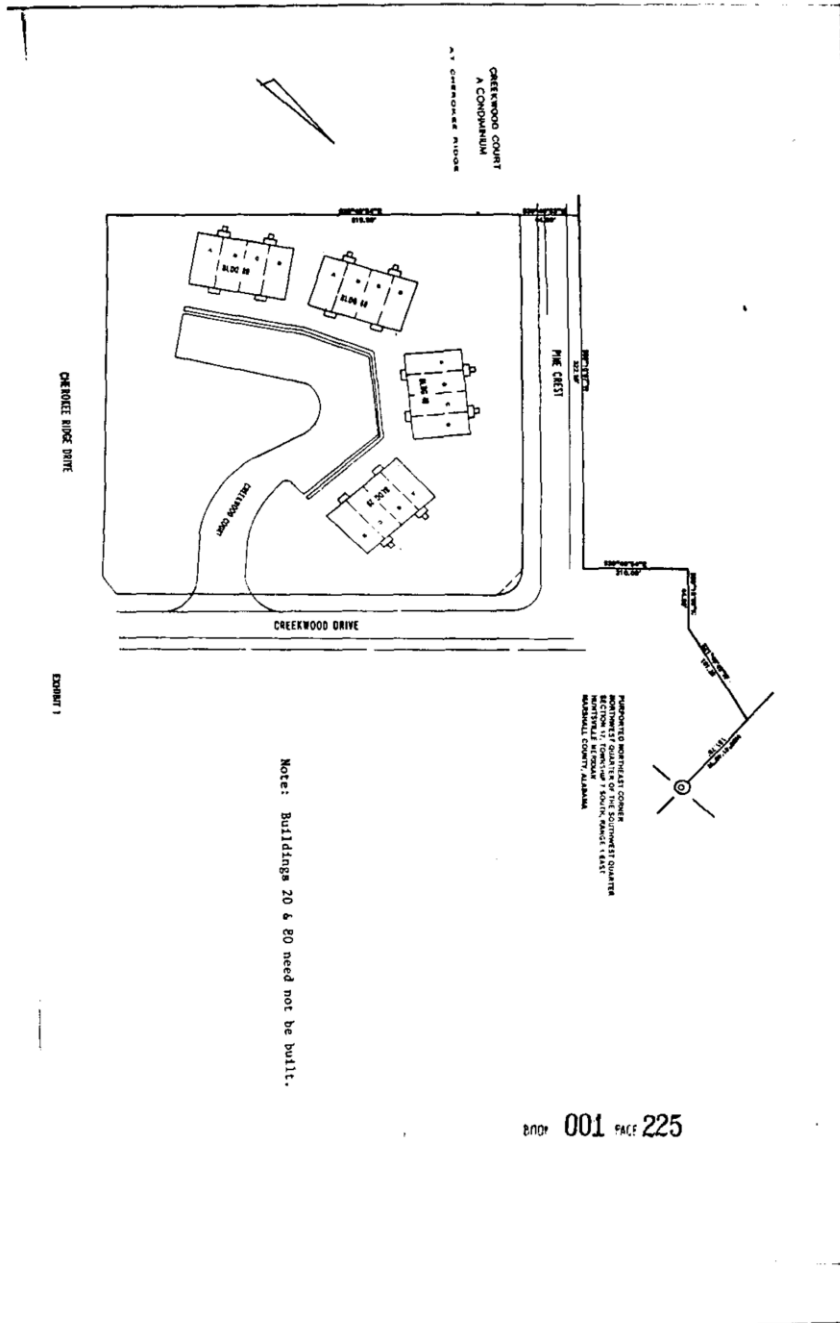
I, the undersigned, a Notary Public in and for said County and State, hereby certify that SIDNEY L. McDONALD, whose name as President of CHEROKEE RIDGE CORPORATION, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such President and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this the 20<sup>TH</sup> of December, 1995.

*Shirley Eugene Walden*  
NOTARY PUBLIC  
My Commission Expires: 6-23-99

worltscode@cs.com.net





CASTLEWOOD COURT  
A CONDOMINIUM  
AS SHOWN ON THIS PLAN

CASTLEWOOD DRIVE

SHEET 1

Note: Buildings 20 & 20 need not be built.

SECTION 11, TOWNSHIP 7 SOUTH, RANGE 1 EAST,  
MARSHALL COUNTY, ALABAMA

CREEKWOOD COURT ENTIRE PROPERTIES  
LEGAL DESCRIPTION

State of Alabama  
Marshall County

A parcel of land situated in the Northwest Quarter of the Southwest Quarter and the Northeast Quarter of the Southwest Quarter of Section 17, Township 7 South, Range 1 East, Huntsville Meridian, Marshall County, Alabama, and being more particularly described as follows:

Commence at the Northeast Corner of said Northwest Quarter of the Southwest Quarter; thence N 88°41'49" W 161.76 feet to the northerly corner of Lot 122 Cherokee Ridge Phase 2 as recorded in Map Book 7 at Page 284 in the office of Probate Judge Marshall County, Alabama; Thence S 21°49'45" W, along and with the northwesterly line of said Lot 122, 191.39 feet to the northerly right-of-way margin of Creekwood Drive; thence S 50°10'06" W 44.00 feet to a point; thence S 39°49'54" E, parallel with the centerline of Creekwood Drive, 210.00 feet to the easterly corner of Lot 123 Cherokee Ridge Phase 2; thence S 50°10'07" W, along and with the northwesterly right-of-way margin of Pine Crest 322.50 feet to the southerly corner of Lot 125 Cherokee Ridge Phase 2; thence S 39°49'53" E 44.00 feet to the southeasterly right-of-way margin of Pine Crest and the point of beginning; thence S 39°40'54" E 315.50 feet to an iron pin on the northwesterly right-of-way margin of Cherokee Ridge Drive; thence N 50°10'06" E, along and with said northwesterly right-of-way margin, 33.85 feet to an iron pin on said northwesterly right-of-way margin; Thence N 52°07'39" E, leaving said northwesterly right-of-way margin, 274.66 feet to an iron pin; thence N 6°08'53" E 16.68 feet to an iron pin on the southwesterly right-of-way margin of Creekwood Drive; thence N 39°49'54" W, along and with said southwesterly right-of-way margin 288.30 feet to an iron pin and the beginning of a curve to the left, said curve having a central angle of 89°59'59", a radius of 25.00 feet, a chord of 35.36 feet and a chord bearing of N 84°49'54" W; thence along and with the arc of said curve 39.27 feet to the end of said curve and a point on the southeasterly right-of-way margin of Pine Crest; thence S 50°10'07" W, along and with said southeasterly right-of-way margin, 294.52 feet to the point of beginning, containing 2.345 acres, more or less.

Exhibit 2

BOOK 001 PAGE 226

OWNERSHIP INTEREST OF COMMON ELEMENTS-CREEKWOOD COURT		
UNIT NUMBER	MAXIMUM PROPORTION	MINIMUM PROPORTION
80-A		1/16
80-B		1/16
80-C		1/16
80-D		1/16
60-A	1/8	1/16
60-B	1/8	1/16
60-C	1/8	1/16
60-D	1/8	1/16
40-A	1/8	1/16
40-B	1/8	1/16
40-C	1/8	1/16
40-D	1/8	1/16
20-A		1/16
20-B		1/16
20-C		1/16
20-D		1/16

NOTE: Buildings 20 and 80 need not be built. If only one of these buildings is constructed, the ownership interest of the respective Units would be a 1/12th.

Exhibit 3

001 227



**LEGAL DESCRIPTION FOR UNITS AND PROPOSED UNITS**

Sixteen parcels of land situated in the Southwest Quarter of Section 17, Township 7 South, Range 1 East, Huntsville Meridian, Marshall County, Alabama, and being more particularly described as follows:

**LEGAL DESCRIPTION OF THE UNITS OF PROPOSED BUILDING TWENTY**

**Unit 20 A**

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 250.09 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 82.44 feet to the point of beginning; thence S 9° 05' 21" W 48.41 feet to a point; thence N 80° 54' 39" W 7.17 feet to a point; thence S 9° 05' 21" E 3.58 feet to a point; thence N 80° 54' 39" W 11.42 feet to a point; thence N 9° 05' 21" E 44.83 feet to a point; thence S 80° 54' 39" E 18.59 feet to the point of beginning.

**Unit 20 B**

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine

Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 262.15 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 96.26 feet to the point of beginning; thence S 9° 05' 21" W 44.83 feet to the point; thence N 80° 54' 39" W 11.17 feet to a point; thence S 9° 05' 21" W 3.58 feet to a point; thence N 80° 54' 39" W 7.17 feet to a point; thence N 9° 05' 21" E 48.41 feet to a point; thence S 80° 54' 39" E 18.34 feet to the point of beginning.

Unit 20 C

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the Southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 274.17 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 110.05 feet to a point of beginning; thence S 9° 05' 21" W 48.41 feet to a point; thence N 80° 54' 39" W 7.12 feet to a point; thence N 9° 05' 21" E 44.83 feet to a point; thence N 80° 54' 39" W 7.12 feet to the point; thence N 9° 05' 21" E 48.41 feet to a point; thence S 80° 54' 39" E 18.30 feet to a point of beginning.

Unit 20 D

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the Northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 286.41 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 124.09 feet to the

point of beginning; thence S 9° 05' 21" W 44.83 feet to a point; thence N 80° 54' 39" W 11.50 feet to a point; thence S 9° 05' 21" W 3.58 feet to a point; thence N 80° 54' 39" W 7.12 feet to a point; thence N 9° 05' 21" E 48.41 feet to a point; thence S 80° 54' 39" E 18.62 feet to a point of beginning.

#### LEGAL DESCRIPTION OF THE UNITS OF BUILDING FORTY

##### Unit 40 A

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 132.23 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 43.76 feet to the point of beginning; thence S 43° 13' 46" E 48.41 feet to a point; thence S 46° 46' 14" W 7.17 feet to a point; thence N 43° 13' 46" W 3.58 feet to a point; thence S 45° 46' 14" W 11.42 feet to a point; thence N 43° 13' 46" W 44.83 feet to a point; thence N 46° 46' 14" E 18.59 feet to the point of beginning.

##### Unit 40 B

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 150.60

feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 42.68 feet to the point of beginning; thence S 43° 13' 46" E 44.83 feet to a point; thence S 46° 46' 14" W 11.17 feet to a point; thence S 43° 13' 46" E 3.58 feet to a point; thence S 46° 46' 14" W 7.17 feet to a point; thence N 43° 13' 46" W 48.41 feet to a point; thence N 46° 46' 14" E 18.34 feet to the point of beginning.

Unit 40 C

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the Southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 168.86 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 41.59 feet to the point of beginning; thence S 43° 13' 46" E 48.41 feet to a point; thence S 46° 46' 14" W 7.13 feet to a point; thence N 43° 13' 46" W 3.58 feet to a point; thence S 46° 46' 14" W 11.17 feet to a point; thence N 43° 13' 46" W 44.83 feet to a point; thence N 46° 46' 14" E 18.30 feet to the point of beginning.

Unit 40 D

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 187.46 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 40.49 feet to the point of beginning; thence S 43° 13' 46" E 44.83 feet to a point; thence S 46° 46' 14" W

11.50 feet to a point; thence S 43° 13' 46" E 3.58 feet to a point; thence N 46° 46' 14" W 7.13 feet to a point; thence N 43° 13' 46" W 48.41 feet to a point; thence N 46° 46' 14" E 18.63 feet to the point of beginning.

LEGAL DESCRIPTION OF THE UNITS OF BUILDING SIXTY

Unit 60 A

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 83° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 38.29 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 131.05 feet to the point of beginning; thence N 68° 19' 00" E 48.41 feet to a point; thence S 21° 41' 00" E 7.17 feet to a point; thence S 68° 19' 00" W 3.58 feet to a point; thence S 21° 41' 00" E 11.42 feet to a point; thence S 68° 19' 00" W 44.83 feet to a point; thence N 21° 41' 00" W 18.59 feet to the point of beginning.

Unit 60 B

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 43.95 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 113.79 feet to the

point of beginning; thence N 68° 19' 00" E 44.83 feet to a point; thence S 21° 41' 00" E 10.99 feet to a point; thence N 68° 19' 00" E 3.58 feet to a point; thence S 21° 41' 00" E 7.18 feet to a point; thence S 68° 19' 00" W 48.41 feet to a point; thence N 21° 41' 00" W 18.17 feet to the point of beginning.

Unit 60 C

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the Southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 49.62 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 96.51 feet to the point of beginning; thence N 68° 19' 00" E 48.41 feet to a point; thence S 21° 41' 00" E 7.17 feet to a point; thence S 68° 19' 00" W 3.58 feet to a point; thence S 21° 41' 00" E 11.01 feet to a point; thence S 68° 19' 00" W 44.83 feet to a point; thence N 21° 41' 00" W 18.18 feet to the point of beginning.

Unit 60 D

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 55.40 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 78.85 feet to the point of beginning; thence N 68° 19' 00" E 44.83 feet to a point; thence S 21° 41' 00" E 11.41 feet to a point; thence N 68° 19' 00" E 3.58 feet to a point; thence S 21° 41' 00" E

point of beginning; thence N 68° 19' 00" E 44.83 feet to a point; thence S 21° 41' 00" E 10.99 feet to a point; thence N 68° 19' 00" E 3.58 feet to a point; thence S 21° 41' 00" E 7.18 feet to a point; thence S 68° 19' 00" W 48.41 feet to a point; thence N 21° 41' 00" W 18.17 feet to the point of beginning.

Unit 60 C

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the Southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 49.62 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 96.51 feet to the point of beginning; thence N 68° 19' 00" E 48.41 feet to a point; thence S 21° 41' 00" E 7.17 feet to a point; thence S 68° 19' 00" W 3.58 feet to a point; thence S 21° 41' 00" E 11.01 feet to a point; thence S 68° 19' 00" W 44.83 feet to a point; thence N 21° 41' 00" W 18.18 feet to the point of beginning.

Unit 60 D

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 55.40 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 78.85 feet to the point of beginning; thence N 68° 19' 00" E 44.83 feet to a point; thence S 21° 41' 00" E 11.41 feet to a point; thence N 68° 19' 00" E 3.58 feet to a point; thence S 21° 41' 00" E

7.18 feet to a point; thence S 68° 19' 00" W 48.41 feet to a point; thence N 21° 41' 00" W 18.59 feet to the point of beginning.

LEGAL DESCRIPTION OF THE UNITS OF PROPOSED BUILDING EIGHTY

Unit 80 A

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 15.71 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 226.17 feet to the point of beginning; thence N 61° 28' 21" E 48.41 feet to a point; thence S 28° 31' 39" E 7.17 feet to a point; thence S 61° 28' 21" W 3.58 feet to a point; thence S 28° 31' 39" E 11.41 feet to a point; thence S 61° 28' 21" W 44.83 feet to a point; thence N 28° 31' 39" W 18.58 feet to the point of beginning.

Unit 80 B

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 19.27 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 208.36 feet to the point of beginning; thence N 61° 28' 21" E 44.83 feet to a point; thence S 28° 31' 39" E



11.00 feet to a point; thence N 61° 28' 21" E 3.58 feet to a point; thence S 28° 31' 39" E 7.17 feet to a point; thence S 61° 28' 21" W 48.41 feet to a point; thence N 28° 31' 39" W 18.17 feet to the point of beginning.

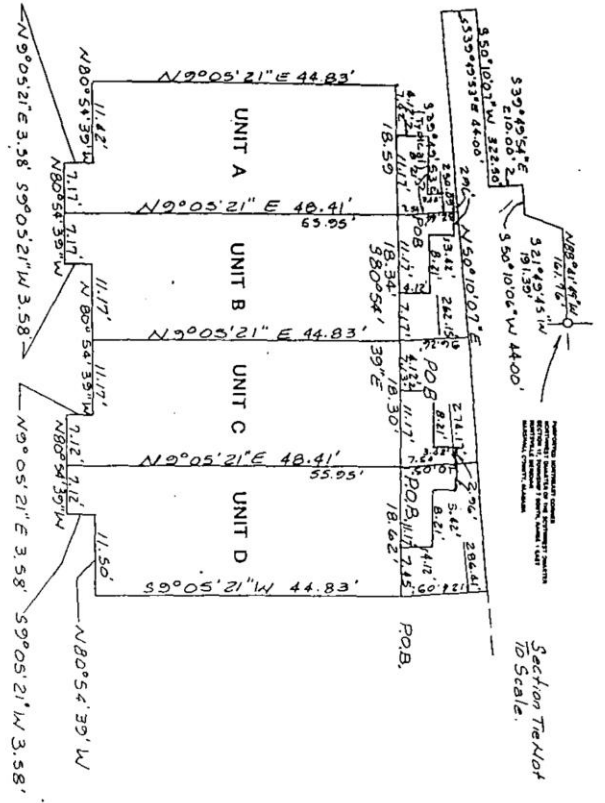
Unit 80 C

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 22.83 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 190.54 feet to the point of beginning; thence N 61° 28' 21" E 48.41 feet to a point; thence S 28° 31' 39" E 7.17 feet to a point; thence S 61° 28' 21" W 3.58 feet to a point; thence S 28° 31' 39" E 11.00 feet to a point; thence S 61° 28' 21" W 44.83 feet to a point; thence N 28° 31' 39" W 18.17 feet to the point of beginning.

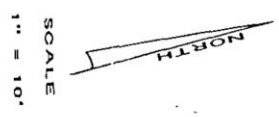
Unit 80 D

Commence at the purported Northeast corner of the Northwest Quarter of the Southwest Quarter of said Section 17; thence N 88° 41' 49" W, along and with the North line of said quarter-quarter section, 161.76 feet to an iron pin at the North center of Lot 122 Cherokee Ridge Phase 2; thence S 21° 49' 45" W, leaving said North line and along and with the northwesterly line of said Lot 122, 191.39 feet to the westerly corner of said Lot 122 and the northeasterly margin of Creekwood Drive; thence S 50° 10' 06" W, crossing Creekwood Drive, 44.00 feet to the southwesterly margin of Creekwood Drive and a point on the northeasterly line of Lot 134; thence S 39° 49' 54" E, along and with said southwesterly margin of Creekwood Drive and the northeasterly lines of Lot 134 and Lot 123, 210.00 feet to the westerly corner of Lot 123 and the intersection of Pine Crest; thence S 50° 10' 07" W, along and with the northwesterly margin of Pine Crest and the southeasterly lines of Lot 123, Lot 124 and Lot 125, 322.50 feet to an iron pin on the northwesterly margin of Pine Crest; thence S 39° 49' 53" E, crossing Pine Crest 44.00 feet to the southeasterly margin of Pine Crest; thence N 50° 10' 07" E, along and with the southeasterly margin of Pine Crest, 26.47 feet to a point; thence S 39° 49' 53" E, leaving said southeasterly margin, 172.32 feet to the point of beginning; thence N 61° 28' 21" E 44.83 feet to a point; thence S 28° 31' 39" E 11.41 feet to a point; thence N 61° 28' 21" E 3.58 feet to a point; thence S 28° 31' 39" E 7.17 feet to a point; thence S 61° 28' 21" W 48.41 feet to a point; thence N 28° 31' 39" W 18.58 feet to the point of beginning.

CREEKWOOD COURT AT CHEROKEE RIDGE BUILDING 20  
 Exhibit 4 A

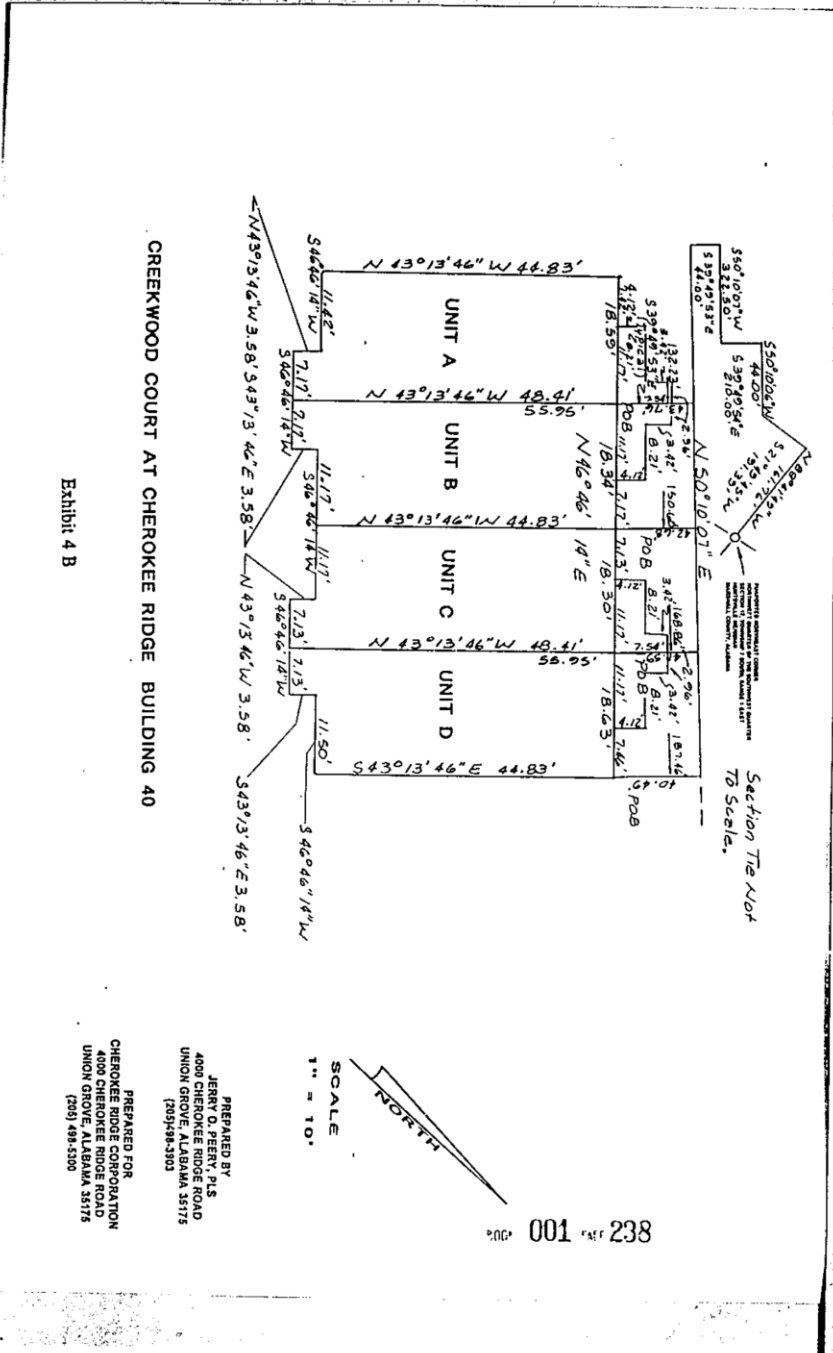


Section Title  
 10 Scale



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CREEKWOOD COURT AT CHEROKEE RIDGE BUILDING 40

Exhibit 4 B

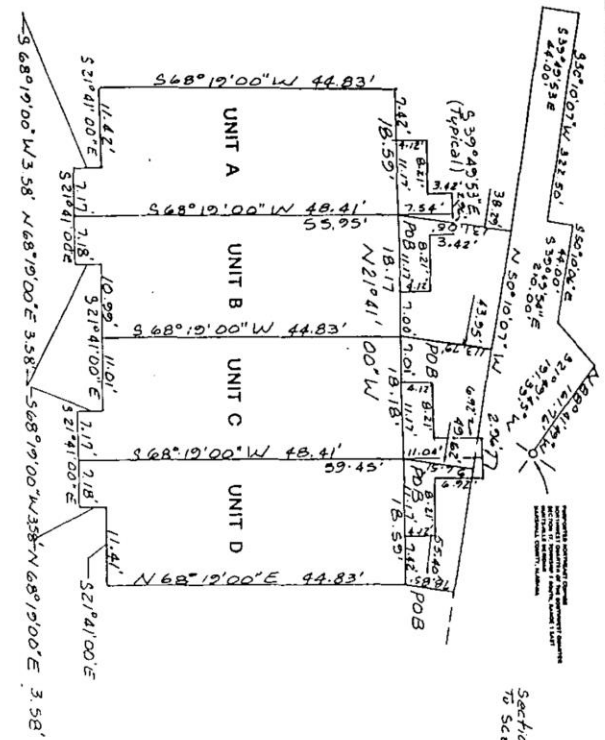
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001 238

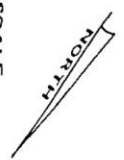
CREEKWOOD COURT AT CHEROKEE RIDGE BUILDING 60

Exhibit 4 C



Section To Not To Scale.

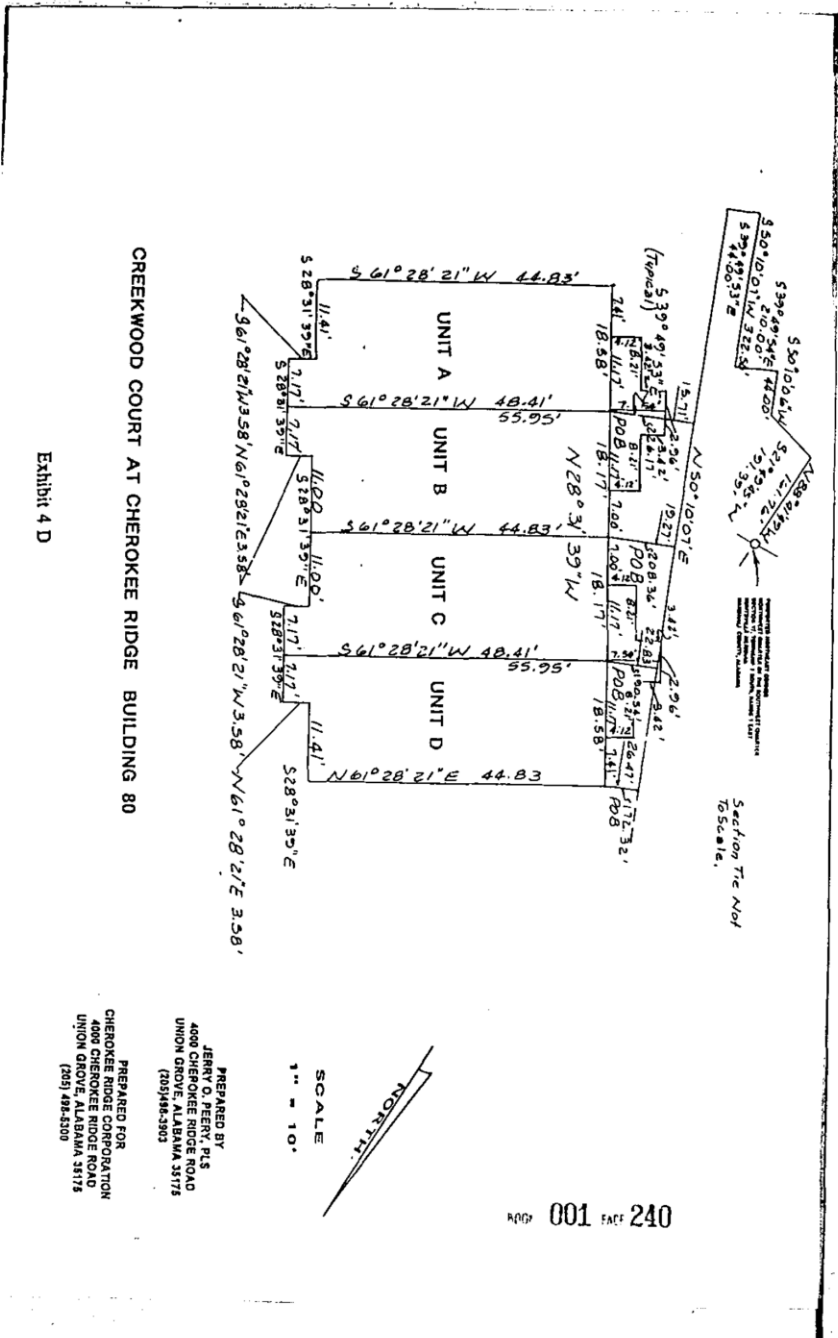
SCALE  
1" = 10'

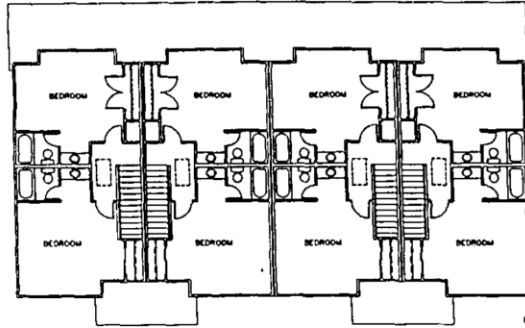


001 239

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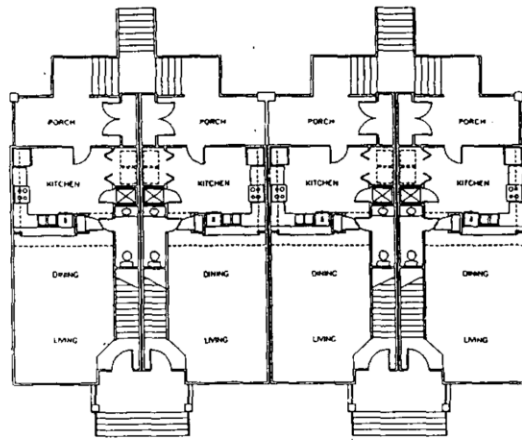
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SECOND FLOOR PLAN

NOTE: Porches and attics are limited common elements for their respective units.



FIRST FLOOR PLAN

UNIT A      UNIT B      UNIT C      UNIT D

Exhibit 5

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