

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF COVE CREEK SUBDIVISION**

**STATE OF ALABAMA
LEE COUNTY**

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KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, Cove Creek Development, L.L.C. (hereinafter referred to as "Developer") is the Owner of Cove Creek Subdivision (hereinafter referred to as "Subdivision"), located in Opelika, Lee County, Alabama, as shown by the plat of Cove Creek Subdivision recorded in Plat Book 28 at Page 2 in the Office of the Judge of Probate of Lee County, Alabama (the "Plat"); and

WHEREAS, it is the present intention of Developer for the Subdivision to include residential lots, townhomes or condominiums and at least one commercial lot, as shown on the Plat.

WHEREAS, the Developer desires to subject certain portions of the Subdivision, and impose thereon, mutual and beneficial restrictions, covenants, terms, conditions and limitations (herein for convenience sometimes referred to collectively as "Restrictions") for the benefit of all the lots in the Subdivision.

NOW, THEREFORE, Developer does hereby proclaim, publish and declare that Lots 1-54 shown on the Plat (the "Subject Property") are subject to, held and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied, and improved subject to the following restrictions which shall run with the land and shall be binding upon Developer, and upon all parties having or acquiring any right, title or interest in and to each such Lot or any part or parts thereof subject to such restrictions. The restrictions contained herein shall apply to each Lot forming part of the Subject Property, as well as to any future phases which the Developer may submit to this Declaration as Additional Property.

1. DEFINITIONS. As used throughout this Declaration, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

1.1 Additional Property. The term "Additional Property" shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or in close proximity with the Subject Property (but which does not presently comprise any part of the Development) which Developer may from time to time submit and add to the provisions of this Declaration.

1.2 Dwelling. The term "Dwelling" means the structure used as a residential living unit located upon a Homesite, including the garage and any appurtenances.

1.3 Lot. The term "Lot" shall mean and refer to any unimproved designated portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon the recordation of any subdivision plat for any portion of the Property, each lot indicated thereon shall be deemed a Lot for purposes of this Declaration. A parcel of land shall be deemed unimproved and thus

considered to be a Lot rather than a Dwelling, until the Improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon such completion, such Lot and the Improvements thereon shall collectively be considered to be a Dwelling for purposes of this Declaration.

1.4 **Owner.** The term "Owner" means any person, firm, corporation, partnership, association, trust, Limited Liability Company or other legal entity or any combination thereof which owns the fee simple title to a Lot.

2. **DECLARATION.**

2.1 **General Declaration.** Developer hereby declares that the Subject Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens, and regulations of this Declaration; and each Lot, Dwelling, and common area thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon, and otherwise used, improved, and maintained subject to the terms of this Declaration, which easements, covenants, conditions, restrictions, charges, liens, and regulations shall run with the title to the property and shall be binding upon and inure to the benefit of Developer and upon the Owner and Occupants.

2.2 **Development of Property.** Developer shall have the right, but not the obligation, for so long as Developer owns any Lot or Dwelling in the Subdivision, to make improvements and changes to all common areas and to all lots or dwellings owned by Developer, including without limitation: (i) installation and maintenance of any improvements in or to the common areas; (ii) changes in the location of the boundaries of any lots or dwellings owned by Developer or of the common areas; and (iii) installation and maintenance of any water, sewer, and any other utility systems and facilities within the common areas.

2.3 **Additional Property.** Developer reserves the right, in its sole discretion, at any time and from time to time to add Additional Property to the provision of this Declaration. At the time any Additional Property is specifically submitted to the terms and provisions of this Declaration, then such Additional Property shall constitute part of the Subject Property. Submission of Additional Property need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling. An amendment to this Declaration shall refer to this Declaration stating the book and page number of recordation in the land records of Lee County, Alabama, where this Declaration is filed for record and contain a description of the Additional Property, and shall state that said Additional Property is conveyed subject to the terms and conditions in this Declaration. The number of votes in the Association shall be increased by the Number of Lots or Dwellings within the Additional Property which are added and submitted to the Declaration and there shall continue to be one vote in the Association per Lot or Dwelling within the Development.

In no event shall Developer be obligated to submit any Additional Property to the provisions of this Declaration situated adjacent to or in close proximity with the Development. Notwithstanding anything provided in this Declaration to the contrary, the provisions in this article may not be modified, rescinded, supplemented or amended, in whole or part, without prior written consent of Developer, its successors or assigns.

2.4 **Subdivision Plat.** Developer reserves the right to record, modify, amend, revise, and otherwise add to, at any time and from time to time, a subdivision plat setting forth such information as Developer may deem necessary with regard to the development, including, without limitation the locations and dimensions of all Lots, Dwellings, common areas, additional property, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, retention ponds, and drainage basins. Any such subdivision plats or any amendments thereto shall be binding on the portions of the Subject Property indicated thereon as if such subdivision plat were specifically incorporated into this Declaration and no approval thereof shall be required by any Owner, Occupant or Mortgagee of any Lot or Dwelling. Notwithstanding anything provided to the contrary in this Declaration, Developer may at any time, or from time to time, divide and re-divide, combine and re-subdivide any Lot owned by Developer.

2.5 **Reservation of Maintenance Easement.** Developer does hereby establish and reserve for the Association, its agents, employees, heirs successors and assigns a permanent and perpetual right and easement to enter upon any Lot or Dwelling for the purpose of mowing, removing, clearing, cutting, pruning underbrush, weeds, stumps or other unsightly growth and removing trash so as to maintain reasonable standards of health, fire, safety and appearance within the Development. Said easement shall not impose any duty or obligation upon Developer or the Association to perform any of the foregoing actions.

3. LAND USE AND BUILDING TYPE.

3.1 **Private Residential Use.** All Lots are restricted to private residences and shall not be improved, used or occupied for other than single family residence purposes; provided however, that shall prohibit the Developer from using any Lot as an office or modeled for sales and promotion purposes. No Lot shall be subdivided without the consent of the Developer and/or the ACC.

3.2 **Building Location.** No building shall be erected nor located on any lot nearer to the right of way line than the minimum building setback lines as required by the City of Opelika. These minimum setback line restrictions shall also apply to the garage. If the Owner of one lot, however, shall purchase a second lot, and the second lot purchased adjoins the first, the setbacks for the side lot line may be waived by the Owner and said Owner may construct a dwelling house on both said lots, subject to the front lot line and rear lot line setback requirements, and these restrictive covenants herein set out shall govern both said lots as one unit, and the lot Owner may not thereafter sell either lot or any part thereof separately, but the lot Owner must sell the two (2) lots as one track or parcel of land. For purposes of this section, eaves, steps and open porches shall not be considered as a part of the structure; provided, however, that this shall not be construed so as to prevent any portion of a structure on a lot be located nearer than required side lot line or any structure on an adjacent lot, whichever is greater. Developer reserves the right to approve the site plan prior to the home staking.

3.3 **Completion Date.** Construction of a dwelling shall begin within a period of two (2) years from the date on which a Lot is conveyed by the Developer to the purchaser thereof, unless such two (2) year period is extended by a written instrument duly executed by the Developer. During the period before construction, following conveyance by Developer and during the period

prior to construction, the Lot shall be mowed and maintained by the Lot owner. Construction of a Dwelling shall be by a duly licensed contractor(s) or by the lot Owner(s). Construction of any Dwelling shall be completed within one (1) year from the date of beginning, or thereafter be completely removed, unless a waiver from the required completion date shall have been approved in writing by the Architectural Control Committee. Residency in any dwelling shall not be permitted until the exterior of the dwelling has been One Hundred (100%) percent completed. Occupying a motor home as a residence in this Subdivision is not permitted.

3.4 Single Family Dwelling. No Dwelling shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family dwelling not to exceed Two and One-half (2½) stories in height unless otherwise approved, in writing, by the Architectural Control Committee.

3.5 Dwelling Unit Size. No Dwelling Unit shall be permitted on any Lot with a living floor (heated) area of the main structure, exclusive of porches, whether one or two story or whether screened or not, basements, walk out basements and lower level and garages, of less than fourteen hundred (1400) square feet. Exceptions may be made square footage requirements only if the Architectural Control Committee unanimously approves them in writing.

3.6 Materials. Prior to construction, plans, landscaping, colors and material selections must be approved by the Architectural Control Committee. All buildings shall be constructed of new materials only. It is the desire of the Developer for homes to be constructed in such a manner that the exteriors will require little maintenance. Structures with cement block exteriors, other than block foundations, shall be prohibited, unless expressly approved in writing by the Architectural Control Committee. Any exposed block foundations shall be mortar-washed or stuccoed. Roll roofing is expressly prohibited. The exterior of any Dwelling constructed in the Development must be masonry or stucco on at least three sides; rear exterior material may be vinyl, stucco (no E.I.F.S.), stone, fiber cement or brick. Redwood, cedar lap, masonite nor metal siding is permitted. Exceptions to this can be only by unanimous written consent of the Architectural Control Committee. The roof pitch of all residences shall be not less than seven (7) inches/twelve (12) inches, and shall maintain a minimum of a one (1) foot overhang. Soffit and fascia materials are to be vinyl and vinyl coated aluminum. Prior to construction and installation, the Architectural Control Committee must approve, in writing, any solar panel installation and the location of said installation.

3.7 Home Occupations. No Lot or Dwelling shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said residence, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is:

(a) No sign nor display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a Dwelling Unit;

(b) No commodity is sold from the Dwelling or upon the Lot;

(c) No person is employed other than a member of the immediate family residing in the Dwelling; and

(d) No mechanical or electrical equipment is used, provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, fortune telling parlor, animal hospital, or any form of animal care or treatment such as dog trimming, be construed as a home occupation.

4. STRUCTURE AND POWERS OF ARCHITECTURAL CONTROL COMMITTEE:

There is hereby created the Cove Creek Subdivision Architectural Control Committee ("Committee") which shall consist of three (3) persons appointed by Cove Creek Development, L.L.C. or its successors and assigns who shall serve until they are removed or have resigned; provided that so long as Wayne Gentry owns any lots in the Development, he shall serve on the Committee. This Committee may designate any one of its members to act on its behalf. In the event of a vacancy on the Committee, Cove Creek Development, L.L.C. shall have the authority to appoint a replacement. The Committee shall have the authority and power to approve all plans and specifications for all structures to be erected in the Subdivision. Said Committee may act as a representative of the Owners of the lots in the Subdivision and may act to enforce the covenants and restrictions herein by due process of law, which authority and power in the Committee shall not exist to the exclusion of the authority and power vested in said lot Owners.

5. APPROVAL BY ARCHITECTURAL CONTROL COMMITTEE. No building or other structure shall be erected, constructed, placed, maintained or altered on any lot in this Subdivision until the building plans (including floor plans, external design, location with respect to lot lines, topography and finished grade elevations), specifications and site plan showing the location of such building, have been approved in writing by the Architectural Control Committee. Two (2) sets of complete plans must be furnished, one (1) of which will be retained in the office of the Committee and one (1) will be returned to the builder. The Committee's approval or disapproval, as required in this Declaration shall be in writing. No structure of any kind which does not fully comply with such approved plan shall be erected, constructed, placed or maintained upon any lot, and no changes or deviations in or from such plans as approved shall be made without the Committee's prior written consent. In the event the committee, or its designated representative, fails to approve or disapprove such design or location within ten (10) business days after said plans and specifications have been submitted to them and if no suit to enjoin the erection of such building or the making of such alterations has been commenced prior to completion thereof, such approval will not be required and this covenant shall be deemed fully complied with. The plans must show floor plan, quality of construction, materials, outside colors to be used and harmony of external design with existing structures and location with respect to lot lines, topography and finish grade elevations. In addition, the site plans must show placement of driveways possible. The Architectural Control Committee's approval or disapproval of the plans shall be in writing. No structure of any kind which does not fully comply with the approved plans shall be erected, constructed, placed or maintained upon any lot and no changes or deviations in or from such plans as approved shall be made without the Architectural Control Committee's prior written consent.

6. LIABILITY OF DEVELOPER AND COMMITTEE MEMBERS. Neither Developer nor the Architectural Control Committee nor any member thereof nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in

judgment, negligence or non-feasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any structure erected according to such plans or any drainage, well or septic system problems resulting therefrom. Every person and entity which submits plans to the Committee agrees, by submission of such plans, that the party making the submissions will not bring any action or suit against the Committee, the Developer or either of them to recover any damages or require the Committee or its representative to take or refrain from taking any action. Neither the submission of any complete set of plans to the Developer or to the Committee for review by the Committee, nor the approval thereof by the Committee, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent lot owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

7. COMMITTEE VACANCIES. In the event there is any vacancy created in the Committee, Developer, its successors and assigns, shall have the right to appoint another person to fill said vacancy. If there be no Developer nor its successors and assigns, then Eighty (80%) percent of the record title Owners of the lots may elect by a majority vote of said Eighty (80%) percent, the Architectural Control Committee.

8. ARCHITECTURAL CONTROL COMMITTEE EXPIRATION. The authority of the Committee shall expire fifteen (15) years after the date of the recording of the Plat. Developer may, at any time, relinquish its right to designate a Committee member or to fill any vacancy on the Committee and upon its written relinquishment of the same, any vacancy on the Architectural Control Committee shall be filled by an election of the majority of Eighty (80%) percent of the Owners.

9. EASEMENTS. Drainage and utility easements shall be designated on the plat of the subdivision.

10. PERIMETER FENCING AND RETAINING WALLS. The only perimeter fencing permitted shall be a rear or side yard split rail (two (2) rails high, not to exceed four (4) feet high) or a privacy fence around an immediate patio of not more than six (6) foot which must conform to present architectural standards as set by the style of home thereon built and be approved by the Architectural Control Committee in writing, unless a variance from this fence requirement shall have been approved in writing by the Architectural Control Committee. This paragraph is not to be construed to prohibit the planting or maintenance of hedges, shrubbery or trees. Black chain link fence may be applied over the split rail when necessary and with prior approval of the committee. No fencing to be installed in easement areas or front yards unless approved in writing by the Architectural Control Committee. Retaining walls along a perimeter lot line that poses a significant danger because of the drop off shall utilize a protective landscape screening. The Architectural Control Committee must approve all retaining walls in writing.

11. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood.

12. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding of any type or nature shall be used on any lot at any time as a residence, temporarily or permanently. This covenant, however, shall not be construed to prohibit a construction trailer or the erection of a temporary field office by the Developer or by a building contractor used during construction of a residential dwelling. Semi-Tractor and trailer, school buses, mobile homes, motor homes and house trailers are prohibited from being parked at any time on any Lot.

13. POOLS & PLAYGROUND EQUIPMENT. No above ground pools shall be permitted. No tennis courts shall be permitted unless approved in writing by the Architectural Control Committee. Evergreen screening around playground equipment may be required at the discretion of the Architectural Control Committee. No structures of any kind are allowed in the front yard, or side yards on corner lots. Basketball goals, or other similar type recreational structures, cannot be placed in street right-of-ways to allow for using the street as a court.

14. DETACHED BUILDINGS. The construction and placement of not more than one (1) detached storage or pet shelter structures (maximum 150 square feet) to be used for the storage of lawn tools, toys, or any other personal property or for the shelter of pets must be of a quality construction and must be maintained in attractive and neat appearance and blend with the established home and be submitted to the Architectural Control Committee for approval before beginning construction. Any such detached buildings erected shall be erected near the rear one-half (1/2) of said lot and match the decor of the present residential dwelling. The placement and construction of the detached structures are to be submitted to the Architectural Control Committee which Architectural Control Committee shall have the authority to approve or disapprove the placement and construction of detached storage structures, and once approved and erected, the Architectural Control Committee shall have the authority to require protective screening around any detached structure. Metal pole barns will not be permitted. Some lots are not conducive to the placement of detached structures and will not be allowed at the discretion of the Architectural Control Committee.

15. DRIVEWAYS, CHIMNEYS AND SIDEWALKS. No stone or cinder driveways shall be permitted. All driveways are to be a minimum of twelve (12) feet wide and must be constructed of brick or concrete. If constructed of concrete, the driveway shall be at least four (4) inches thick. Circular drives in front of homes (if any) may be a minimum of eight (8) feet wide. The gutter line of the road shall not be filled or "wedged" with asphalt or any material. Fireplace exterior chimneys may be a "direct vent" fireplace with committee approval or an interior chimney with brick veneer or vinyl siding above the roof. New 90% high efficient gas furnaces do not require a chimney. The Architectural Control Committee must approve any chimney variance from the above restrictions. A minimum three (3) foot wide and at least four (4") inches thick concrete sidewalk shall be constructed from the driveway to the front entry.

16. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the home for sale or rent, or a sign of any dimension used by a builder or Developer and approved by Developer to advertise the property during the construction and sales period. There is reserved to the Developer, its successors and assigns, the right to construct signs as they desire in order to foster the promotion and effect sales of in the

Subdivision. Developer reserves the right for placement and location of County street signs. No "For Sale By Owner" sign shall be permitted on a vacant lot advertising the asking price, for resale except the signs of approved realtors, builders or Developers unless approved in writing by the Architectural Control Committee. Advertising in local magazines, newspapers, & direct mailings or listing lot in MLS service, with broker of your choice is an effective alternative. In no event may the price of the lot and/or home be on display on exterior signage.

17. ANIMALS, LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes and are not permitted to become a neighborhood nuisance or hazard in any manner. No dog or cat may be permitted to run at large.

18. DEBRIS, GARBAGE AND REFUSE DISPOSAL. No lot, or contiguous lot during the construction period, shall be used or maintained as a dumping ground for rubbish or brush. Trash, garbage, or other waste shall not be kept except in sanitary containers. During the construction period for any house, the builder or lot owner shall dispose of all construction related debris in a timely manner. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No lot shall be used for the storage of old lumber, cars, materials or debris including grass clippings. Firewood may be stored on a lot, but stored in an orderly and sightly manner and appearance. All vacant lots shall have the weeds and brush mowed so foliage does not exceed one (1) foot in height. Said mowing shall apply to all land within the building setback line. A lien in favor of the Developer or Association shall be granted if lot owner fails to comply with keeping vacant lot or improved lot neat in appearance, or if lot owner fails to remove a dead tree from lot in a timely fashion and Developer or Association is forced to do so for public safety or aesthetic reasons.

19. SIGHT DISTANCE AT INTERSECTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines; or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

20. COMPLETION. Any structure begun must be completed within a period of one (1) year from the date of beginning, or thereafter completely removed. The side and rear yards of each lot shall be planted with grass seed, sod or ground cover, and landscaped unless otherwise approved by the Architectural Control Committee, within one hundred and twenty (120) days after the structure is completed, or the structure is occupied as a home, whichever is earlier. The entire yard is to be sodded at completion of the home. Lot owner shall not permit any improvement, which has been partially or totally destroyed by fire "or other casualty, to remain in such state for more than three (3) months from the time of such destruction or damage.

21. FUEL STORAGE TANKS. Fuel storage tanks are not allowed.

22. RECREATIONAL OR COMMERCIAL VEHICLES AND PARKING. No recreational or commercial vehicles, including but not limited to, campers, trailers, trucks, dune buggies, or boats may be used as a temporary residence or kept in open areas in this subdivision, whether such open areas are on or off the lot of any lot owner. No vehicles of any type shall be parked on the street of the subdivision except for the temporary parking of vehicles of guests of owners of lots. Vehicles other than those for family transportation may not be stored at any lot for any period longer than twenty-four (24) hours unless said vehicles are within an enclosed garages or carports.

23. HOMEOWNERS ASSOCIATION. The "Cove Creek Homeowners Association" hereinafter referred to as the "Homeowners Association", or "Association", shall be created by the Developer. Each owner of a lot in this subdivision shall be a member of the Association and shall be entitled to cast one (1) vote at all meetings for each lot that is owned. (The purpose of the Association is to manage and to support the Cove Creek Community, as well as any duties that may be deemed advisable and practical in the sole discretion of the Association or, until such time as the Association is created by the Developer, in the sole discretion of the Developer, and all purposes as the membership deems necessary.) After its creation by the Developer, the Association shall conduct a meeting at least once each year to organize itself and to elect its officers. The Association shall adopt by-laws for its government and may levy and collect dues for the overall upkeep of common areas of the community. Any such dues will be levied equally on each Lot. Failure to pay said assessments or annual dues shall be a violation of these covenants and restrictions. Any such assessments or annual dues shall be billed by the Association to the owner of each Lot annually, without proration for a partial year of ownership. Said dues and assessments, including interest, costs of collection and attorneys' fees, if any, as hereinafter provided, shall be a lien in favor of the Association upon the lot against which such dues and assessments are charged until discharged by payment or released by the Association, which lien may, but need not, be enforced in the same manner as is provided in the mechanic's lien statutes of the State of Alabama. Notwithstanding anything to the contrary herein, the Association need not file or record or send any notice with respect to any lien or liens or bring suit thereon within any time specified in the mechanic's lien statutes of the State of Alabama to enforce the same. The Association may, but need not, publicly record such notices of undischarged liens arising hereunder as it deems appropriate and may, but need not, bring a separate independent action in any court to enforce payment of, or to foreclose, the lien created hereunder. Provided further, that any person purchasing or dealing with said lot may rely upon a certificate signed by the President or Secretary of the Association showing the amount of such certificate, and the Association shall not be entitled to enforce any lien for such charge accruing prior to the date of any such certificate unless the amount thereof is shown in the said certificate. The within above-described lien is subordinate to any first mortgage lien. The Association may also enforce the restrictions concerning accumulations of rubbish, weeds, or trash, and may own any land for use by all or less than all of the lot owners as a "common area". Any past-due annual dues, assessments, or other charges assessable hereunder shall bear interest at the rate of prime plus one percent per annum commencing thirty (30) days after same become due and with attorneys' fees, and shall be due and payable without relief from valuation and appraisal laws. The Association may be formed for, and engage in, such other activities as may be beneficial to the lot owners, to the public at large, or which may qualify the Association as a "not-for-profit

corporation or association", as defined in the Internal Revenue Code. Until such time as the Association is created by the Developer, the Developer, acting on behalf of the Association to be formed, shall be entitled to carry out the responsibilities assigned to, and enjoy and exercise the rights and powers granted to, the Association pursuant to these restrictions

24. UTILITIES AND TELEVISION ANTENNAS. Cove Creek is designated as an all electric subdivision. Any contractor who constructs a Dwelling within the subdivision that utilizes gas or other alternate fuels as the primary heating for water or central heat, shall reimburse Cove Creek Development, L.L.C. the current underground charge for electrical service. All public utility services, either in the streets or on any lots, including but not limited to electric, telephone service, and cable television, shall be located underground, and shall not be visible. No outside above-ground television, A.M., F.M., or short wave radio antennas of any type, shall be erected or maintained on any lots or structures in this subdivision. Each Owner may, however, have on his Lot no more than one (1) satellite dish for electronic signal reception. No satellite dish may be placed in either the front or side yards of a lot. The placement and size of the satellite dishes must be approved by the Architectural Control Committee before placement on any lot. The Architectural Control Committee may also require protective screening. All street or lot lighting shall be situated on posts with no lines visible. To assure the enforcement of this restriction, the Developer, for itself, its successors, and assigns, does hereby agree: To prohibit the erection and use of overhead wires, poles, and other facilities of any kind, including, but not limited to those associated with electrical, television, cable or telephone service, either electrically or by telephone from poles and overhead wires around the perimeter of the subdivision or development. Nothing herein should be construed to prohibit Developer from installing street lighting at Developer's choice of locations if serviced by underground wire or cable; To require that the owner of any building erected on the property install an electric service entrance of sufficient capacity to meet present and future requirements of the occupants in accordance with the engineering standards of the electric utility company; To require owners to assume all landscaping responsibility and restoration of paved or planted areas made necessary by maintenance, replacement or expansion of the underground service facilities. Owner to assume all responsibilities and cost if owner chooses to substantially alter the grade in the utility easement, which would result in the utility company relocating their lines to provide adequate protection for said line. To require accessibility to all strips in which underground service is located for operation, maintenance, or replacement of facilities; and To require that the owner of any building erected on the property must pay any cost differential for underground service laterals.

25. BUILDINGS. The Architectural Control Committee in advance of the construction of any such improvement shall determine the placement of all buildings, including the lot and building elevations. All improvements must comply with building set back lines established by the Plat. No alterations of location or any improvement prior to construction shall be made and no improvement shall be physically placed in any other position than that located by the Architectural Control Committee without approval of the Architectural Control Committee. All expense with regard to such location placements and the actual physical staking for the location of such physical improvement shall be borne by the lot owner.

26. FIRES. No fire shall be permitted to burn upon any street or roadway in this subdivision.

27. COMPLIANCE BY BUILDER, LOT OWNER WITH SOIL EROSION PLAN. The Developer has established and implemented an erosion control plan pursuant to the requirements and conditions of the Alabama Department of Environmental Management relating to Storm Water Run-off Associated with Construction Activity. All land disturbing activity undertaken by Builder or Builder's subcontractors shall comply with the Developer's general permit as well as all other applicable state, county, or local erosion control authorities. During the construction of each structure, every reasonable effort shall be made, by the builder and/or Lot Owner, to control erosion on the construction site in accordance with recommendations issued by the Soil and Water Conservation Service, United States Department of Agriculture. The builder and/or Lot Owner shall indemnify and hold Developer harmless from and against all liability, damage, loss, claims, demands and actions of any nature whatsoever which may arise out of or are connected with, or claimed to arise out of or connected with, any work done by builder, builder's employees, agents, or subcontractors which is not in compliance with the erosion control plan implemented by the Developer.

28. MISCELLANEOUS BUILDING RESTRICTIONS.

- (a) No window air conditioners will be allowed on the front of any structure.
- (b) In ground swimming pools will be permit only within set back lines, and must be fenced. No above ground pool may be placed on any Lot in the Development.
- (c) All mailboxes shall be single-post, black and of similar design, and shall be located in accordance with the overall architectural scheme of the residency, and must meet requirements of the United States Postal Service.
- (d) Required landscaping must include plants as well as grass.
- (e) Drainage of surface water, storm water, and/or foundation drains may not be connected to sanitary sewers.
- (f) No lot corner stakes may be removed and in the event that such are removed or destroyed either during construction of dwelling or at any other time, it shall be the responsibility of the Owner of the lot to have such restored by a licensed surveyor at the Owner's expense. The failure of a lot Owner to restore or replace such lot stakes in accordance with the final subdivision plat, shall authorize the Developer to have such work performed and to charge the expense thereof to the Owner.

29. WAIVER OR AMENDMENT OF COVENANTS. It is expressly provided that the Developer, its successors, or assigns, shall have the exclusive right for a period of five (5) years from the date of recording of this Plat to amend any or all of the restrictions or covenants herein contained; provided that no such amendment shall be made without the written consent of Wayne Gentry. Such amendment shall be evidenced by the recording of a written amendment signed and recorded in the Office of the Recorder of Lee County and shall become effective upon such recording. This shall include the right to waive any part of the restrictions or conditions as to any particular lot. After five (5) years from the date of recording of this Plat, these Restrictions and Limitations may be amended at any time by the recording of such amendment executed by the owners of the fee title of not less than seventy-five percent (75%) of the lot Owners.

30. DURATION OF COVENANTS. These Covenants and Restrictions are to run with the land and shall be binding on all parties and persons claiming protection under them until January 1, 2012 at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless by a vote of the then owners of the fee title of not less than seventy-five percent (75%) of the said lots covered by these covenants and restrictions, it is agreed to change such covenants and restrictions in whole or in part, except that no amendment of the provisions of Paragraph 31 shall be effective unless such amendment is also executed by the owners of the fee title of not less than one hundred percent (100%) of the lots containing all or a portion of a retention pond.

31. SEVERABILITY OF COVENANTS. Invalidation of anyone of the covenants or restrictions by judgment of a court of competent jurisdiction shall in no way affect any of the other covenants or restrictions and all other provisions of these covenants and restrictions shall remain in full force and effect.

32. INDEMNIFICATION. Neither the Committee nor agent thereof nor the Developer shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications.

33. ENFORCEMENT OF COVENANTS. The right to enforce these provisions by Injunction, together with the right to cause the removal by due process of Law of any structure, is hereby vested in each owner of a lot in this subdivision, and in the Homeowners Association, its successors and assigns. These covenants and restrictions may all be enforced by a civil action for damages and by any other appropriate remedy at law or in equity. If any person or persons shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons vested with the title of any of the lots herein before described, the Homeowners Association, its successors and assigns, or the Developer, to proceed either in law or in equity, against such person or persons violating or attempting to violate any such covenants, and to enjoin them from so doing, to recover damages for such violation and to seek all other appropriate relief. In the event that the Homeowners Association, or the Developer should employ counsel to enforce any of the foregoing covenants and restrictions, all costs incurred in such enforcement, including reasonable attorneys' fees, shall be paid by the owner of such lot or lots against whom such enforcement action is brought. Homeowners Association, or the Developer, as the case may be, shall have a lien upon such lot or lots to secure owner's payment of all such costs, which lien may be enforced in the same manner as is provided in Paragraph 27 of these restrictions.

37. EFFECTIVE DATE. These Restrictions and Covenants shall be deemed to be effective upon their recording in the Office of the Recorder of Lee County, Alabama.

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

COVE CREEK DEVELOPMENT, L.L.C.

Tommie Strain
Tommie Strain

Ted Strain
Ted Strain

Lankford Brown
Lankford Brown

1278 615
MISC Book & Page

Book/Pg: 1278/603
Term/Cashier: SCAN3 / RC
Tran: 355.7205.9578
Recorded: 05-31-2006 10:13:28
REC Recording Fee
Total Fees: \$ 44.00

44.00

STATE OF ALABAMA
LEE COUNTY

I, the undersigned, a Notary Public in and for said County and State, hereby certify that Tommie Strain, Ted Strain and Lankford Brown whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 31 day of May, 2006

(NOTARY SEAL)

W. J. P. S. Jr.
Notary Public

MY COMMISSION EXPIRES: 11-13-06