

# TOWNE LAKE

STATE OF ALABAMA )  
 ) : DECLARATION OF RESTRICTIVE COVENANTS  
 COUNTY OF LEE )

KNOW ALL MEN BY THESE PRESENTS, that:

WHEREAS, K & S Development, Inc. and Forrest F. Long are the owners of a certain tract of land located in Sections 4 and 9, Township 19 North, Range 27 East, Lee County, Alabama which is evidenced by subdivision plat entitled "Towne Lake Subdivision" the same being filed for record in Town Plat Book 21 at Page 186 in the Office of the Judge of Probate of Lee County, Alabama; and,

WHEREAS, the said K & S Development, Inc. and Forrest F. Long desire to subject all of the lots in said subdivision and to impose upon said lots mutual and beneficial restrictions, covenants, terms, conditions and limitations for the benefit of all the lots and the present and future owners of the same; and,

NOW THEREFORE, the undersigned do hereby proclaim, publish and declare that all of said lots are subject to, held and shall be held, conveyed, hypothecated or encumbered, used, occupied and improved, subject to the following restrictions, which shall run with the land and shall be binding upon the undersigned and upon all parties having or acquiring any right, title or interest in and to said lots subject to such restrictions, to-wit:

1. LAND USE AND BUILDING TYPE. No lot shall be used except for single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two stories in height, except that a third story shall be permitted if it is designed in such fashion as to fit within the normal roof-line of a two story structure in the area that would normally be considered attic area, with all construction being subject to prior review and approval of the Architectural Review Committee as hereinafter set out (hereinafter referred to as "ARC").
2. DWELLING SIZE. Each residence constructed within this plat shall have a minimum square footage of air conditioned and heated living area of at least 1500 square feet, exclusive of open porches, attached garages, carports or other non-living areas, or, in the case of any residence to be constructed having more than one story, the same must have a minimum ground floor living area of at least 1200 square feet.

No building or addition thereto shall be erected, altered, placed on any lot until and unless the

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construction plans and specifications and a plan showing the location of the structure on the lot have been approved by the ARC, in all respects. No fence or wall shall be erected or placed on any lot nearer to any street than the minimum setback lines of said lot unless similarly approved by the ARC. The ARC must approve any and all aspects of any and all construction and improvements on each lot within the plat here set out. Each request for approval must be accompanied by a payment of \$50.00 to the ARC, along with two sets of plans for the proposed construction, renovation, improvement or other action requiring ARC approval, one set of plans will be retained by the ARC and one set will be returned to the builder or lot owner. The ARC will establish its own requirements, procedures, policies and time frames, which requirements shall be available, on request, to lot owners, their architects, or builders. All approvals by the ARC must be in writing, and dated, and must be signed by a minimum of two members of the ARC, and where plans and specifications are required said approval should be reflected on a copy of the plans and specifications submitted to the ARC for approval. The ARC may, in its unrestricted discretion, reduce, increase or waive the approval fee in the event the approval sought is not for new home construction or a major renovation or addition and the ARC may periodically modify or amend its requirements; but in no event shall its requirements be less restrictive than these protective covenants otherwise require. The ARC may set site standards, building design and materials standards, building construction standards, and other standards that it deems appropriate (all such standards being sometimes referred to as "Architectural Review Committee Guidelines"). Approval of any plans or the setting of any requirement for approval shall not and does not constitute any representation or guaranty of safety or architectural integrity, by the ARC, which instead, shall be the sole responsibility of each lot owner. The ARC shall be appointed by the Board of Directors of the Towne Lake Homeowner's Association, Inc., hereinafter referred to as the "Association", which will be organized as a part of this over-all development.

3. Easements for installation and maintenance of utilities and private drainage and access are reserved as shown on the subdivision plat. The easement area shall be maintained continuously by the owner of the respective lot, except for these improvements for which a public authority or utility company is responsible.

The owner of the lots within this subdivision will not erect or grant to any person, firm, or corporation, the right, license, or privilege to erect or use, or permit the use of overhead wires, poles, or overhead facilities of any type or kind for electrical, electronic communication, or telephone service on said real estate (except such poles and overhead facilities as may be required at those places where distribution facilities enter and leave said subdivision). Nothing herein shall be construed to prohibit overhead street lighting fixtures or ornamental yard lighting where such is serviced by underground wires or cables.

No separate garages or out-buildings or auxiliary structures of any kind or nature, except ornamental

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landscape structure, shall be erected or allowed to occupy any portion of any lot and no such building shall be constructed, used or occupied prior to construction of the main house structure, except such as may be used in storing tools and materials for the construction of the main house. Any such structure must be approved in writing by the ARC. No metal storage buildings shall be allowed.

4. NUISANCES. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighbors or the neighborhood.
5. TEMPORARY STRUCTURES. No structure of a temporary character (trailer, tent, mobile home, motor home, basement, shack, garage, barn or other out-building or auxiliary structure) shall be used at any time as a residence, either temporarily or permanently.
6. SIGNS. No signs of any kind shall be displayed visible to the public view on any lot except for one professional sign of not more than one square foot. In the case of advertising the property for sale or rent or in the case of signs used by a builder to advertise the property during the construction and sale period, one sign of not more than six square feet of advertising shall be allowed on any lot.
7. LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except for dogs, cats, and other normal and common household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, provided that they are kept in reasonable numbers and under reasonable conditions so as not to create a nuisance and not to otherwise unreasonably disturb the neighbors or the neighborhood.
8. EXPLORATION OR MINING. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon, in or under any lot, nor shall oil wells, tunnels, tanks, mineral excavations or shafts be permitted on, upon, or under any lot.
9. LINE OF SIGHT. Except as reflected on subdivision plat, no fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within that triangular area formed by the street property lines and a line connecting them at points twenty-five feet from the corner intersection of said street lines. The same sight line limitations shall apply on any lot within twenty (20) feet from the intersection of a street property line with the edge of a driveway pavement. No tree shall be permitted to remain within such distances, areas or such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sightlines.
10. Additional general covenants and restrictions:
  - (a) Garages. Garages must open toward the interior lot line unless otherwise approved by the ARC. Garage doors must remain closed except when vehicles are entering and/or exiting the garage.

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- (b) Vehicle Parking. Vehicle parking in driveways and on the street in front of houses shall be limited to temporary parking of guests or resident vehicles in current use and currently licensed. Storing automobiles, trucks, campers, boats, snowmobiles, motorcycles, motor bikes or any other vehicle of any other description in the street, driveway, yards of residences, in front of the principle building setback lines, is specifically prohibited. Vehicle parking in grass shall not be permitted.
- (c) Use of property. No previously approved structure shall be used for any purpose other than that for which it was originally designed and approved.
- (d) Recreational vehicles. No boat, boat trailer, house trailer, horse trailer, trailer, camper, motor home or any similar items shall be stored on or at any lot for a period of time in excess of twenty-four (24) hours, unless the same are housed in a carport or garage, or parked beyond the rear line of the home constructed on subject lot, and otherwise any such parking facility or area must receive prior approval of the ARC.
- (e) Commercial trucks. No commercial truck, vehicle or equipment shall be permitted to be parked or to be stored at any place on subject property. This prohibition on parking and storage shall not apply to temporary parking of trucks and/or commercial vehicles used for pick up and delivery.
- (f) Additional Remedies for vehicle and/or recreational equipment violations. Any such vehicle or recreational equipment parked in violation of regulations contained herein or in violation of the rules and regulations now or hereafter adopted by the Association may be towed away by the Association, at the sole expense of the owner of such vehicle or recreational equipment, if the violation of said restrictions remains for a period of more than twenty-four (24) hours. The Association shall not be liable to the owner of such vehicle or recreational equipment, nor to the respective lot owners, for trespass, conversion or otherwise, nor guilty of any criminal or quasicriminal act by reason of such towing, and neither its removal or failure of the owner to receive any notice of said violation shall be grounds for relief of any type. The foregoing remedy is in addition to any other remedy which may exist whether at law or in equity.
- (g) Vehicle maintenance and repair. No vehicle maintenance or repair shall be performed on any vehicles upon any portions of the subject property, unless performed in a garage, except in an emergency situation. Notwithstanding the foregoing, all repairs to disabled vehicles within the property must be completed within twenty-four hours from its immobilization or the vehicle must be removed. The Association shall be allowed to maintain and store its maintenance vehicles, if applicable, on specific areas of the property as necessary for the operation and maintenance of the common areas of the subdivision.

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- (h) Accumulation of refuse. No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any part of the property, except building materials used during the course of original construction of any approved structure, or any approved renovation, repair or reconstruction. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers must only be placed in the open on any day that a normal pick up is to be made, at such place on the property to provide access to persons making such pick up. At all other times such containers shall be stored in such manner so that they cannot be seen from adjacent and surrounding property. The ARC, in its' discretion, may adopt and promulgate reasonable rules and regulations relating to the size, shape, color and type of containers permitted and the manner of storage of the same on the property.
- (i) Business activity. No profession or home industry or other commercial venture shall be conducted in or on any part of the property or in any improvements thereof, except for provided herein.. The Board of Directors of the Association, (hereinafter referred to as the "Board") in its discretion, upon consideration of the circumstances in each case, and particularly upon consideration of the effect of surrounding property and property owners, may permit the conduct of a profession or home industry within a residence located on the property. Such commercial operation may be permitted only after the Board has determined that it is compatible with a high quality residential neighborhood and does not unreasonably interfere with the adjoining property or adjoining property owners. This section may not be interpreted to authorize or permit any commercial activity which is in violation of local statute or zoning regulations. Any such approval granted by the Board may be withdrawn if the Board determines that such authorized or permitted activity is unreasonably interfering with the rights of the subdivision in general or any individual lot owner with said subdivision.
- (j) Air conditioning units and solar collectors. No wall or window air conditioning units nor solar collectors shall be permitted except with the prior written consent of the ARC.
- (k) Pipes and clotheslines. No water pipes, gas pipes, sewer pipes, drainage pipes or clotheslines may be installed or maintained on the property so as to be visible from adjoining property or public view except hoses and movable pipe used for temporary irrigation purposes.
- (l) Real estate office or subdivision office. The declarant may, in declarant's sole discretion, use any lot within Towne Lake property for the construction of and/or use of a building constructed thereon as a subdivision office, real estate office or model home, and as such the same shall not be subject to terms, provisions and requirements of these covenants until such time as

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all other lots within Towne Lake property have been sold and upon that occurrence said lot and building constructed thereon shall, as soon as reasonably possible and to the extent reasonably and economically practical, be brought into compliance with these covenants.

- (m) Machinery. No machinery shall be placed on or operated upon any portion of the subject property except such machinery as is normal and usual in the maintenance of a private residence, or except such as is necessary during the original construction of a residence or a major renovation or improvement thereto.
- (n) Mailboxes. The design of all mailboxes must be approved by the ARC and said ARC may establish a common design and a required location for all mailboxes, so long as compatible with the requirements of the United States Postal Service. If required by the ARC, the homeowner, shall purchase a standard mailbox from the Association at a standard common charge to be applied uniformly, and shall install and maintain said mailbox in appropriate condition and repair, with original color scheme being maintained thereon, as required by the ARC. Any damage or destruction to mailboxes which cannot be adequately repaired will result in the lot owner being required to purchase a replacement mailbox from the Association.
- (o) Authorized use and exceptions. Notwithstanding other provisions herein, each residence located within subject property shall be used as only a single-family residence and subject to all other requirements hereunder, but, the ARC may authorize any lot owner, with respect to his or her residence, to temporarily use same for more than one family, to temporarily maintain a sign other than as expressly permitted herein, to locate other temporary structures on the property, and may make other exceptions to these covenants. In all such instances, approvals and exceptions by the ARC must be in writing and each case and each request shall be reviewed on its own merits and the ARC shall have unrestricted discretion and neither the granting of similar requests from other lot owners nor the approval and consent of adjoining lot owners shall in any way be a determinative influence on the decision of the ARC.
- (p) Prohibited uses. No person shall, without the written approval of the Association of the ARC, as the case may be, do any of the following on any part of the subject property or the common areas; (1) permit the running of animals except when on a leash; (2) interfere with any drainage, utility or access easement; (3) build any structures, recreational or other common facilities other than those approved by the ARC; (4) discharge any liquid or other materials other than natural water drainage into any lake, pond or water course; (5) alter or obstruct any lakes, ponds or water courses or (6) interfere with any water control structures or apparatus. Nor shall any person violate any rules and regulations that may be

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established by the Association governing the use of common areas or the rules or requirements that may be established by the ARC.

11. In order to beautify said subdivision for the benefit of all lot owners and to permit the utility companies to install underground utility services to each house in said subdivision, no owner of any lot within such subdivision will commence construction of any house on any lot until such owner (1) notifies the utility companies that such construction is proposed, (2) grants in writing to said companies such rights and easements as they request in connection with their construction, operation, maintenance and removal of the underground service laterals on each lot and (3) provides at his, her or its own expense, and in accordance with specifications to be furnished by the utilities, all excavating, trenching the backfilling which said utility company requests in connection with the installation of the underground service or service laterals on each lot.
12. When electric services are requested and supplied by Alabama Power Company (APC) or Opelika Light and Power (OLP) from an underground system, the trenching and backfilling from the front property line to the metering point will be the responsibility of the property owner requesting service. No overhead wires, poles or overhead facilities for any kind of electrical, telephone or cable service or other utility shall be permitted on any part of said property except at those places where overhead distribution facilities are necessary to provide system capacity of APC or OLP underground system. Nothing herein shall be construed to prohibit overhead street lighting or ornamental yard lighting where serviced by underground wires or cables. A perpetual ten (10) foot exclusive easement is reserved to APC or OLP, its successors and assigns, for each service lateral extending from the front property line of each lot shown on this plat to the metering point of each lot. Pursuant to an agreement between the owner and APC or OLP, APC or OLP will provide the owner of each lot within said subdivision, on which a house is constructed with an outdoor metering trough to be installed by and at the expense of said owner on the rear or side exterior of each house, and subsequent to owner's completion of excavation work necessary in connection therewith, will provide and install at its own expense, the underground service lateral extending from the incoming service point to the outdoor metering trough of said house. APC or OLP, their successors and assigns, will retain title to the underground service lateral and outdoor metering trough or (exclusive of circuit breakers) servicing each said house, and said service entrance facilities provided by APC or OLP will not in any way be considered a fixture or fixtures and thereby a part of said real estate, but will remain movable personal property belonging to said APC or OLP, their successors and assigns, and will be subject to removal by APC or OLP, their successors and assigns. Similar agreements may be reached with other utility providers and in such event the declarant may similarly obligate the property throughout the subdivision and each lot described in this plat and the property owners thereof.
13. See ARC Guidelines for use of satellite antenna disks.

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14. There will be a Homeowner's Association, which will be identified as the Towne Lake Homeowner's Association, Inc., hereinbefore and after referred to as the "Association", in which owners of each lot are entitled to participate having one vote per residential lot, and to which the owners of each lot shall be obligated, by ownership of said lot to be a member thereof, and shall be obligated to pay an annual base assessment and any other special assessments that may be assessed by said Association or its governing body. Said Association shall primarily be responsible for the installation and maintenance of areas of common responsibility (common areas) within areas of the overall subdivision, known as Towne Lake (which areas may include areas outside the lots in this plat), and the operation of the ARC and may provide insurance protection and/or other protections or guarantees to the Association in general and to the individual lot owners within the subdivision. This paragraph is intended to merely be a general description of the existence of the Association to the lot owners, their heirs and assigns, and their obligations with relation thereto. Further, more specific and detailed terms, provisions, operating procedures, assessment responsibilities, and other terms and provisions relating to said Association will be more specifically and fully set out in a separate document which will be identified as the "Articles of Incorporation of Towne Lake Homeowner's Association, Inc." and the "By-Laws of Towne Lake Homeowner's Association, Inc."
15. In addition to any other terms and provisions of the Articles of Incorporation and/or By-Laws of the Town Lakes Homeowner's Association, Inc., each lot owner shall be liable for a proportionate share of the expenses of the Association and particularly those which are incurred in the maintenance and repair of all common improvements within areas of the overall subdivision, known as Towne Lake (which areas may include areas outside the lots in this plat). The Association, through its Board, will set the appropriate amount of said assessment and will establish the annual due date for same. Any assessment not paid within thirty (30) days after the due date shall bear interest the rate of ten percent (10%) per annum from the due date until the date when paid. All payments upon said assessment account shall be first applied to interest and then to the assessment payment first due. The Association is hereby granted a lien upon each lot and its appurtenances and its undivided interest in the Association, which lien shall secure and does secure the monies due for all assessments now or hereafter levied or subject to be levied against the owner of each lot, and shall also secure interest, if any, which may be due on the account of any delinquent assessment, and which lien shall also secure all cost and expenses, including a reasonable attorney's fee which may be incurred by the Association in enforcing this lien. Said lien being prior to all other liens except only tax liens in favor of the United States, State, County or municipality and shall cover all sums unpaid and due for dues or assessments, whether in the form of a general assessment or a special assessment. No lot owner or owners may escape or avoid responsibility for dues or assessments by his or her waiver of the use of or enjoyment of any of the common elements or by the abandonment or non-use of his or her lot, or by any other means.

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16. The declarant may amend this declaration of protective covenants at any time so long as declarant has the right to appoint the Board of Directors of the Association; thereafter, this declaration may be amended only by the affirmative vote or written consent of voting members representing seventy-five percent (75%) of the total votes of the Association. Any amendment must be recorded in the Office of the Judge of Probate of Lee County, Alabama.
17. The Association shall indemnify every officer, director and committee member of the Association and the ARC against any and all expenses, including trial and appellate providers and in such event the declarant may similarly obligate the property throughout the subdivision and each lot described in this plat and the property owners thereof.
18. Storm drainage overflow easement. All lots adjacent to water shall be subject to a drainage overflow easement. No permanent structure shall be placed over any part of the drainage overflow easement without prior written approval from the ARC. The owner of each lot abutting the storm drainage overflow easements shown on this plat will hold the City of Opelika, Alabama, K & S Development, Inc., its successors and assigns, and Town Lakes Homeowners' Association, Inc., its successors and assigns, harmless for any damages or injury by storm water runoff to physical property or life, human or animal. The City of Opelika, Alabama, will not be responsible for installation and/or maintenance of the drainage overflow easement or of any private storm drainage easement.
19. Waterfront areas and waterways. Any lot which shall abut any lake, stream, pond or other waterway shall be subject to the following additional restrictions:
- A. No pier, dock or other structure or obstruction shall be built or maintained upon any waterfront lot or into or upon any waterway on the property or adjacent thereto except with the specific written approval of the ARC.
- B. Except with the prior written approval of the Association or ARC, no device may be constructed or installed upon any lot which shall in any way alter the course of or natural boundaries of any waterway or which shall involve or result in the removal of water from any waterway.
- C. All such lots shall be subject to a perpetual easement in favor of the Association over that portion thereof designated on the face of the plat a "storm drainage overflow easement" including the right to overflow and submerge the portion of the lot included therein.
- D. The owner of each water fronting lot shall have the right at all times of ingress and egress to and from the water, but shall be responsible for the maintenance of the lot between the side lot lines of his property to the waters edge.
- E. No watercraft of any type shall be allowed on any lake or pond except for use for professional maintenance, management or repair of said lake or pond.

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F. The owner of each lot abutting the waters edge shall release and discharge the Association and the City of Opelika, Alabama, a municipal corporation, K & S Development, Inc., from any and all claims for debt or damage sustained by owner or existing in owner's favor, to owner, owner's property and property rights heretofore or hereafter to be sustained or accrued by reason or account of the operation and maintenance of said lakes, streams, ponds or other waterway.

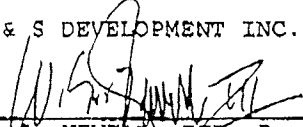
G. Wherever a lot or group of lots include areas of a lake or pond, it is the intention of the "declarant" to transfer all of said areas of such lakes or ponds to the adjoining lot owners which incorporate such lakes or ponds. Said lot owners shall have exclusive use of such lakes or ponds as are exclusive to said adjoining owners.


20. Wherever the term "owner" or "developer" or "declarant" is used herein, it shall include K & S Development, Inc. ("K & S"), its successors and assigns and Forrest F. Long ("Long"), his heirs and assigns. These covenants and restrictions touch and benefit all of the land reflected on the above referenced plat map and shall run with the land and shall be binding upon the land, K & S, Long, all subsequent lot owners or land owners within subject plat area, their successors and assigns, the utilities referenced herein either specifically or generally, and their successors and assigns. Operation of the Association will be turned over to the Association by the Declarant when seventy-five percent (75%) of the lots in the subdivision have been sold. The declarant reserves the right both for itself, its successors and assigns, to change, alter, modify or amend these protective covenants in accordance with terms, provisions and requirements hereof until such time as the operation of the Association is turned over to the Association by the declarant. Under no circumstances may these covenants be changed, modified, altered or amended without the written consent of the declarant or its successors or assigns so long as the declarant, its successors and assigns and/or his heirs and assigns, continue to have operational control of the Association as more particularly set out hereinabove.

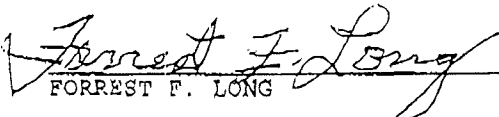
21. FENCES. No front yard fencing shall be permitted. All fences for back yards and swimming pools must be approved by the ARC prior to construction, and shall be of wood, vinyl or vinyl coated chain link. Fences may not exceed the height of six (6) feet.

IN WITNESS WHEREOF, the undersigned have hereunto set their signatures and seals on this the \_\_\_\_ day of July, 2000.

K & S DEVELOPMENT INC.

  
\_\_\_\_\_  
W. S. NEWELL, III, President

Attest:   
\_\_\_\_\_  
DANIEL KEITH/NEWELL,  
Secretary

  
\_\_\_\_\_  
FORREST F. LONG

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HRL SMITH, JUDGE OF PROBATE, LEE COUNTY

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that W. S. Newell, III and Daniel Keith Newell whose names as President and Secretary, respectively, of K & S Development, Inc., a corporation, are signed to the foregoing restrictions, and who are known to me, acknowledged before me on this day, that, being informed of the contents of said restrictions, they, in said capacities and with full authority, executed the same voluntarily on the day the same bears date for and as the act of said corporation.

Given under my hand and official seal this 31 day of July, 2000.

(SEAL)

Ruby F. Franklin  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 6-7-2003

STATE OF ALABAMA

COUNTY OF LEE

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Forrest F. Long, whose name is signed to the foregoing restrictions, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said restrictions, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 29<sup>th</sup> day of ~~July~~, 2000.

August  
(SEAL)

Emilia D. Beatty  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 7.16.2003

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MEL SMITH  
JUDGE OF PROBATE  
LEE COUNTY

This Instrument Was Prepared by  
Melton Gunter and Melton  
P.O. Box 409  
Opelika, AL 36803-0409