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REAL 723 PCE 313

36.00

STATE OF ALABAMA)

JEFFERSON COUNTY)

DECLARATION OF EASEMENTS AND PROTECTIVE COVENANTS

This Declaration of Easements and Restrictive Covenants is made and entered into on this the 10th day of November, 1988, by Highland Crest, Ltd., an Alabama Limited Partnership, hereinafter referred to as "Declarant."

W I T N E S S E T H :

WHEREAS, Declarant is the owner of property described as Sectors I and III according to the Map and Survey of Highland Crest, recorded in Map Book , at Page , in the Office of the Judge of Probate of Jefferson County, Alabama, Bessemer Division (the "Property"); and

WHEREAS, Declarant desires to subject the property and each lot therein to the conditions, limitations and restrictions hereinafter set forth.

NOW, THEREFORE, Declarant hereby covenants and declares that the Property shall henceforth be subject to the the following easements, protective covenants, conditions, limitations, and restrictions as follows:

I. RESTRICTIONS AS TO USE.

A. Use Of Property Restricted To Single Family All lots shall be known and described as residential lots and shall be used for detached single-family residential purposes exclusively.

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B. One Family Only. No more than one family unit shall occupy any dwelling unit.

C. No Occupancy Of Temporary Structures. No structure of a temporary character, or trailer, tent or shack shall be used at anytime as a residence, either temporarily or permanently. There shall be no occupancy of any dwelling until the interior and exterior of the dwelling are complete and a certificate of occupancy has been issued.

D. No Further Subdivision. No lot shall be further subdivided.

II. CONSTRUCTION STANDARDS AND LIMITATIONS.

A. Setback Requirements. No building shall be located on any lot nearer to the front line, or nearer to a side street, than the minimum building setback lines shown on the recorded plat. No building shall be located nearer than 35 feet to any side street line. No building shall be located nearer than 10 feet to an interior lot line. No building shall be located on any interior lot nearer than 35 feet to the rear lot line. For the purpose of this covenant, eaves, steps and open decks or terraces shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of any structure to encroach upon another lot.

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B. Minimum Square Footage. Every house constructed shall meet the following size requirements: The main structure of the residential building, exclusive of open porches, garages and basements, shall contain a minimum of 2,200 square feet of finished and heated living area; a 1-1/2 story building shall have a minimum of 2,400 square feet; and a 2-story building shall have a minimum of 2,500 square feet.

C. Maximum Height Of House. No house which exceeds two stories or 35 feet in height may be constructed on any lot.

D. Garage Doors. Garage doors shall not be permitted on the fronts of houses except with approval of the Architectural Control Committee.

E. Placement Of Air Conditioning Units. Outside air conditioning units may not be located in front yards.

F. Plumbing And Heating Vents. No plumbing or heating vents shall be placed on the fronts of houses.

G. No Use Of Black Mortar. No black mortar shall be used in any construction.

H. Windows. All windows are to be framed or encased in wood.

I. Mailboxes. The design, size and construction of all mail boxes are to be approved by the Architectural Control Committee.

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J. Completion Of Construction. Once the construction of any building is begun, work thereon must be pursued diligently and continuously and must be completed within 12 months.

III. GENERAL

A. Duty Of Owner To Keep Lot Clean.

(1) Owner's Responsibility. It shall be the responsibility of each lot Owner to prevent the lot and all buildings located thereon from appearing unclean or unsightly. No unsightly weeds, underbrush or other growth shall be permitted to grow or remain upon any part of the Property, and no refuse pile or unsightly objects shall be allowed to be placed or to remain upon any part of the Property, whether or not the Property is vacant.

(2) Declarant's Right To Clean Lots; Lien For Cost. Declarant reserves the right (after 10 days' notice to the Owner) to enter upon any lot during normal working hours, whether the lot is vacant, improved, or occupied, for the purpose of mowing, removing, cleaning or cutting underbrush, weeds or other unsightly growth and trash which, in the sole opinion of the Declarant, detracts from the overall beauty and safety of the subdivision. Declarant may charge the Owner the reasonable cost for such services and shall have a lien in the amount of such cost.

(3) Owner's Responsibility For Damage During Construction. During construction, all vehicles, including

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those delivering supplies, must enter the building lot only on the driveway approved by the Declarant and so as not to unnecessarily damage trees, street paving and curbs. Any damage not repaired by the contractor may be repaired by Declarant (after 10 days' written notice to the Owner) and the cost therefor charged to the Owner, which charge shall constitute a lien upon such lot, enforceable by appropriate proceedings at law or equity. During construction, all builders must keep the homes, garages and building sites clean. All building debris, stumps, trees, etc., must be removed from each building lot by the builder as often as necessary to keep the house and lot attractive.

B. Prohibited Uses and Activities.

(1) Animals. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot; provided, however, that dogs, cats or other household pets may be kept so long as they are not kept, bred or maintained for any commercial purposes.

(2) Nuisances. No noxious, noisy, or offensive activity shall be carried on upon any lot; nor shall anything be done thereon which is or may be or become an annoyance or nuisance to a neighboring lot owner.

(3) Storing And Disposal Of Garbage And Trash. No trash, garbage or other refuse shall be dumped, stored or accumulated on any lot, even during construction. Trash, garbage or other waste shall not be kept on any lot

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except in sanitary containers or garbage compactor units. Garbage containers shall be kept in a clean and sanitary condition and shall be so placed or screened by shrubbery or other appropriate material approved in writing by the Committee so as not to be visible at any time from any road or waterway except during refuse collection.

(4) Burning Of Trash. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, except during the construction period.

(5) Sight Obstructions. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines extended. The same sight line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. Trees shall be permitted to remain within such distances of such intersections provided that the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

(6) Limitations On Fences. The Architectural Control Committee shall have the right to approve the location and design, as well as the materials used in construction, of all fences. No fencing shall be allowed in the front yard. No fencing or walls shall extend nearer the street than the front line of the home nor exceed six feet

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six inches (6'6") in height; provided, that the Committee may, at its discretion, permit the height of an individual fence to be increased to a greater height.

(7) Limitations On Signs. One (1) on-premise, un-lighted real estate "For Sale" or rental sign shall be allowed per residential lot; provided that such sign is located entirely within the property, does not exceed six (6) square feet in copy area, is mounted on a stake at a height not to exceed forty-eight (48) inches to the top of the sign, and is removed within five (5) days after the sale or rental of the property. Off-premises "For Sale" or rental signs are prohibited.

IV. ARCHITECTURAL CONTROL COMMITTEE.

A. Formation of Architectural Control Committee.

The Architectural Control Committee (the "Committee") composed of John B. Davis, Jr., Steven L. Davis, and K. B. Weygand, is hereby constituted. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Members shall serve without compensation.

B. Relinquishment Of Control. Upon the (i) development of at least seventy-five per cent (75%) of the lots in Sectors I and III by the construction thereon of single-family residential dwellings and (ii) occupancy of said dwelling units by their owners or tenants, the then

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record owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee.

C. Submission Of Plans Prior To Beginning Of Construction. All plans and specifications for any structure to be erected on or to be moved upon or to any lot, or for any improvement whatsoever to any lot or exterior of any structure, shall be submitted to the Committee for its approval before any work is commenced. The plans and specifications submitted to the Committee shall show the proposed location on the property, the nature of the exterior construction material, and the roof design and materials. Construction may not be started before receipt of a Letter of Approval from the Committee, a copy of which must be signed by the Builder, or Owner, and returned to the Committee for attention.

D. Content Of Plans. One set of prints of the drawings and specifications (both together referred to as "Plans") for each house or other structure proposed to be constructed on each lot shall be submitted. The Plans submitted to the Committee may be retained by the Committee. Plans should be delivered to the office of Davis & Major, 1031 21st Street South, Birmingham, Alabama, at least ten (10) days prior to the beginning of construction. All plans must include the following:

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(1) An accurately drawn and dimensional plot plan showing all building set-backs, easements, drives and walks.

(2) Foundation plan, floor plan, exterior elevations of building above finished grade as they will actually appear after all back filling and landscaping is complete. (The back filling-sketch may be drawn by a builder.)

(3) All plans must include summary specifications or a list of proposed materials and exterior color selections. Samples of exterior material which cannot be adequately described on the plans or materials with which the Committee is unfamiliar must be submitted with the plans.

(4) Only upon the submission of all reasonably requested plans in the manner set forth above shall the Committee be deemed to have received the plans for the purposes of Section E hereof.

E. Approval Implied If Committee Does Not Respond. The Committee's approval or disapproval as required in these covenants shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove Plans within ten (10) business days after the receipt by the Committee, then such Plans shall be deemed to have been approved by the Committee.

F. Non-Liability Of Committee And Its Members. Neither the Committee nor Declarant shall be responsible to check for any defects in any Plans submitted in accordance with the foregoing provisions; nor shall either have responsibility for any structural or other defects in any work done using or purporting to use such plans. Notice is hereby given that no approval by the Committee shall be

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deemed a warranty by the Committee of the structural integrity or soundness of any structure to be erected using plans or specifications submitted to the Committee; and that no such approval may be relied upon in any fashion except as constituting evidence of compliance with the requirements of these Covenants.

V. RESERVATION OF EASEMENTS.

Declarant reserves for itself, its successors and assigns, the right to use, dedicate and/or convey to the State of Alabama, Jefferson County, and/or to the appropriate utility company or companies, rights-of-way or easements on, over, across or under the ground to erect, maintain and use utilities, electric and telephone poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public convenience or utilities on, in and over strips of land ten (10) feet in width along the rear property line of each lot and five (5) feet in width along each side line of each lot.

VI. MISCELLANEOUS PROVISIONS.

A. Severability of Clauses. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid or

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unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

B. Retention Of Right To Declare Additional Restrictions. Declarant retains for itself, only, the right to include in any contract or deed hereafter made additional covenants and restrictions that Declarant deems necessary or desirable, but which are not inconsistent with, and which do not lower, the standards of the covenants and restrictions set forth herein.

C. Covenants Run With Land. The covenants and restrictions herein shall be deemed to be covenants running with the land.

D. Enforceability. If any person shall violate or attempt to violate any of such restrictions or covenants, it shall be lawful for the undersigned, or any person or persons owning any lot in said subdivision to (a) prosecute proceedings at law for the recovery of damages against the person or persons so violating or attempting to violate any such covenant or restriction, or (b) maintain a proceeding in equity against the person or persons so violating or attempting to violate any such covenant or restriction for the purpose of preventing such violation; provided, however, that the remedies contained in this paragraph shall be construed as cumulative of all other remedies now or hereafter provided by law.

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E. Covenants And Restrictions Reciprocal. The covenants and restrictions set forth herein are made for the mutual and reciprocal benefit of each lot within the herein described subdivision and are intended to create (i) mutual, equitable servitudes upon each lot within such subdivision; (ii) reciprocal rights between and among the respective owners and future owners of each lot within such subdivision; and (iii) as respects the property, a privity of contract and estate between Declarant's grantees and such Grantee's respective heirs, executors, administrators, successors and assigns.

F. Declarant Not Responsible For Maintaining Sewer System. It shall be the responsibility of each lot Owner, and not Declarant, to locate the sewer lateral and stub on the lot and assure that such location will allow gravity flow from the residence to the main sewer line. Maintenance of the sewer system for the Property shall be performed by the City of Hoover and the Declarant shall have no responsibility therefor.

G. Declarant Not Responsible For Acts of Hoover Building Fees. No construction on any lot shall be permitted or commenced until such time as a building permit has been obtained from the City of Hoover, Alabama, and all sewer impact fees and connection costs shall have been paid to Jefferson County Department of Health, by the lot Owner. The

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Declarant shall have no responsibility for payment of any of the aforesaid fees.

H. Interim Responsibility Of Declarant To Maintain Areas Of Common Use. Declarant undertakes to maintain entranceways, medians and other areas of common use until January 1, 1990, at which time Declarant shall have no further duty or obligation with regard to these areas whatsoever, except that upon the request of a majority of owners, it will execute a quitclaim deed to an association composed of owners.

IN WITNESS WHEREOF, Highland Crest, Ltd., an Alabama limited partnership, has caused this Declaration of Protective Covenants to be executed this the 10th day of November, 1988.

HIGHLAND CREST, LTD., An
Alabama limited partnership

BY [Signature]

Its General Partner

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STATE OF ALABAMA)

JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Ronald B. Wingard, whose name as General Partner of Highland Crest, Ltd., an Alabama limited partnership, is signed to the foregoing instrument and who is known to me, on this day, that being informed of the contents of said instrument, he in his capacity as such General Partner of Highland Crest, Ltd., executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 15th day of November, 1988.

Timothy J. Cantrell
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 6-20-91

STATE OF ALA. JEFFERSON CO
BESSEMER DIVISION
THIS INSTRUMENT

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