

tenants and guests, of the Owners and shall also name Developer as an additional insured.

(e) All insurance coverages required in Sections 9.05(a) and 9.05(b) shall be written in the name of the Association and a proportionate share of all costs thereof shall be a Common Expense.

(f) Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his or her Lot and Dwelling. The Board may require all Owners to carry public liability insurance with respect to their respective Lots and Dwellings and to furnish copies or certificates thereof to the Association. Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot or Dwelling, does hereby waive and release Developer, the ARC, the Association, the manager of the Development, and the Association and their respective agents, employees, representatives, partners, shareholders, members, officers and directors, from any and all liabilities or damage covered by (or which should be covered by) fire and casualty (e.g. homeowner's and/or builder's risk) insurance and general liability insurance which any Owner maintains, even if such loss or damage has been caused by the fault or negligence of any of the foregoing persons or parties.

ARTICLE X.

TERM AND AMENDMENTS

10.01 **Term.** The terms, covenants, conditions and restrictions set forth in these Covenants shall run with and bind all of the Development, shall inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of twenty-five (25) years from and after the date hereof, after which time these Covenants shall be automatically renewed and extended for two (2) successive and continuous periods of ten (10) years each, unless, at any time after twenty (20) years from the date hereof, an agreement executed by the Owners of at least two-thirds (2/3) or more of the Lots or Dwellings within the Development agreeing to terminate or modify these Covenants has been recorded in the Chancery Clerk of Rankin County, Mississippi; provided, however, that the rights of way and easements established, granted and reserved in Article III hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

10.02 Amendment by Developer. For so long as Developer owns any Lot, or Dwelling within the Development, or until such earlier date as Developer elects, in Developer's sole discretion, Developer may amend these Covenants by a written instrument filed and recorded in the Chancery Clerk of Rankin County, Mississippi, without obtaining the approval of any Owner or Mortgagee; provided, however, that except as otherwise provided in Section 10.04, (a) in the event any amendment proposed by Developer materially and adversely alters or changes any Owner's rights to the use and enjoyment of his or her Lot or Dwelling or materially and adversely affects the title to any Lot or Dwelling, then such amendment shall be valid only upon the written consent thereto by the affected Owner or, alternatively, by fifty percent (50%) of all of the Owners (including Developer who shall have the voting rights attributable to any Lots or Dwellings owned by Developer) or (b) in the event any such proposed amendment by Developer would materially and adversely affect the title and interest of any Institutional Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Institutional Mortgagees affected thereby. Any amendment made pursuant to this Section 10.02 shall be certified by Developer and shall be effective upon recording of the same in the Chancery Clerk of Rankin County, Mississippi. Each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, and each Mortgagee, by acceptance of a Mortgage on any Lot or Dwelling, agrees to be bound by all amendments permitted by this Section 10.02 and further agrees that, if requested to do so by Developer, such Owner and Mortgagee will consent to the amendment of these Covenants or any other instrument relating to the Development or the Association if such amendment is (i) necessary to bring any provision hereof into compliance or conformity with the provisions of any law, ordinance, statute, rule or regulation of any applicable Governmental Authority or the judicial decision of any state or federal court, (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lot or Dwelling, (iii) required by any Institutional Mortgagee in order to enable such Institutional Mortgagee to make a Mortgage loan on any Lot or Dwelling or (iv) necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on any Lot or Dwelling within the Development.

10.03 Amendments by Association. Amendments to these Covenants, other than those authorized by Section 10.02, shall be proposed and adopted by the Association in the following manner, subject to the prior written approval of the Association:

(a) At any annual or special meeting of the members of the Association, an amendment to these Covenants may be proposed by either the Board of the Association or by any Owners present in person at such meeting. Any such proposed amendment must be approved by the Owners holding at least two-thirds (2/3) of the total Votes in the Association; provided, however, that (i) for so long as Developer owns a Lot or Dwelling within the Development, or until such earlier date as Developer elects, in Developer's sole discretion, Developer must approve such proposed amendment and (ii) to the extent the proposed amendment affects any of the matters described in Section 10.04, then the provisions of Section 10.04 below shall be applicable to such proposed amendment.

(b) Any and all amendments which have been approved in accordance with the provisions of Section 10.03(a) shall be executed by all parties whose consent to the same is required, including the Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however, that in the alternative, the sworn statement of the President of the Association or by the Chairman of the Board stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment without the written consent of any Owner. Any such amendment shall be effective upon recording of the same in the Chancery Clerk of Rankin County, Mississippi.

10.04 Restrictions on Amendment. Notwithstanding anything provided herein to the contrary, in no event may any amendment to Sections 1.13, 1.14, 5.11, 2.03, 2.04, 3.01 through 3.10, 5.02, 5.05(b), 5.10, 5.12, 5.12, 6.01, 6.09, 6.17, 6.21, 6.23, 6.25, 8.03, 8.05, 10.02, 10.03, 10.04 and 12.01 hereof or any other provisions of these Covenants which require Developer's and/or the Association's consent or approval be effective unless Developer and/or the Association consents in writing to any such amendment requiring its consent. The consent of Developer or the Association to any such proposed amendment may be withheld in the sole discretion of Developer or the Association, respectively, with or without any reason.

ARTICLE XI.

ENFORCEMENT

11.01 Authority and Enforcement. In addition to the provisions of Sections 5.12, 6.18, 6.19(a), 6.25, 6.29, 7.02(b) and 8.10 above, in the event any Owner or Occupant or their respective

agents, contractors or invitees, violates any of the provisions of these Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations adopted by the Board of the Association from time to time, the Board shall have the power to (i) impose reasonable monetary fines which shall constitute an equitable charge and continuing lien upon the Lot and Dwelling and shall be a personal obligation of such Owner which is guilty of such violation, (ii) suspend an Owner's right to vote in the Association, or (iii) suspend an Owner's or Occupant's right (and the right of such Owner's or Occupant's family members, guests and tenants) to use any of the facilities located in or upon the Common Areas, and the Board shall have the power to impose all or any combination of any of the foregoing sanctions. Any such suspension of rights may be for the duration of the infraction.

11.02 Procedure. In the event any of the terms or provisions of these Covenants, the Articles of Incorporation, the Bylaws or any rules and regulations of the Association are violated by an Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine, suspend voting rights or infringe upon or suspend any other rights pursuant to Section 11.01 unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations which demand shall specify:

- (i) The alleged violation;
- (ii) The action required to abate such violation;
and
- (iii) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one or if the violation is not a continuing one, a statement that any further violation of the same provision of these Covenants, the Architectural Standards, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Association may result in the imposition of sanctions. The foregoing procedure shall only be applicable to the enforcement rights specified in Section 11.01 and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of these Covenants.

11.03 Nonexclusive Remedies. Notwithstanding anything provided to the contrary in these Covenants, the authority,

enforcement and procedural rights set forth in this Article XI are in addition to and shall not be deemed to limit the other rights and remedies set forth in these Covenants or which the Association, acting through the Board, would have the right to exercise at law or in equity.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

12.01 **Control by Developer.** NOTWITHSTANDING ANYTHING PROVIDED TO THE CONTRARY IN THESE COVENANTS, THE ARTICLES OF INCORPORATION, THE BYLAWS OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATING TO THE DEVELOPMENT, DEVELOPER HEREBY RETAINS THE RIGHT TO APPOINT AND REMOVE ANY MEMBER OR MEMBERS OF THE BOARD OF THE ASSOCIATION AND ANY OFFICER OR OFFICERS OF THE ASSOCIATION AS PROVIDED BY AND FOR THE PERIOD OF TIME SET FORTH IN SECTION 4.02. Each Owner, by acceptance of a deed or other conveyance of any interest in a Lot or Dwelling, agrees that Developer shall have the authority to appoint and remove members of the Board and officers of the Association in accordance with the foregoing provisions of this Section 12.01 and the provisions of Section 4.02 above. At such time as Developer no longer owns any interest in any portion of the Development, or at such earlier date as Developer elects, in Developer's sole discretion, a special meeting of the Association shall be called within a reasonable time thereafter at which time the Owners shall elect a new Board which shall undertake the responsibilities of the Board and Developer shall deliver all books, accounts and records of the Association, if any, which Developer has in its possession.

12.02 **Legal Expenses.** In addition to the rights and remedies set forth in Sections 5.12, 6.18, 6.19(a), 6.25, 6.29, 7.02(b), 8.11 and in Article XI above, in the event either the Association, its agents or representatives, the ARC, its agents or representatives, or the Board, its agents and representatives, undertake any legal or equitable action which either of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of these Covenants, then all costs and expenses incurred by either of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or conditions in these Covenants shall be paid for by the Owner against whom such action was initiated. The Association, its agents and representative, the ARC, its agents and representatives, and the Board, its agents and representatives, are each hereby authorized to take any and all legal or equitable action as may be

necessary under the circumstances to restrain or enjoin any such violation or breach or to otherwise seek monetary damages as a result of any expenses incurred by either the ARC or the Association to cure such violation or breach.

12.03 Severability. If any provision of these Covenants or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of these Covenants or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and each provision shall be valid and enforceable to the fullest extent permitted by law.

12.04 Captions and Headings. The captions and headings contained in these Covenants are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of these Covenants. The table of contents, cover page and any index to these Covenants are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

12.05 Pronouns and Plurals. All personal pronouns used in these Covenants, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

12.06 Binding Effect. The terms and provisions of these Covenants shall be binding upon each Owner, Occupant and Mortgagee and the respective heirs, executors, administrators, personal representatives, successors and assigns of each Owner, Occupant and Mortgagee, and shall inure to the benefit of Developer, the ARC, the Association, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12.07 Conflict or Ambiguity. In the event of any conflict or ambiguity in the terms and provisions of these Covenants, the general rules of construction against one party as a result of that party having drafted these Covenants are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguity shall be resolved in favor or to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein.

12.08 **No Reverter.** No restriction or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Developer nor shall any provision be deemed to vest any reversionary interest in Developer.

12.09 **Interpretation.** In all cases, the provisions set forth and provided for in these Covenants shall be construed together and given that interpretation or construction which, in the opinion of Developer, the Association or the Board, as the case may be, will best effect the intent of the general plan of development for the Development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of these Covenants shall be the date hereof. These Covenants shall be construed under and in accordance with the laws of the State of Mississippi.

12.10 **Right of Third Parties.** These Covenants shall be recorded for the benefit of Developer the Association, the Owners and their respective Mortgagees and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Development or the operation and continuation of either, in the enforcement of any of the provisions of these Covenants or the right to consent to or approve any amendment or modification to these Covenants.

12.11 **No Trespass.** Whenever the Association, Developer, the ARC and their respective agents, employees, representatives, successors and assigns, are permitted by these Covenants to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.

12.12 **No Partition.** Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Development.

12.13 **Reservation of Rights.** Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance or other hypothecation of any Lot or Dwelling by Developer to a third party shall constitute or be deemed a transfer of any of the rights reserved herein to Developer unless reference is made in such instrument of conveyance to the

specific rights created in these Covenants which Developer is transferring to any such third party.

12.14 Standards for Review. Whenever in these Covenants Developer, the Association or the ARC has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of Developer, Association or the ARC, as the case may be.

12.15 Oral Statements. Oral statements or representations by Developer, the Association, the ARC or any of their respective employees agents, representatives, successors or assigns, shall not be binding on Developer, the Association or the ARC.

12.16 Notices. Notices required hereunder shall be in writing and shall be delivered by hand, by overnight courier, telecopied, or sent by registered or certified United States Mail, postage prepaid return receipt requested. Any notice so addressed and mailed shall be deemed to be given five (5) days after deposit in the United States Mail, and if delivered by hand, shall be deemed to be given when delivered, and if telecopied or delivered by overnight courier, shall be deemed to be given on the business day immediately following the day on which it was sent or delivered. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association or, if no such address has been so designated, at the address of such Owner's respective Lot or Dwelling within the Development. All notices to the Association or the ARC shall be delivered or sent in care of Developer to the following address:

Canebrake Development Company
4400 Mangum Drive
Jackson, MS 39208

or to such other address as the Association or the ARC may from time to time specify in a notice to the Owners. All notices to Developer shall be sent or delivered to Developer at the above address or to such other addresses as Developer may notify the Association.

12.17 Assignment. Subject to the provisions of Section 12.14 above, Developer, the Association and the ARC shall each have the right to assign any and all of the rights, powers, reservations and duties contained herein to any person or entity who shall thereupon

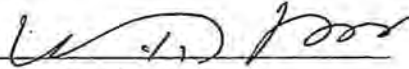
have the same rights, power, reservations and duties as Developer, the Association, and the ARC, respectively.

12.18 **Further Assurances.** Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformity or otherwise, which may be reasonably requested by Developer, the Association or the ARC for the purpose of or in connection with clarifying, amending or other consummating any of the transactions and matters herein.

12.19 **No Waiver.** All rights, remedies and privileges granted to Developer, the Association and the ARC pursuant to the terms and provisions of these Covenants shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

IN WITNESS WHEREOF, Developer has caused these Covenants to be duly executed as of the day and year first above written.

CANEBRAKE DEVELOPMENT COMPANY, a
Mississippi corporation

By: 
Its: CHAIRMAN

STATE OF MISSISSIPPI

COUNTY OF RANKIN

Personally appeared before me, the undersigned authority in and for the said County and State, on this 12TH day of JULY, 2000, within my jurisdiction, the within named W. I. Hegg, who acknowledged that [he] [she] is of CANEBRAKE DEVELOPMENT COMPANY, a Mississippi corporation, and that for and on behalf of the said corporation, and as its act and deed, [he] [she] executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.

Ronica D Palato
NOTARY PUBLIC

My Commission Expires:

APRIL 10, 2004
[AFFIX NOTARIAL SEAL]



EXHIBIT A

(Insert Legal Description of +- 65 acres)

EXHIBIT B

(Insert Legal Description of Buffer Zone)



2000 7-12 AM 4:15
RANKIN COUNTY MS THIS INSTRUMENT WAS FILED FOR RECORD IN B 916 P 198
MURPHY ADKINS, CHY. CLK.
BY [Signature] D.C.

Greg Shoemaker
Canebrake Dev.
Box 5754
① Jay 39288