

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

THORNBERRY OWNERS ASSOCIATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, is made this ____ day of September 2000, by Charlie Brown's Hi-Performance Services, L.L.C.

WHEREAS, Charlie Brown's Hi-Performance Services, L.L.C., hereinafter sometimes referred to as "DEVELOPER AND OR OWNER", being the owner of real property described in the plat of Thornberry in Houston County, Alabama. Recorded in the Office of Judge of Probate of Houston County in Alabama, in Plat Book _____. Page _____.

GENERAL RESTRICTIONS

For the purpose of creating and carrying out of a uniform plan for the improvement and sale of property, the following restrictions subject to the provisions hereof and made a part of each and every contract and Deed executed by or on behalf of Owner, its heirs, executors, administrators, successors or assigns, the same shall be considered a part of each and every contract and Deed as though incorporated fully therein and these restrictions as hereinafter set forth shall be and are hereby imposed on each lot described above, as shown by said Plat and referred to herein, and the same shall constitute covenants running with the land and shall be binding upon and shall inure to the benefit of Owner, its heirs, executors, administrators, successors or assigns, and all subsequent purchasers of said Lots, and each such purchaser, by virtue of accepting a contract or a Deed covering said lots, shall be subject to and bound by such restriction, covenants and conditions, and for the terms of this instrument as hereinafter set forth. Thornberry is a Private Gated Development and the "**Streets are Not County Maintained**".

- (1) Residential Use. The lots described herein shall be described as residential in nature and shall be used for single family residential use only. No structure shall be erected on any residential lot other than single family dwelling, not to exceed two stories in height and an attached or detached garage and out buildings of the same design and material. No building shall erected, altered, placed or permitted to remain on any lot other than for the purposes set out in this paragraph except as may be approved by the Architectural Control Committee.
- (2) Building Location on Lots. No building shall be located on any lot nearer to any street than the minimum building set back lines shown on the recorded plat or in any event, nearer than fifty feet to the front line and ten feet to any property line. For the purpose of these covenants, coves, steps and open porches shall not be considered as part of the building, provided, however, that this shall not be

constructed to prevent any portion of a building on a lot to encroach upon another lot.

- (3) Signs. No sign of any kind shall be displayed to the public view of any residential lot, except one sign of not more than 5 square feet advertising the property for sale, lease or rent, one professional sign of not more than one square foot or signs used by a builder or the developer to advertise the property during the construction and sales period.
- (4) Raising, breeding, or keeping of any animals, livestock, poultry or birds of any kind shall not be kept on any lot. Household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes. No more than three (3) domestic household pets per lot will be permitted. All domestic household pets must be restricted to the owner's property and not allowed off the owner's property with out proper restraints (Leash Law).
- (5) No Dangerous, noxious, offensive or excessively noisome activities which may or become an annoyance or nuisance to Owners.
- (6) No boats, trailers, mobile homes, Motorhomes, or trucks with tonnage in excess of one ton shall be permitted to park on the streets, driveway, or lots overnight, unless they can be located in a garage in such a way as to not be visible from the street, and no vehicle of any size which normally transports inflammatory or explosive cargo may be kept in this subdivision at any time. No vehicles will be allowed to park on the streets during home construction, all vehicles must be parked on the lots that construction is being performed. Concrete Curb must be cut and a turnabout installed at the start of construction so curb and gutter are not destroyed during home construction.
- (7) Remedies for Vehicle and Recreation Equipment Violations. Any such vehicle or recreation vehicle parked in violation of these or other regulations contained herein or in the rules and regulations now or hereinafter adopted by the Association may be towed by the Association at the sole expense of the owner of such vehicle or recreational equipment if it remains in violation for period of twenty-four (24) hours. The Association shall not be liable to the owner of such vehicle or recreational equipment or trespass, conversion, or otherwise, nor guilty of a criminal act by reason of such towing and neither its removal nor failure of the owner to receive any notice of said violation shall be grounds for relief of any kind.
- (8) No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in clean and satisfactory condition.
- (9) No building material of any kind or character shall be placed or stored upon the property until the owner is ready to commence improvements, and then such material must be placed within the property lines of the lot, upon which the improvements are to be erected, and shall not be placed in the street between the pavement and property line.

- (10) No stumps, trees underbrush or any refuse of any kind, nor scrap material from the improvements being erected on any lot shall be placed on any adjoining lots, street or easements. All such material, if not disposed of immediately, must remain upon the property upon which the construction work is in progress and at the completion of such improvements, such material and containers must be immediately removed from the property. Commercial trash containers must be used during construction. No burning of trash, stumps, trees will be allowed.
- (11) No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil well, tanks, tunnels, minerals excavations or shafts, be permitted upon or in any lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any residential lot.

ARCHITECTURAL COMMITTEE

The Architectural Committee shall be composed of the designated representative of Charlie Brown's Hi-Performance Services, LLC. which Committee and its successors are hereby vested with the full right and authority to act as such under these restrictions. In the event of the death, removal or resignation of the committee member, Charlie Brown's Hi-Performance Services, L.L.C. shall designate a successor. No member of the committee shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of 90% of the lots shall have the power, through a duly recorded written instrument, to change the membership of the committee. The Architectural Committee shall not be liable in damages to anyone submitting plans to it for approval or any owner or occupants of Thornberry by reason of error or mistake in judgement, negligence, or non-feasance arising out of or in connection with the approval or disapproval or failure to approve any such plans.

In the event said Committee fails to approve or disapprove, in writing, any design or location within thirty (30) days after plans and specifications have been submitted to it (which submission shall have been made in writing), or in any event, 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 the covenants contained in these restrictions shall be deemed to have been fully complied with.

ARCHITECTURAL CONTROL

No improvements of any character shall be erected, nor the erection thereof begun, nor changes made in the exterior design thereof after original construction, on any residential lot until plans and specifications have been submitted to and approved in writing by the Architectural Committee herein after constituted. Such approval shall include the exterior design, materials to be used, the location on the lot, as well as harmony of design within the subdivision. It is the intent of these restrictions to provide for a high quality residential community and, to that end, the Architectural Committee is

hereby granted broad powers to construe and apply these restrictions and to decide on questions hereunder. In addition, the following requirements shall specifically apply:

- (1) **Temporary Buildings.** No trailer, basement, tents, shack, garage or any other structure of a temporary character shall at any time be erected or used on any lot as a residence or business. Construction Buildings, temporary in nature may be used during actual construction of a home being erected thereon, and then, such building must be on the lot on which construction is in process and not on adjoining lots, streets, or easements, and at completion of construction, the temporary building must be removed immediately. No temporary building or structure shall be used for residential purposes during the construction.

- (2) **Limitation on Size, Location of Structures and Construction of Buildings**
 - (a) **Minimum floor area.** The Minimum Floor of the Main Structure exclusive of open porches and garages, shall be not less than 2500 square feet. Floor Plans and Exterior Elevations of the single family residence must be provided to the Architectural Committee

 - (b) **Exposed Exterior.** The exposed exterior wall area of the first floor, exclusive of doors, windows or gables, shall be 20% masonry material. (No Vinyl Siding will be approved). The Name and Address of the lot owners general contractor and samples of exterior material and exterior color board (4ft x 4ft) must be provided to the Architectural Committee.

 - (c) **Buildings.** All buildings (Storage, Pool House, Detached Garage, RV Storage, Barn, i.e. on the property will be of the same Design, Structure and Material as the Main Structure. The Architectural Control Committee may waive the 20% masonry requirement of cases where the plans due to architectural styling would, in the opinion of the committee, demand the use of other acceptable building materials, which are approved by said Committee. Masonry material shall be of the quality and appearance equal or superior to standard clay or shale common brick, color pigment Portland Cement Brick or quarried stone. An accurately drawn and dimensional plot plan showing all set backs, easements, sewer, disposal systems, drains, wells, fences, screened enclosures, pools, drives and walks must be provide to the Architectural Committee.

 - (d) **Roofs.** All roofs shall be of composition, tile, slate or similar materials; however, the Architectural Committee based upon its Design, Weight and Color must approve selected roof material. Suggested Style is Architectural Dimension Three Tab Shingle with a 25 Year or better warranty with a color of Weathered Brown Wood or Weathered Gray Wood. Sample of roof material must be provided to the Architectural Committee.

 - (e) **Three Car Garage.** Each residence shall include a garage of not less than three-car size (minimum of 36 feet in width). The placement of garages on lots shall be subject to approval of the Architectural Control Committee, which committee shall have authority to accept or reject any proposed plan in this regard. In no event will garages openings be allowed to face a street or Lake.

- (f) **Water Removal.** No devise may be constructed or installed upon any lot that which will result in the removal of water from any water way without prior written approval of the Architectural Control Committee.
- (g) **Lawn and Landscape.** Automated Irrigation system must be installed for the Lawn and Landscape and plans must submitted for approval by the Architectural Committee. Landscaping, including grassing, planting of shrubs, trees flowers and Irrigation system shall be completed in 30 days from the completion of the main structure of any residence
- (2) **No garage apartment** for rental purposes shall be permitted. However, this does not prevent occupancy of servants quarters by domestic servant domiciled with an owner or occupant.
- (3) **Walls, fences or hedges** shall not be erected or maintained nearer to the front lot line than the wall of the structure situated on such lot, which is nearest to such front lot line, unless otherwise approved in writing by the Architectural Control Committee. All side or rear fences and walls must be at least six feet in height, unless otherwise approved in writing by the Architectural Control Committee. No chain link fences shall be permitted.
- (4) **No Tree Houses** shall be permitted
- (6) **Clothes lines.** No clothing or other household fabric shall be hung in the open on any lot or property unless the same is not visible from any adjoining property or public view.
- (7) **Manufactured Housing.** No manufactured housing or manufactured homes shall be permitted.
- (8) **Transmission Equipment.** No visible ham radios or radio transmission equipment shall be operated or permitted to be operated on any lot. No Television or radio antennas shall be permitted on any lot without the prior written approval of the Architectural Control Committee.
- (9) **Mailboxes.** The Architectural Control Committee will be responsible for the design and location of a uniform mailbox to be placed and used with each lot.
- (10) **Vehicle Maintenance and Repair.** No maintenance or repair shall be performed on any vehicle upon any portion of the property, unless performed in a garage, except in an emergency situation. All emergency repairs must be completed within four hours of the immobilization of the vehicle or the vehicle must be removed. Should the Thornberry Owners Association own any maintenance vehicles it shall be allowed to Maintain and store its maintenance vehicles on specific areas of the property designated by the Thornberry Owners Association.
- (11) **Utilities.** To the extent of interest of the owners of said lots, the owner of a lot will not erect or grant any person, firm or corporation the right to erect any overhead facilities. All electrical and telecommunication facilities shall be installed and maintained underground.

- (12) **Exterior Lighting.** All exterior Lighting shall be subject to the review of the Architectural Control Committee.
- (13) **Tree Removal.** No trees shall be removed from lots without the expressed written consent of the Architectural Committee. The following are guidelines used for tree removal: (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees; (c) trees that need to be removed for safety reasons; or (d) trees that need to be removed in the immediate location of a building approved by the Architectural Committee.
- (14) **Maintenance.** All structures, landscape and other improvements upon individual lots shall be continuously maintained by the owner thereof so as to preserve the well kept appearance, especially along the perimeters of any lot, including a vacant lot. Lots must be kept neat, clean, orderly, free of debris and litter, mowed and trimmed. Landscaping, including grassing, planting of shrubs, trees flowers and Irrigation system shall be completed in 30 days from the completion of the main structure of any residence.
- (15) **No Docks.** No Docks will allowed on Lake
- (16) **No Boats.** Except for the temporary use by developer/owner and/or Thornberry Owners Association for maintenance of the lake and lake equipment.

COMMON AREA

- (1) Common Area is for exclusive use or primary benefit of the owners and occupants of lots within the development. This includes streets, drainage, structure, entry features, recreation facilities, landscaped medians, cul-de-sacs and lake.
- (2) All cost associated with maintenance, repair replacement and insurance of a Common Area shall be assessed as Homeowners Assessment. (See Covenants for Maintenance Assessments)

COVENANTS FOR MAINTENANCE ASSESSMENT

- (1) **Purpose of Assessments.** The assessments levied by the Thornberry Owners Association shall be used for the general purpose of promoting the recreation, health, safety, welfare, common benefits and enjoyment of the owners and occupants in Thornberry, including maintenance of real and personal property, all may be more specifically authorized by the board for the following: (a) the improvement and maintenance of access easements and streets and for provisions for certain other services. (b) the procuring of services for the owners, including, but not limited to, maintenance and operation of common areas, streets, drainage construction, reconstruction, repair, replacement, or refinishing of any portion of access easements and such other service as approved by 66% of owners of the Thornberry and (c) the repair of capital improvements of on an street, structure, drainage, access easements or common area's.

Notwithstanding the above restrictions on use of funds for improvements and maintenance of the access easements or common area, the said funds, may to extend of the excess accumulated surplus over the total amount of regular assessments for the preceding year, be used for capital expenditures to benefit the access easements or common areas and fulfil the purpose of the Thornberry Owners Association.

- (2) **Creation of Liens and Personal Obligation for Assessments.** There are hereby created assessments for Thornberry Owners Associations expenses as the Board may specifically authorize from time to time. There shall be four types of assessments: (a) Base Assessments for Thornberry Property Owners to fund common expenses for the general benefit of all lots; (c) Special assessments for expenses benefiting only specific lots within the Thornberry Development; and (c) Special Assessments as described herein; and (d) Benefited Assessments as described herein. Each owners, by accepting a deed or entering into a recorded contract for any portion of the Properties, is deemed to convenient and agree to pay these assessments.

All assessments, together with interest (at a rate not to exceed the highest rate allowed by Alabama Law) as computed from the date the delinquency first occurs, late charges, cost, and reasonable attorney's fees, shall be a charge and continuing lien upon each lot against which the assessment is made until paid, as more particularly provide herein. Each such assessment, together with interest, late charges, cost and reasonable attorney's fees, also shall be the personal obligation to the person who was the owner or such lot at the time the assessment arose. Upon a transfer of the title to a lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a lot by exercising the remedies provided in its Mortgage shall be liable for the unpaid assessments which accrued prior to such acquisition of title.

No Thornberry Lot Owner may exempt himself from liability for assessments, by non-use of Common Area, abandonment of his or her lot or any or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Thornberry Lot owner.

- (3) **Computation of Assessments.** At least 60 day before the beginning of each fiscal year, the board shall prepare a budget covering the estimated expenses during the coming year, including any capital expenditure that have been approved by the Thornberry Owners Association.

The Base assessment shall be levied equally against all lots and shall be set at a level which is reasonably expected to produce total income for the Thornberry Owners Association equal to the total budget common expense, including reserves.

The Board shall send a copy of the budget and the amount of the assessment for the following year to be delivered to each Lot Owner at least 30 days prior to the beginning of the fiscal year. Such budget and assessments shall become effective unless disapproved at a meeting by members at least 75% of the total votes (one vote per lot) in the Thornberry Owners Association.

DURATION OF RESTRICTIONS

These covenants are to run with the land and shall be binding upon all parties claiming under them for a period of twenty-five years from the date these covenants are recorded. After such time, said covenants shall be automatically extended for successive periods of five years, unless an instrument signed by a majority of the then owners of lots has been recorded, agreeing to change said covenants, in whole or in part.

Charlie Brown's Hi-Performance Service, L.L.C. reserves the right to waive any of the provisions set forth in this instrument as to any lot or lots shown on the plat heretofore described, such waiver shall be in writing and when duly recorded, shall bind the Developer/Owner, their successors and all owners of lots shown on said Plat. Charlie Brown's Hi-Performance Service, L.L.C., further reserves the right to alter or amend these restrictions in writing and which alteration or amendment when duly recorded shall be binding upon all owners of all lots shown on said plat.

Charlie Brown's Hi-Performance Service, L.L.C. may assign or convey appropriate instruments to any person or corporation, any or all of the rights, reservations, easements and privileges herein reserved by it, and upon the duly recording of such assignment or conveyance, their assigns or Grantees, at their option, may exercise, transfer or assign such rights, reservations, easements and privileges or any one or more of them at any time or times in the same way and manner as though directly reserved by them in this instrument.

SEVERABILITY

Invalidation of any of these covenants by judgement or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

Failure to enforce any of the restrictions or covenants herein set forth at the time of this violation shall in no event be deemed to be a waiver of the right to do so at any time thereafter.

Charlie Brown's Hi-Performance Services, L.L.C.
Thornberry Development

BY: _____
Charles Brown, Managing Partner
Charlie Brown's Hi-Performance Service, L.L.C.

STATE OF ALABAMA

COUNTY OF HOUSTON

Before me, the undersigned, a Notary Public is and for said County and State, on this day personally appeared Charles E. Brown, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said Charlie Brown's Hi-Performance Services, a Limited Liability Company, for the purposes and consideration therein expressed, and in the capacity therein stated.

Given under my hand and seal of office, this ____ day of September, 2000.

Notary Public, FIRST AND LAST NAME
State of Alabama, My Comm. Expires: 00/00/00