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Silver Woods Restrictive Covenants and Home Owners Association Road Maintenance Agreement

KNOW ALL MEN BY THESE PRESENTS, that this Declaration of Restrictions and Covenants is made, adopted, published and declared this 10th day of January, 2004, by PowerPartnership L.L.C. , hereinafter sometimes referred to as the "Declarant".

WITNESSETH:

WHEREAS, the undersigned is the record title holder of the real property in the County of Mobile, Alabama, and described as follows:

Silver Woods Unit I as per plat recorded in Map Book 103, Page 67, of the records in the Office of the Judge of Probate Court of Mobile, County, Alabama.

WHEREAS, the undersigned is desirous of placing certain restrictions, conditions and reservations (hereinafter collectively referred to as "restrictions") upon the above described property in accordance with a general scheme or plan in order (a) to protect the owners of each lot against improper use of surrounding lots as will depreciate the value of the property, (b) to preserve, as far as possible, the natural beauty of each lot, (c) to insure the creation of attractive, well designed, properly proportioned and appropriate homes of suitable materials with appropriate locations on said lots, (d) to insure proper build setbacks from street and lot lines, (e) to provide adequate free space between structures, and (f) in general, to assure the best and most appropriate development and improvement of the subdivision and each lot thereon;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall insure to the benefit of each other thereof.

- 1. RESIDENTIAL USE ONLY:** All lots in the subdivision shall be known and described as residential lots for homesites, and no lot may be used for anything other than residential purposes except for possible commercial business use allowed only with written permission from the declarant. Use of these lots will be determined solely by PowerPartnership, LLC. No mobile homes shall be permitted on residential lots. No house may be constructed with less than 1,200 square feet of living area, and must be completed within 12 months after commencement of construction.
- 2. ARCHITECTURAL COMMITTEE:** No building shall be erected, placed or altered on any lot in the subdivision until each of the following shall be approved in writing by an Architectural Committee composed of Melissa Coffey and Paul Smith Powers or by a representative of the members of said Committee. No construction may begin until the house and site plan has been approved by the Committee. Approval shall be based on conformity and harmony in the subdivision, and on compliance with all requirements of these restrictions.

In the event of death or resignation of a member of the Architectural Committee, remaining member or members shall have full authority to appoint a successor member and to approve, disapprove or waive according to the provisions of this Section. Neither the members of such committee, nor its designated representative, shall be entitled to any compensation for services performed pursuant to this covenant. The powers and duties of such committee, and its designated representative, shall cease on and after January 10, 2014. Thereafter, the approval described in this covenant shall not be required unless, prior to said date and effective thereon, a written instrument shall be executed by the then record owners of a majority of the lots in this subdivision and duly recorded appointing a representative, or representatives, who shall thereafter exercise the same powers previously exercised by said committee.

- 3. RELEASE OF LIABILITY:** Neither the Developer, the Declarants, the Committee or Association, its employees, agents or assigns, shall be liable to any lot owner(s) in SILVER WOODS, for (i) the manner in which it or they exercise or for it or their failure or refusal to exercise any right or authority herein granted to them, whether discretionary or not; (ii) for the failure or refusal of any lot owner or comply with any of the provisions hereof; or (iii) the failure or refusal of the Developer, Declarants, Committee or the Association to enforce any of the provisions hereof against any lot owner, his or her builder, agent or assigns.

4. **RESUBDIVISION:** Except as hereinafter provided, no lots in the subdivision may be resubdivided. A resubdivision may be had upon approval of the owners of no less than sixty (60%) percent of the lots in the subdivision by an officer of POWER PARTNERSHIP L.L.C.

5. **COMMON AREAS:** Shall mean any and all property (including the improvements thereto) shown on the plat as common are or deed by Declarant to the Association for the common use and enjoyment of the owners, and all roads used in ingress and egress to any of the lots, whether owned by the Association or not.

6. **HOMEOWNER'S ASSOCIATION:**

A. An association of owners for the maintenance of the common areas and roadways of the subdivision is being formed concurrently herewith and shall be known as SILVER WOODS OWNER'S ASSOCIATION (hereinafter sometimes referred to as "the Association") (The owners are encouraged, but not required, to incorporate the Association as a nonprofit corporation under the statutes of the State of Alabama).

B. Every owner of a lot in Silver Woods is automatically a member of said Association and subject to said restrictive covenants. Membership in the Association shall be appurtenant to, and may not be separated from, each lot in the Subdivision. All members shall be entitled to one vote for each lot owned. When more than one person or entity owns an interest in any lot, all such persons and entities shall be members. The vote shall be exercised as they among themselves determine.

C. The common areas and roadways shall include all common areas shown on the plat of the subdivision, including all roads, and any other common areas or roadways approved by the owners of not less than sixty (60%) percent of the lots in the subdivision.

D. Each lot in the Subdivision, whether improved or unimproved, shall be assessed its pro rata share of an annual general assessment and such special assessments for capital improvements, repairs, or other expenses as may be determined from time to time by the homeowner's association.

E. General assessments shall be due and payable on January 1st of each year. The general assessment due and payable on January 1, 2003 shall be \$75.00 per lot for all lots. Each year thereafter the Association shall estimate the cost of the maintenance of the common areas together with such other expenses as it deems necessary for current operations, and such estimate shall be deemed the annual general assessment.

F. From time to time, the Association may determine the cost of necessary capital improvements, major repairs, and necessary expenses not provided for in the annual general assessment, including costs of operation of the Association, and such costs shall be deemed a special assessment.

* If the Association fails, in any succeeding year, to set an amount for the general assessment, the amount of the general assessment for the year prior shall be deemed to be the amount of the general assessment for the then current year.

G. Any assessment not paid within thirty (30) days after the due date shall bear interest at a rate of 8% per annum from the date due, or at such other percentage rate as may be established by resolution of the Board of Directors with notice of such rate to be given to each lot owner in a manner to be designated by the Association.

H. All assessments, together with interest thereon and the costs of collection thereof, including a reasonable attorney's fee, as hereinafter provided, shall be the personal obligation of each such lot owner and shall be a charge and lien on the lot against which each such assessment is made.

I. The lien for unpaid assessments shall be effective from and after the time of recording in the Records of the Office of the Judge of Probate, Mobile County, Alabama, a claim of lien stating the lot number, the name of the record owner, the amount due and the date when due. Such claims of lien shall include only sums which are due and payable when the claim of lien is recorded and shall be signed and verified by an officer or agent of the association. Upon full payment of all sums secured by the lien, the party making payment shall be entitled to a recordable satisfaction of lien.

J. The Association may bring an action at law against the owner personally or may foreclose the lien created by the terms of this document in accordance with the statutory provisions of the laws of the State of Alabama then in effect for the foreclosure of the mortgages. Proceeding against the owner personally shall not be deemed a waiver of the right to foreclose the lien. No owner may escape liability for assessments provided for herein by the abandonment or transfer of such owner's lot.

K. Upon any voluntary conveyance of a lot, the grantor and grantee of such lot shall jointly and severally be liable to the association for all unpaid assessments accrued up to the date of such conveyance without prejudice to the right of the grantee to recover from the grantor any such amounts.

L. Any lot owner, prospective purchaser of a lot, or holder of a mortgage or other lien on any lot may, at any time, obtain from the Association a certificate showing the amount of unpaid assessments pertaining to such lot. The Association shall provide such certificate within ten (10) days after request therefore. Any person, other than the lot owner at the time of issuance of any such certificate, may rely upon such certificate, and his liability for unpaid assessments shall be limited to the amounts set forth in such certificate.

M. Any entity, its successors and assigns, obtaining title to a lot as a result of foreclosure of a mortgage or vendor's lien, or receiving a deed in lieu of foreclosure, shall not be liable for unpaid assessments. Such unpaid share assessments shall be deemed an expense of the Association to be collected as part of a future Special Assessment.

7. OFFENSIVE ACTIVITIES, ETC.: No trade or business activity of any kind shall be carried on upon any lot, nor shall any noxious or offensive activity be done thereon which shall be or become an annoyance or nuisance to the neighborhood. No outside clothes lines shall be permitted in the subdivision unless screened in such manner as not to be visible from adjacent lots or streets.

8. TRAILERS, ETC.: No trailer, tent, shacks, garage, barn, or other outbuilding erected on any lot shall at any time be used as a residence, temporarily or permanently, nor shall any structures of a temporary character be used as a residence, except as set forth by this paragraph. No campers and/or trailers may be kept on the premises unless kept within a fully enclosed garage or under a carport not visible from any street. No boat 25 feet in length, or larger may be kept on the premises and all smaller boats must be kept on trailers in the rear yard not visible from any street, or within a garage or carport not visible from any street. Any metal building must be on the rear of the property, and any satellite dish is to be placed in the rear portion of the property.

9. ANIMALS: Dogs, cats and other domesticated animals, not to exceed four (4), of which there shall be no more than two (2) dogs, may be kept by each lot owner, provided they are not kept, bred or maintained for any commercial purpose or use, and are not a nuisance, annoyance or danger to the neighborhood. No other animal or fowl shall be kept or maintained on any part of said property except for not more than a total of 5 horses or cattle on lots 2 acres or larger. Exceptions only with written permission of the Declarant.

10. GARBAGE DISPOSAL CONTAINERS AND EQUIPMENT: No lot shall be used as a dumping ground for rubbish or for storage of abandoned junk and inoperable vehicles. Inoperable vehicles may be towed away at owners/lot purchasers expense. Excess trash may be cleaned up at owners/lot purchasers expense after given formal notice by U S Mail. All debris and trash from clearing or construction must be immediately removed. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean, sanitary condition. All yards are expected to be free from excess debris and maintained in good condition.

11. SIGNS: No sign of any kind shall be displayed to public view on any lot except one professionally lettered sign not more than four (4) square feet in size, which may advertise the property for sale or rent; except during the construction period, an additional sign may be erected by the builder and a security service sign shall also be allowed when applicable.

12. EASEMENTS AND ROAD MAINTENANCE: All easements shown on the record plat of the subdivision are hereby adopted as a part of these restrictions and all lots in the subdivision shall be subject to such easements. The Declarant reserves unto himself and his successors and assigns the benefit of said easements, but the Declarant expressly disclaims all obligations to construct, expand, improve, install, maintain, repair, and replace power, gas,

sewer, telephone, and other utility line, equipment and facilities and drainage ditches and facilities, in, on, over, and under the streets and roads and easements shown on the recorded plat of the subdivision, and any other publicly dedicated right-of-way. Declarant expressly disclaims all obligation to construct, expand, improve, install, operate, maintain, repair and replace streets, roads, lights, walls, fences, shrubbery, bushes, trees and other decorative or screening improvements in, on, over and under the property included within the areas designated as fences, drainage and/or utility easements, if any. The Declarant reserves the right to grant unto others such easements, rights and privileges as the undersigned may deem appropriate of convenient therewith.

13. INGRESS AND EGRESS MAINTENANCE THEREOF: The nonexclusive use of an ingress and egress roadway easement is available to any and for all lot owners.

It is expressly understood that Paperwood Road is a PRIVATE ROAD and that neither the COUNTY OF MOBILE nor the DEVELOPER shall have any responsibility for maintaining said private road and that any maintenance will be the responsibility of the lot owners. Upon a vote of a majority of said lot owners, with one vote per lot, said private road shall be filled, graded, crowned, or otherwise upgraded and maintained at such cost as is approved by said majority of lot owners and shall be borne by all of the lot owners equally and each said lot owner shall pay when due the lot owner's prorata share of said expense. Each lot owner agrees and does waive demand, protest, and notice of protest, and all rights of exemption and further agrees to pay all costs of collection, including a reasonable attorney's fee incurred in the collection of said owner's prorata share.

14. DRIVEWAYS: If driveway pipes are used, all pipes for driveways must be approved in writing by the Architectural Committee or upon an affirmative vote of the owners of sixty (60%) percent of the lots in the subdivision to ensure proper length and width. All pipes for driveways shall be furnished at the expense of the buyer.

15. FENCES: No wire fence shall be allowed within seventy-five (75) feet from the front of the lot line (front of the lot line shall be that portion facing a public or private road), except for a manufactured chainlink fence, installed by a license fence builder. Any chainlink fences may be used at any place on the lot, including within seventy-five (75) feet of the front lot line. After 75 feet, from front of the lot line, any fencing is allowed.

16. AMENDMENT OR MODIFICATION OF RESTRICTIONS: Any or all of the restrictions or requirements hereinabove set forth may be amended, or modified at any time by an instrument executed by the owners of not less than seventy-five (75%) percent of the lots in said subdivision, which said instrument shall be acknowledged by each such owner signing same and shall be filed for record in the records of the Judge of Probate of Mobile County, Alabama. Additionally, Power Partnership L.L.C. reserves the right to amend or modify any or all of the restrictions or requirements herein through a written document executed by a member of Power Partnership L.L.C. and filed for record in the records of the Judge of Probate of Mobile County, Alabama.

17. TERM: The restrictive covenants stated herein, subject to amendment or modification as herein provided, shall run with the land and shall be binding on all owners, and upon all parties and persons claiming under or through them, for a period of 10 years following the date of adoption stated hereinabove. These restrictive covenants shall automatically be extended for successive periods of ten years unless an instrument is revoked by a document recorded in the records of the office of the Judge of Probate of Mobile County, Alabama reflecting the signatures of a majority of the then owners.

18. DECLARANT: All references herein to Power Partnership L.L.C. shall expressly include the heirs, successors and assigns of each of them.

19. VIOLATIONS: Except as provided herein, any violation of these covenants shall not act as a cloud upon the title of the property concerned.

20. ENFORCEMENT: If any person or persons shall violate or attempt to violate any of the restrictions contained herein, it shall be lawful for any member of the Subdivision association to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such restriction, either to prevent him or them from so doing or to recover damages for such violation.

21. **SEVERABILITY:** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall be and remain in full force and effect.

IN WITNESS WHEREOF, Power Partnership L.L.C. has caused this instrument to be duly executed by him on the date set out in the acknowledgment below.

Power Partnership L.L.C.

By: *Paul Smith Powers*
Paul Smith Powers, as it's Manager

STATE OF ALABAMA
COUNTY OF MOBILE

I, the undersigned Notary Public in and for said State and County, do hereby certify that Paul Smith Powers, as manager of Power Partnership L.L.C., an Alabama Corporation, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of said conveyance, he, executed the same voluntarily on the day the same bears date.

Given under my hand and official seal of office on this the 10th day of January, 2004.

Langellia D. Brunstahl
Notary Public
**NOTARY PUBLIC, ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES 8/12/07**

This Instrument Prepared By:
Power Partnership L.L.C.
P. O. Box 953
Saraland, Al 36571
(251) 342-0600

State of Alabama - Mobile County
I certify this instrument was filed on:

Wed, Feb-11-2004 @ 1:09:07PM
S. R. FEE 2.00
RECORDING FEE 13.50
TOTAL AMOUNT \$15.50

2004010457

Don Davis, Judge of Probate