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Total Fees: \$ 55.00

55.00

CERTIFICATE OF FORMATION

OF

CYPRESS POINT AT UNIVERSITY CLUB HOMEOWNERS' ASSOCIATION, INC.

AN ALABAMA NON PROFIT CORPORATION

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Prepared By:
J. Alex Muncie III
Muncie & Mattson, P.C.
987 Drew Lane
Auburn, AL 36830

**CERTIFICATE OF FORMATION
OF
CYPRESS POINT AT UNIVERSITY CLUB HOMEOWNERS' ASSOCIATION, INC.

AN ALABAMA NONPROFIT CORPORATION**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Alabama Nonprofit Corporation Law hereby adopts the following Certificate of Formation and certify as follows:

1. **NAME.** The name of the corporation is "Cypress Point at University Club Homeowners' Association, Inc." (hereinafter referred to as the "Association").
2. **DURATION.** The period of duration of the Association shall be perpetual.
3. **PURPOSES.** The purposes for which the Association is organized are:
 - (a) To provide for the efficient preservation of the appearance, value, and amenities of the property which is subject to the Declaration of Covenants for Cypress Point at University Club Subdivision (the "Restrictive Covenants") recorded in Book 2420 at Page 96 in the Office of the Judge of Probate of Lee County, Alabama. Capitalized terms not otherwise defined herein shall have the same meanings given to them in the Restrictive Covenants.
 - (b) To own, operate, maintain, manage, repair, and replace common areas of Cypress Point at University Club Subdivision, as defined in the Restrictive Covenants, (the "Subdivision").
 - (c) To perform and carry out the acts duties, responsibilities, and conditions delegated to the Association in the Restrictive Covenants, this Certificate of Formation and the Bylaws of the Association, and all amendments thereto.
 - (d) To own, lease, license, operate, purchase, acquire, hold, improve, develop, manage, sell, convey, transfer, exchange, release, and dispose of, either alone or in conjunction with others, real and personal property, tangible and intangible, or every kind, character, and description.
 - (e) To enforce all of the terms and provisions of the Restrictive Covenants to make, establish, and enforce reasonable rules and regulations governing the administration, operation, and management of the Subdivision.
 - (f) To make, levy, collect, and enforce Assessments, as defined in the Restrictive Covenants and to use and expend such Assessments in the manner set forth in the Restrictive Covenants.
 - (g) To employ personnel and contract for services, material, and labor, including contracting for the management of the common areas and all other portions of the Subdivision.

- (h) To purchase and maintain insurance for such coverages, with such insurance carriers, in such amounts, at such rates, and with such deductibles as may be necessary for the protection of the Association, its officers, directors, and members.
- (i) To enforce any of the provisions of the Restrictive Covenants by legal and equitable actions as may from time to time be necessary.
- (j) To enter into, make, and perform contracts of every kind for any lawful purpose without limit as to the amount, with any person, firm, association, partnership, limited partnership, corporation, municipality, county, state, territory, government, governmental subdivision, or body public.
- (k) To operate without profit for the sole and exclusive benefit of its members.
- (l) To carry on any other business in connection with the foregoing, to transact any or all lawful business for which corporations may be incorporate under the Alabama Nonprofit Corporation Law, as amended, and to have and exercise all powers necessary or convenient to effect the purposes of the Association in accordance with the subject to the terms and provisions of the Restrictive Covenants.

THIS ASSOCIATION DOES NOT CONTEMPLATE PECUNIARY GAIN OR PROFIT FOR THE MEMBERS THEREOF AND THE FUNDS OF THE ASSOCIATION, WHETHER RECEIVED BY GIFT OR OTHERWISE, REGARDLESS OF THE SOURCE THEREOF, SHALL BE EXCLUSIVELY USED IN THE PROMOTION OF THE BUSINESS OF THE ASSOCIATION, AS THE BOARD OF DIRECTORS MAY FROM TIME TO TIME DETERMINE.

4. INITIAL REGISTERED OFFICE AND AGENT. The location and mailing address of initial registered office of the Association, and the name of its initial registered agent at such address, are as follows:

Mark Marlow
207 Ivy Lane
Auburn, AL 36830

5. NONSTOCK AND NONPROFIT STATUS. The Association shall have no capital stock, is not organized for profit, and does not contemplate pecuniary gain or profit to the members thereof. No part of the earnings of the Association shall inure to the benefit of any member, individual officer, or director. The Association does not contemplate the distribution of gains, profits, or dividends to members thereof and is organized solely for nonprofit purposes.

6. MEMBERS. The members of the Association shall consist of all owners of lots in the Subdivision. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of a lot or dwelling.

7. DIRECTORS.

(a) Number of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors constituting the initial Board of Directors shall be three (3). Thereafter, the number of Directors shall be fixed in the manner provided in the Bylaws and may thereafter be increased or decreased from time to time by amendment to or in the manner provided by the Bylaws; provided, however, that (i) the number of Directors shall in no event consist of less than three (3) and (ii) no decrease in the number of Directors shall have the effect of shortening the term of any incumbent Director. Directors need not be owners of lots within the Subdivision or residents of the State of Alabama. The names and addresses of each person who is to serve as an initial Director of the Association until their successors are elected and qualified or until such Directors are removed as provided in Paragraph 7(b) of this Certificate of Formation are as follows:

Mark Marlow
207 Ivy Lane
Auburn, AL 36830

Michael Faulkner
1578 Marley Lane
Auburn, AL 36830

Michael Thompson
2603 Mimms Lane
Auburn, AL 36832

(b) Removal. The members of the Association shall have the right at any time and from time to time to remove any Director, either with or without cause, and may appoint a successor to such removed Director. Any vacancies which may thereafter arise on the Board of Directors shall be filled as provided in the Bylaws.

(c) Powers. Except as may be otherwise provided to the contrary in the Restrictive Covenants, this Certificate of Formation, or the Bylaws of the Association, all powers of the Association shall be exercised by or under authority of, and the business and affairs of the Association shall be managed under the direction of the Board of Directors.

(d) Conflicts of Interest. No contract of other transaction between the Association and one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors or any other corporation, firm, association, or entity in which one or more of its Directors are directors or officers or are financially interested, shall be either void or voidable because of such relationship or interest. Any Director of the Association or any corporation, firm, association, or entity of which any Director of the Association is a director or is financially interested may be a party to, or may be pecuniarily or otherwise interested in, any contract or transaction of the Association, provided such relationship or interest in such contract or transaction shall be disclosed or known to the Board of Directors at the meeting of the Board of Directors or a committee thereof which authorizes, approves, or ratifies such contract or transaction and, if such fact shall be disclosed or known, any Director so related or interested may be counted in determining a quorum at such meeting and may vote on such matter or action with the same force and effect as if he were not so related or interested. Any Director of the

Association may vote on any contract or other transaction between the Association and any affiliated corporation without regard to the fact that he is also a director of such affiliated corporation.

8. INCORPORATOR. The name and address of the incorporator is as follows:

Mark Marlow
207 Ivy Lane
Auburn, AL 36830

9. DISTRIBUTION OF ASSETS UPON DISSOLUTION.

(a) Upon Dissolution of the Association, all of its assets remaining after provision for creditors and payments of all costs and expenses of such dissolution shall be distributed among the members of the Association, as tenants in common, with each member's share of the assets to be determined in accordance with its voting rights, unless otherwise agreed to the contrary in the plan of distribution.

(b) Dissolution of the Association shall be accomplished as set forth in the Alabama Nonprofit Corporation Law.

10. POWER OF PRESIDENT TO EXECUTE DOCUMENTS. The President of the Association shall have the authority to execute all instruments, documents, and contracts on behalf of the Association.

11. INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS.

(a) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed claim, action, suit, or proceeding, whether civil, criminal, administrative, or investigative, including appeals (other than an action by or in the right of the Association), by reason of the fact that he is or was a Director, officer, employee, or agent of the Association, or is or was serving at the request of the Association as a Director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such claim, action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association; and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any claim, action, suit, or proceeding by judgment, order settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify any person who was or is a party or is threatened to be made a party of any threatened, pending, or complete claim, action, or suit by or in the right of the

Association to procure a judgment in its favor by reason of the fact that he is or was a Director, officer, employee, or agent of the Association, or is was serving at the request of the Association as a Director, officer, partner, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association; or matter as to which such person shall have been adjudged to be liable for willful, deliberate, or wanton misconduct in the performance of his duty to the Association unless and only to the extent that the courts in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which court shall deem proper.

(c) To the extent that a Director, officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Paragraphs 11(a) and (b) above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith, notwithstanding that he has not been successful on any other claim, issue, or matter in any such action, suit, or proceeding.

(d) Any indemnification under Paragraphs 11(a) and (b) above (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Paragraphs 11(a) or (b) above. Such determination shall be made (1) by the Board of Directors by a majority vote of the quorum consisting of Directors who were not parties to, or who have been wholly successful on the merits or otherwise with respect to, such claim, action, suit, or proceeding, or (2) if such a quorum is not obtainable, or even if obtainable, if a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion, or (3) by a majority vote of the members of the Association.

(e) Expenses (including attorneys' fees) incurred in defending a civil or criminal claim, action, suit, or proceeding may be paid by the Association in advance of the final disposition, of such claim, action, suit, or proceeding as authorized in the manner provided in Paragraph 11(d) above upon receipt of an undertaking by or on behalf of the Director, officer, employee, or agent to repay such amount if and to the extent that it shall be ultimately determined that he is not entitled to be indemnified by the Association as authorized in this Paragraph 11.

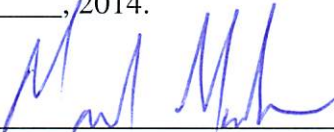
(f) The indemnification authorized by this Paragraph 11 shall not be deemed exclusive of and shall be in addition to any other right to which those indemnified may be entitled under and statute, rule of law, provisions of this Certificate of Formation, Bylaws, agreement, vote of members or disinterested Directors, or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

(g) The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of the Paragraph 11.

12. Amendment. This Certificate of Formation may be amended, subject to terms and provisions of the Restrictive Covenants, by the affirmative vote of at least two-thirds (2/3) of the total votes in the Association (i.e., two-thirds [2/3] of all owners).

13. Incorporation by Reference. All of the terms, provisions, definitions, covenants, and conditions set forth in the Restrictive Covenants are hereby expressly incorporated herein by reference as if fully set forth herein. In the event of any conflict or ambiguity between the terms, provisions, definitions, covenants, and conditions set forth herein in this Certificate of Formation and the Restrictive Covenants, then the provisions of the Restrictive Covenants shall at all times control.

IN WITNESS WHEREOF, the undersigned Incorporator has executed this Certificate of Formation on the 29 day of April, 2014.



Mark Marlow, Incorporator

STATE OF ALABAMA
LEE COUNTY

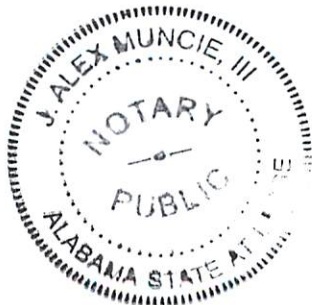
The undersigned Notary Public in and for said County in said State, hereby certifies that Mark Marlow, whose name as Incorporator of Cypress Point at University Club Homeowners' Association, Inc., is signed to the foregoing Certificate of Formation, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, each executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this the 29 day of April, 2014.

(NOTARY SEAL)



Notary Public, State at Large
My commission expires: 03.01.17



Jim Bennett
Secretary of State

P.O. Box 5616
Montgomery, AL 36103-5616

STATE OF ALABAMA

I, Jim Bennett, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

Cypress Point at University Club Homeowners' Association, Inc.

This name reservation is for the exclusive use of Muncie & Mattson, P.C., P.O. BOX 3208, AUBURN, AL 36831-3208 for a period of one year beginning October 03, 2013 and expiring October 03, 2014



RES638333

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.

October 03, 2013

Date

A handwritten signature in black ink, appearing to read "Jim Bennett".

Jim Bennett

Secretary of State