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**DECLARATION OF PROTECTIVE COVENANTS**  
**FOR**  
**WOODMONT GOLF AND COUNTRY CLUB**

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## **TABLE OF EXHIBITS**

### Exhibit Name

"A" Definitions

"B" Property Submitted

"C" Additional Property Which Can be Unilaterally Submitted by Declarant

"D" Bylaws of Woodmont Golf and Country Club Community Association, Inc.

**DECLARATION OF PROTECTIVE COVENANTS  
FOR  
WOODMONT GOLF AND COUNTRY CLUB**

THIS DECLARATION is made on the date hereinafter set forth by John Wieland Homes and Neighborhoods, Inc., a Georgia corporation (hereinafter sometimes called "Declarant").

**Background Statement**

Declarant is the owner, or if not the owner has the written consent of the owner, of the real property described in Article II, Section 1 of this Declaration.

Declarant desires to subject the real property described in Article II, Section 1 hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the real property described in Article II, Section 1 of this Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, shall be binding on all persons having any right, title or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns, and shall inure to the benefit of each and every owner of all or any portion thereof and the owner of the Club Property.

**Article I  
Definitions**

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A" attached hereto and by reference made a part hereof.

**Article II  
Property Subject to this Declaration**

**Section 1. Property Hereby Subjected to this Declaration.** The real property described in Exhibit "B" attached hereto and by reference made a part hereof is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration.

**Section 2. Other Property.** Only the real property described in Section 1 of this Article II is hereby made subject to this Declaration; provided, however, by one or more Supplementary Declarations, Declarant and the Association have the right, but not the obligation, to subject other real property to this Declaration, as hereinafter provided.

**Article III**  
**Association Membership and Voting Rights**

**Section 1. Membership.** Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one vote be cast for each Lot owned.

**Section 2. Voting. Members shall be entitled to one vote for each Lot owned.** When more than one Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one Person seeks to exercise it.

**Article IV**  
**Assessments**

**Section 1. Purpose of Assessments.** The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, welfare, common benefit and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

**Section 2. Creation of the Lien and Personal Obligation for Assessments.** Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest on the principal amount due at a rate not to exceed the lesser of the

maximum rate permitted by law or eighteen percent (18%) per annum, costs and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

The Association shall, within ten (10) days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

Assessments shall be paid at a uniform rate per Lot in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of assessments for delinquents. Unless otherwise provided by the Board, assessments shall be paid in annual installments.

The monthly costs of operating the Association may fluctuate dramatically during each budget year. Therefore, the Board is not required to prorate the assessment obligation of any Owner who has not lived in the Community for a full year. For example, if the bulk of the costs of operating the Association are likely to be incurred in the summer months, any Owner moving into the Community after the beginning of the budget year but prior to the summer months may be required to pay full assessments.

**Section 3. Computation.** It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared and shall include an amount equal to the estimated financial obligations, if any, of the Association under any Covenant to Share Cost. The Board shall cause the budget and the assessment to be levied against each Lot for the year (or portion thereof in the case of the initial budget) to be delivered to each member at least thirty (30) days prior to the due date for payment of the assessment (or the first installment thereof). The assessment shall become effective unless disapproved at a meeting by a Majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

**Section 4. Special Assessments.** In addition to the other assessments authorized herein, the Association may levy special assessments. So long as the total amount of special assessments allocable to each Lot does not exceed Three Hundred Dollars (\$300.00) in any one fiscal year, the Board may impose the special assessment. Except as provided in Article VII, Section 2 hereof, any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a Majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

**Section 5. Lien for Assessments.** All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs and reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association, and the Association shall be entitled to file such a lien in the land records of the county in which the Lot is located. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens of ad valorem taxes, or (b) liens for all sums unpaid on a first Mortgage, or (c) liens for all sums on any Mortgage to Declarant duly recorded in the land records of the county where the Community is located and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

**Section 6. Effect of Nonpayment of Assessments: Remedies of the Association.**

Any sums (including assessments or installments thereof) assessed against any Lot pursuant to this Declaration which are not paid when due shall be delinquent. Any such sums delinquent for a period of more than ten (10) days shall incur a late charge in such amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If any such sums are not paid within thirty (30) days after the due date, the Board may accelerate and declare immediately due all such sums (including annual assessments or installments thereof) without any further notice being given to the delinquent Owner, and a lien, as herein provided, shall attach. Such lien shall include the late charge, interest on the principal amount due at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum, all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. If any sum assessed against any Lot pursuant to this Declaration remains unpaid after sixty (60) days from the due date, the Association may, as the Board shall determine, institute

suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to late charges, then interest and then to delinquent assessments.

**Section 7. Date of Commencement of Assessments/Assessment Obligation of Declarant.**

(a) The assessments provided for herein shall commence as to all Lots subject to assessment hereunder as of the first day of the calendar year in which the first Lot is conveyed by the Declarant to a Person other than Declarant. All assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide.

(b) After the commencement of assessment payments as to any Lot, Declarant and its affiliates, on behalf of themselves and their respective successors and assigns, covenant and agree to pay the full amount of the assessments provided herein for each Lot owned by Declarant or its affiliates containing an occupied residence; provided, however, each Lot owned by Declarant or its affiliates which does not contain an occupied residence shall not be subject to any assessment provided for herein.

(c) Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes.

(d) Notwithstanding anything to the contrary herein, the Declarant and its affiliates may contribute assessments due from them in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If the Declarant, or its affiliate, as the case may be, and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant, or its affiliate, as the case may be, cannot agree as to the value of any contribution, the Declarant, or its affiliate, as the case may be, shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors, approved by the Declarant, or its affiliate, as the case may be, who are in the business of providing such services and materials. If the Association and the Declarant, or its affiliate, as the case may be, are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

**Section 8. Specific Assessments.** The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article XIII, Section 1 of this Declaration and the costs of maintenance performed by the Association which the Owner is responsible for under Article V, Section 2 of this Declaration shall be specific assessments. The Board may also specifically assess Lots for the following Association expenses:

(a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received.

(b) Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

**Section 9. Budget Deficits during Declarant Control.** For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant, or (b) cause the Association to borrow such amount

from a commercial lending institution at the then-prevailing rates for such a loan in the local area of the Community. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

## **Article V** **Maintenance**

**Section 1. Association's Responsibility.** The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property and such portions of any additional property as may be dictated by this Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association. The Association shall maintain (i) all entry features for the Community, (ii) all street signs, if any, originally installed by the Declarant or its affiliates, and (iii) all drainage detention and retention areas within the Community which were originally maintained by the Declarant or its affiliates, to the extent such areas are not maintained on an ongoing basis by a governmental entity. The Association shall also maintain all property outside of Lots located within the Community which was originally maintained by Declarant or its affiliates.

The Association may, but shall not be obligated to, maintain, repair, or replace, as necessary, all mailboxes or mailbox posts located within the Community. In addition, the Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

There is hereby reserved to the Association a blanket easement upon, across, over, and under all property within the Community for access, ingress, and egress as necessary to permit the Association to perform such maintenance. The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

**Section 2. Owner's Responsibility.** Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. If the Board of Directors determines that (a) any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, or (b) the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of any Owner or Occupant or their family, guests, lessees or invitees, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency

situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. Except in an emergency situation, the Owner shall have ten (10) days from the date of the notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within such time period, to commence such work within such ten (10) day period and diligently pursue completion within a reasonable time. If any Owner does not comply with the provisions hereof or in an emergency situation, the Association may provide any such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Lot, and shall be collected as provided herein for the collection of assessments.

**Section 3. Party Walls and Party Fences.**

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction of the Lots which shall serve and separate any two (2) adjoining Lots shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it, and if the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator and the decision by a Majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to

any right of legal action that either party may have against the other.

**Article VI**  
**Use Restrictions and Rules**

**Section 1. General.** This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may be amended only in the manner provided in Article XIII, Section 4 hereof regarding amendment of this Declaration. The Board of Directors may, from time to time, without consent of the members, promulgate, modify or delete other use restrictions and rules and regulations applicable to the Lots and the Common Property. This authority shall include, but shall not be limited to, the right to limit the type and size and to set the maximum and minimum speeds of vehicles within the Community. The Board shall also have the authority to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the Community. Such regulations and use restrictions shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified in a regular or special meeting by a Majority of the Total Association Vote.

**Section 2. Use of Lots.** All Lots shall be used for single-family residential purposes exclusively, and no trade, business or business activity of any kind shall be carried on or conducted in, from or upon any Lot or any part of the Community at any time without the prior written approval of the Board, except that the Owner or Occupant residing on a Lot may conduct such ancillary business activities within the residence on the Lot so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the residence; (b) the business activity does not involve regular, frequent or conspicuous visitation of the Lot by employees, clients, customers, suppliers or other business invitees for business purposes; (c) the business activity conforms to all zoning requirements for the Community; (d) the business activity does not increase traffic in the Community (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services); (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; (f) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board; and (g) the business activity does not result in a materially greater use of common facilities or Association services.

The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full or part-time; (ii)

such activity is intended to or does generate a profit; or (iii) a license is required therefor.

This Section shall not apply to activities of the Association. Leasing of a Lot shall not be considered a trade, business or business activity. Lots may be leased for residential purposes.

**Section 3. Signs.** No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the Board except: (a) professional security signs consistent with the Community-Wide Standard; (b) such signs as may be required by legal proceedings; and (c) signs erected by Declarant and its affiliates. In addition, in connection with a bona-fide offer to sell or lease a residence, one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard may be displayed on the Lot, but only if (i) the sign has a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, and (ii) the content of the sign and anything else attached to, associated with or in the vicinity of the sign states or conveys only that the residence is for sale or for rent and the name and telephone number of the person to contact for additional information. Any other type of "For Sale" or "For Rent" sign shall not be permitted in the Community. The Board shall have the right to erect any reasonable and appropriate signs.

**Section 4. Vehicles.** Vehicles shall not be parked on any street within the Community. Vehicles shall not be parked on the Common Property (except passenger non-commercial automobiles and golf carts parked in designated parking areas while the users thereof are using the Common Property) or on any portion of a Lot other than the driveway and the garage. Except for passenger non-commercial automobiles, vehicles shall not be parked so as to be visible from any Lot for periods of more than twenty-four (24) continuous hours (the intent of this provision is that, with the exception mentioned above, vehicles may not be stored on a Lot except if in a garage and the temporary removal of such vehicle from a Lot to break the continuity of the twenty-four (24) consecutive hours shall not be sufficient to establish compliance with this restriction). The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf cart, golf cars and similar vehicles, trucks, campers, buses, vans and automobiles. All parking shall be subject to such further rules and regulations as the Board may adopt.

**Section 5. Occupants Bound.** All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants of any Lot even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

**Section 6. Animals and Pets.** No animals, livestock or poultry of any kind may be raised, bred, kept or permitted in the Community, except that dogs, cats or other usual and common household pets in reasonable number, as determined by the Board, may be kept on a Lot; provided, however, those pets which are permitted to roam free, or, in the sole discretion

of the Board, make objectionable noise or endanger the health of or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

**Section 7. Nuisance.** It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

**Section 8. Unsightly or Unkempt Conditions.** The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken in any part of the Community.

**Section 9. Architectural Standards.** No exterior construction, alteration, addition or erection of any nature whatsoever (including, without limitation, fences, pools, tennis courts, exterior lighting, landscaping, trees, treehouses and play equipment) shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant or its affiliates, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No such exterior construction, addition, erection or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials and location shall have been submitted in writing to and approved by the Board or its designee. The Board or its designee may promulgate written guidelines for the exercise of this review.

The Board or its designee shall be the sole arbiter of such plans and specifications and may withhold approval on any reasonable basis, including purely aesthetic considerations, and

it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its designee or the representatives thereof shall have the right, during reasonable hours, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. If the Board or its designee fails to approve or to disapprove submitted plans and specifications within sixty (60) days after such plans and specifications have been submitted to it, such plans and specifications will be deemed approved. However, all activities commenced pursuant to plans which have been deemed approved shall be consistent with such plans.

As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any change, modification, addition or alteration. In the discretion of the Board or its designee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS, THE BOARD, ITS MEMBERS, ITS DESIGNEE AND THE ASSOCIATION DO NOT ASSUME LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. DECLARANT, ITS PARTNERS AND AFFILIATES, THE ASSOCIATION, THE BOARD, ITS DESIGNEE, AND THE OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES AND AGENTS OF ANY OF THEM, SHALL NOT BE LIABLE IN DAMAGES OR OTHERWISE TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS, BY REASON OF ANY MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR THE FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS AND SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS AND EVERY OWNER AGREE THAT SUCH PERSONS AND OWNERS WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ITS PARTNERS AND AFFILIATES, THE ASSOCIATION, THE BOARD, ITS DESIGNEE, OR THE OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES AND AGENTS OF ANY OF THEM, TO RECOVER ANY DAMAGES OR FOR ANY OTHER PURPOSE, AND SUCH PERSONS AND OWNERS HEREBY RELEASE, REMISE, QUITCLAIM AND COVENANT NOT TO SUE FOR ALL CLAIMS, DEMANDS AND CAUSES OF ACTION, ARISING OUT OF OR IN CONNECTION WITH ANY MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR THE FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS AND SPECIFICATIONS. ALL SUCH PERSONS AND OWNERS HEREBY WAIVE THE

PROVISIONS OF ANY LAW WHICH PROVIDE THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

**Section 10. Antennas and Satellite Dishes.** No transmission antennas or satellite dishes of any kind, and no direct broadcast satellite ("DBS") antennas or multi-channel multi-point distribution service ("MMDS") antennas larger than one (1) meter in diameter, shall be placed, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or its designee. DBS and MMDS antennas and satellite dishes one (1) meter or less in diameter and television broadcast service antennas may be installed only if reasonably screened and located as approved by the Board or its designee and installed in accordance with the rules and regulations of the Federal Communications Commission and of the Association, both as may be amended from time to time. However, the Board and Declarant (and its affiliates) reserve the right to (but shall not be obligated to) erect any type and size of master antenna, satellite dish or other similar master system for the benefit of the Community. Each Owner and Occupant acknowledges that this provision benefits all Owners and Occupants and each Owner and Occupant agrees to comply with this provision despite the fact that the erection of an individual outdoor antenna or similar device would be the most cost-effective way to receive the signals sought to be received.

**Section 11. Gardens, Basketball Goals, Etc.** Grass, ornamental plants and shrubbery (and only the foregoing) may be planted in the front or side yard of any Lot. All other planting may be done only with prior written approval of the Board or its designee or in accordance with the guidelines previously established by the Board or its designee. Overseeding of fescue lawns and sodding of lawns with Bermuda or zoysia grasses shall not require prior approval pursuant to this Section. No vegetable garden, hammocks, statuary or recreational equipment may be placed, erected, allowed or maintained within the Community without the prior written consent of the Board or its designee. This provision shall not, however, apply to basketball goals which may be installed after the type and location have been previously approved in writing by the Board or its designee.

**Section 12. Tree Removal.** No trees shall be removed without the express prior consent of the Board or its designee, except for (a) trees removed by the Declarant or its affiliates; (b) diseased or dead trees; and (c) trees needing to be removed to promote the growth of other trees.

**Section 13. Lighting.** Notwithstanding Article VI, Section 9 above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Board or its designee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards of a Lot; (c) illumination of model homes and entrance features constructed by the Declarant or its affiliates; and (d) other lighting originally installed by the Declarant or its affiliates. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI, Section 9 hereof. Decorative post lights

will not be approved unless they conform with established street lighting.

**Section 14. Drainage.** Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Lot may obstruct or rechannel the drainage flows after the location and installation of drainage swales, storm sewers or storm drains. Declarant, for itself and its affiliates, reserves the right to prepare sloping banks, cut or fill, on a three (3) to one (1) slope on all streets and roads. Declarant, for itself and its affiliates, hereby reserves a perpetual easement across all Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

**Section 15. Sight Distance at Intersections.** All property located at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain at any corner where this would create a traffic or sight problem.

**Section 16. Clotheslines, Garbage Cans, Woodpiles, Etc.** All clotheslines, garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot. All rubbish, trash and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. Notwithstanding the foregoing, the Association reserves the right to provide and maintain a dumpster for the use of residents within the Community. Declarant, however, hereby expressly reserves the right to dump and bury rocks and trees on property within the Community as needed for efficient construction and to allow, in Declarant's sole discretion, developers and builders within the Community to do so.

**Section 17. Subdivision of Lot.** No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant, however, hereby expressly reserves the right to replat any Lot(s) or other property in the Community. Any such division, boundary line change or replatting shall not be in violation of the applicable subdivision and zoning regulations.

**Section 18. Guns.** The use of firearms in the Community is prohibited. The term "firearms" includes "B-B" guns, pellet guns and small firearms of all types.

**Section 19. Solar Devices.** No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or its designee.

**Section 20. Fences.** No fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or its designee. Fencing must be split rail, privacy or picket type fencing. The Board or its designee may issue guidelines detailing acceptable fence styles or other specifications consistent with the immediately preceding sentence, but in no event may a chain link fence or a free-standing hog wire fence be approved.

**Section 21. Exterior Colors.** The exterior of all improvements, including, without limitation, residences, constructed, erected, allowed or maintained upon any Lot must be painted or repainted in a color used by Declarant or its affiliates in the original construction and marketing of residences within the Community or in a color used by John Wieland Homes and Neighborhoods in the original construction and marketing of residences in any subdivision located within the same county as the Community.

**Section 22. Mailboxes.** No mailboxes and appurtenant posts and/or structures shall be erected without the prior written approval of the Board or its designee. Generally, the foregoing must be of the same type and color as that originally installed by the Declarant or its affiliates.

**Section 23. Detached Structures.** No detached structure shall be placed, erected, allowed or maintained upon any Lot or within the Community without the prior written consent of the Board or its designee. All detached structures must be consistent in design materials and color with the dwelling on the Lot.

**Section 24. Entry Features and Street Signs.** Owners shall not alter, remove or add improvements to any entry features or street signs constructed within the Community, or any part of any easement area associated therewith, without the prior written consent of the Board or its designee.

**Section 25. Above Ground Pools.** Above ground swimming pools shall not be permitted in the Community.

**Section 26. Golf Course Lots.** Notwithstanding anything contained in this Declaration to the contrary, no vegetable gardens, landscaping, trees, hammocks, statuary, swing sets or similar play equipment, basketball goals or similar athletic equipment, boats or boating equipment, pools, fences, clothes drying equipment, dog houses, dog runs or other pet enclosures, signs, retaining walls or any other structure or thing which, in the sole discretion of the Board or its designee, tends to detract from the appearance of the Community and/or the Club Property shall be permitted on any Golf Course Lot, without the prior written consent of the Board or its designee. The restriction contained in Article VI, Section 11 relative to front and side yards shall apply to the entire yard (front, side and rear) of each Golf Course Lot. No Person shall engage in activities on a Golf Course Lot which could reasonably be expected

to be a significant distraction to persons playing the Golf Course.

**Section 27. Operation of Golf Carts.** No golf cart, golf car or similar vehicle shall be operated on sidewalks or trails within the Community. Except for the use and routes of travel of golf carts in the course of playing the Golf Course, the operation of golf carts, golf cars and similar vehicles within the Community shall be only in accordance with such rules and regulations as the Board may adopt, which may include rules regulating the model, type, color and features of such permitted vehicles and the routes such vehicles may travel.

## **Article VII** **Insurance and Casualty Losses**

**Section 1. Insurance.** The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Property or required to be maintained by the Association under Article V, Section 1 hereof. This insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

If available at reasonable cost, as determined in the sole discretion of the Board, the Board shall obtain a public liability policy applicable to the Common Property insuring the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00). If available at reasonable cost, as determined in the sole discretion of the Board, the Board shall also obtain directors' and officers' liability insurance.

The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through the Declarant or its affiliates and to reimburse the Person so providing or arranging the insurance coverage for the cost thereof, and Declarant or its affiliates shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant or its affiliate, as the case may be, and the Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant or its affiliate, as the case may be, in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the Board shall not be required to comply with the provisions of this Article if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant or its affiliates.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective parties which may be benefited by such insurance, as their interests may appear. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in Georgia.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if these are reasonably available, and all insurance policies shall be reviewed annually by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.

(e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, subjected to nonrenewal, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, subjected to nonrenewal, invalidated or suspended on account of any defect or the conduct of any director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be canceled, subjected to nonrenewal, or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to other insurance coverage required by this Section, the Board shall obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if available at reasonable cost, as determined in the sole discretion of the Board, a fidelity bond or employees dishonesty coverage covering directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the directors' best business judgment. Such coverage, if obtained, shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall not be subject to cancellation, nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage and flood insurance, if and to the extent necessary to satisfy the requirements of The Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association, the U.S. Department of Veterans Affairs ("VA") or the U.S. Department of Housing and Urban Development ("HUD").

**Section 2. Damage and Destruction — Property Insured by Association.**

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessary to comply with applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent

(75%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

**Section 3. Damage and Destruction — Lots.** The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish, all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XIII, Section 1 of this Declaration.

**Section 4. Insurance Deductible.** The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

### **Article VIII** **Condemnation**

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on behalf of the Association or on

the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article VII, Section 2 above, applicable to damage or destruction of property insured by the Association, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

**Article IX**  
**Annexation and Withdrawal of Property**

**Section 1. Unilateral Annexation by Declarant.**

(a) As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time at any time until fifteen (15) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "C" attached hereto and by reference made a part hereof to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the land records of the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless a later effective date is provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of then Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property.

(b) The rights reserved unto Declarant to subject additional land to this Declaration shall not and shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

**Section 2. Other Annexation.** Subject to the consent of the owner thereof and the consent of the Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community), upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Lots (other than Lots owned by Declarant so long as the consent of the Declarant is required), the Association may annex other real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the land records of the county in which the property to be annexed is located a Supplementary

Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

**Section 3. Withdrawal of Property.** Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article for the purpose of removing any portion of the Community then owned by Declarant or its affiliates or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

## **Article X** **Mortgagee Provisions**

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

**Section 1. Notices of Action.** An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Lot number) (therefore becoming an "eligible holder") will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

**Section 2. No Priority.** No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

**Section 3. Notice to Association.** Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

**Section 4. Amendments by Board.** Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

**Section 5. VA/HUD Approval.** As long as the Declarant has the right to appoint and remove the directors and officers of the Association and so long as the Community is approved by HUD for insuring any Mortgage in the Community (as determined by consulting the current list of approved subdivisions regularly published by HUD and furnished to Mortgage companies) or the VA for guaranteeing any Mortgage in the Community (as determined by telephone inquiry to VA), the following actions shall require the prior approval of the VA and/or HUD, as applicable: annexation of additional property to the Community, except for annexation by Declarant in accordance with Article IX, Section 1, hereof pursuant to a plan of annexation previously approved by the VA and/or HUD, as applicable; dedication of Common Property to any public entity; mergers and consolidations; dissolution of the Association; mortgaging of Common Property; and material amendment of the Declaration, Bylaws, or Articles of Incorporation of the Association.

**Section 6. Applicability of Article X.** Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

**Section 7. Failure of Mortgagee to Respond.** Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

## **Article XI** **Easements**

**Section 1. Easements for Encroachment and Overhang.** There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the

unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant or the Association.

**Section 2. Easements for Use and Enjoyment.**

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests and invitees;

(ii) the right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for a reasonable period of time, for an infraction of the Declaration, Bylaws, or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant and/or its affiliates, any Lot or Lot Owner, and/or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community (any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, interests, options, easements or privileges herein reserved or established for the benefit of Declarant and/or its affiliates, any Lot or Lot Owner, and/or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community); no such Mortgage given by the Association shall be effective unless an instrument agreeing to such Mortgage has been approved by Owners of at least two-thirds

(2/3) of the Lots (other than Lots of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex property to the Community); and

(iv) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association; no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community or has the right unilaterally to annex additional property to the Community) and Owners representing at least two-thirds (2/3) of the Total Association Vote (other than Declarant so long as the consent of Declarant is required).

(b) Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his family, his tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Lot if leased.

**Section 3. Easements for Utilities.** There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Community for access to, ingress to, egress from, installation of, repairing, replacing and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity utilities, as well as storm drainage and any other service, such as, but not limited to, a master television antenna system, cable television system, or security system, which the Declarant or Association might decide to have installed to serve the Community. It shall be expressly permissible for the Declarant, the Association, or the designees of either, as the case may be, to install, repair, replace and maintain, or to authorize the installation, repairing, replacing and maintaining, of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

**Section 4. Easements for Association Maintenance.** There is hereby expressly reserved to the Association a perpetual easement across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article V. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

**Section 5. Easements for Maintenance and Repair.** There shall be reciprocal appurtenant easements between adjacent Lots for the purpose of maintaining or repairing the

improvements, including, without limitation, landscaping, located on each Lot, which easement shall extend to a distance of not more than five (5) feet as measured from any point on the common boundary between the Lots and along a line perpendicular to such boundary at such point. The easement shall be used only for such period of time as is reasonably necessary in order to complete the needed maintenance or repair. The Lot Owner exercising this easement right shall be liable for the prompt repair of any damage to the Lot over which this easement is exercised which is caused by the maintenance or repair work. The damaged portions of such Lot shall be restored to substantially the same condition as existed prior to the damage.

**Section 6. Easements for Entry.** In addition to the right of the Board to exercise self-help as provided in Article XIII, Section 2 hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security and safety reasons, which right may be exercised by the manager and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

**Section 7. Easements for Entry Features and Street Signs.** There is hereby reserved to the Declarant, the Association, and the designees of either, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to grade the land under and around the entry features.

**Section 8. Easements for Golf Course.** Every Lot and the Common Property are burdened with an easement permitting golf balls unintentionally to come upon such areas and for golfers at reasonable times and in a reasonable manner to come upon the Common Property or the outdoor portions of a Lot to retrieve errant golf balls; provided, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: Declarant and its partners and affiliates; the Association and its members (in their capacities as such); the owner of the Golf Course, its successors, successors-in-title and assigns, and their employees (in their capacities as such); any builder or contractor (in their capacities as such); any officer, director or partner of any of the foregoing, or any officer or director of any partner (in their capacities as such).

The owner of the Club Property, its agents, successors and assigns, shall at all times have a right and nonexclusive easement of access and use over those portions of the Community reasonably necessary for the operation, maintenance and repair of the Club Property and replacement of the facilities and improvements thereon.

Every portion of the Community immediately adjacent to the Golf Course is hereby burdened with a nonexclusive easement in favor of the Golf Course for overspray of water from the irrigation system serving the Golf Course. Under no circumstance shall the Declarant, its partners and affiliates, the Association or the owner of the Golf Course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

The owner of the Golf Course, its successors and assigns, shall have a perpetual, exclusive easement of access for the purpose of retrieving golf balls from bodies of water within the Common Property lying reasonably within range of golf balls hit from the Golf Course.

## **Article XII** **Club Property**

**Section 1. General.** Neither membership in the Association nor ownership or occupancy of a Lot shall confer any ownership interest in, or right to use, the Club Property. Rights to use the Club Property will be granted only to such persons, and on such terms and conditions, as may be determined from time to time by the owner of the Club Property. The owner of the Club Property shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Club Property, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users. The owner of the Club Property shall also have the right to reserve use rights and to terminate use rights and/or memberships altogether, including, without limitation, Social Memberships, subject to the terms of any written agreements with its members.

**Section 2. Conveyance of Club Property.** All Persons, including all Owners, are hereby advised that no representations or warranties are made by Declarant, the Association, the owner of the Club Property, or by any Person acting on behalf of any of them, with regard to the continuing ownership or operation of the Club Property. No purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Club Property. The ownership or operation of all or portions of the Club Property may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations by a Person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an "equity" club or similar arrangement whereby an entity owned or controlled by its members becomes the owner(s) and/or operator(s) of the Club Property; or (c) the conveyance of the all or portions of the Club Property to one or more of Declarant's affiliates, shareholders, employees, or independent contractors, the Association, or an unrelated party. Neither consent of the

Association nor any Owner shall be required to effectuate any change in ownership or operation of the Club Property, for or without consideration, and subject to or free of any mortgage, covenant, lien or other encumbrance, except as otherwise specifically provided in Article XIII, Section 8.

**Section 3. View Impairment.** Declarant, the Association and the owner of the Golf Course do not guarantee or represent that any view over and across the Golf Course from Golf Course Lots will be preserved without impairment. The owner of the Golf Course shall have no obligation to prune or thin trees or other landscaping and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Course from time to time. In addition, the owner of the Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Any such additions or changes may diminish or obstruct any view from the Golf Course Lots, and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

**Section 4. Rights of Access and Parking.** There is hereby established for the benefit of the Club Property a right and nonexclusive easement of access and use for the owner of the Club Property, its licensees (regardless of whether such licensees are Owners hereunder), guests, invitees, employees, agents, contractors and designees, over all roadways located within the Community reasonably necessary to travel between the entrance to the Community and the entrance to the Club Property and over those portions of the Community (whether Common Property or otherwise) reasonably necessary to the operation, maintenance, repair and replacement of the Golf Course. Without limiting the generality of the foregoing, the owner of the Club Property may authorize its invitees, its licensees and their guests to park their vehicles on the roadways located within the Community at reasonable times before, during and after tournaments and other similar functions held at the Club Property to the extent that the Club Property has insufficient parking to accommodate such vehicles.

**Section 5. Entry onto Golf Course and Cart Paths.** No Person shall enter onto the Golf Course from an adjacent Lot or Common Property without the express consent of the owner of the Golf Course.

**Section 6. Architectural Control.** Neither Declarant, the Association, the Board or its designee, nor any committee shall approve any construction, addition, alteration, change or installation (including, without limitation, landscaping or trees) on or to any portion of the Community which is adjacent to, or otherwise in the direct line of sight of, the Golf Course without giving the owner of the Golf Course at least 15 days prior written notice of its intent to approve the same, together with copies of the request and all other documents and information finally submitted in such regard. The Golf Course shall then have 15 days to respond in writing approving or disapproving the proposal, stating in detail the reasons for any disapproval. The failure of the owner of the Golf Course to respond to the notice within the 15-day period shall constitute a waiver of such owner's right to object to the matter.

**Section 7. Jurisdiction and Cooperation.** It is Declarant's intention that the Association and the owner of the Club Property shall cooperate and reasonably assist the other in upholding the Community-Wide Standard as it pertains to the maintenance and appearance of property within its control. Nothing herein shall authorize the Association to promulgate rules affecting activities on or use of the Club Property.

**Article XIII**  
**General Provisions**

**Section 1. Enforcement.** Each Owner and every Occupant of a Lot shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed to his or her Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or, in a proper case, by an aggrieved Owner or the owner of the Club Property. Failure by the Association or any Owner or the owner of the Club Property to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations or use restrictions and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

**Section 2. Self-Help.** In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

**Section 3. Duration.** The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, perpetually to the extent permitted by law; provided, however, if Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provisions shall be (a) automatically extended for successive periods

of ten (10) years, unless a written instrument reflecting disapproval signed by the then Owners of at least two-thirds (2/3) of the Lots and the Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community) has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

**Section 4. Amendment.** This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration as provided in Article IX hereof, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Lots (other than Lots of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. No provision of this Declaration which reserves or grants special rights to the Declarant and/or its affiliates shall be amended without the prior written consent of the Declarant and any affiliates affected by such amendment, so long as the Declarant and/or such affiliates, as the case may be, own any property primarily for development and/or sale in the Community or subject to annexation by the Declarant to the Community.

No amendment to Article XII, and no amendment to or in derogation of any other provisions of this Declaration benefiting the Club Property or the Golf Course, may be made without the prior written approval of the owner of the Club Property or that portion of the Club Property which is affected. The foregoing shall not apply, however, to amendments made unilaterally by Declarant pursuant to Article XIII, Section 4.

Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in a court of competent jurisdiction in a county in which the Community is located within one (1) year of the recordation of such amendment.

**Section 5. Gender and Grammar.** The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

**Section 6. Severability.** Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

**Section 7. Captions.** The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

**Section 8. Conveyance of Common Property to Association; Assignment of Contracts.** The Declarant and its affiliates may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement or other property interest. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant and its affiliates shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. The Association shall also accept assignment of, and shall assume and agree to perform, any contracts entered into by the Declarant and its affiliates for the benefit of the Association or the Owners, including, without limitation, detention pond maintenance agreements and all types of utility easements.

Without limiting the generality of the foregoing, the owner of the Club Property (with the prior consent of the Declarant) may, but shall have no obligation to, transfer or convey to the Association all or any portion of the Club Property and all or any portion of the personal property used in connection with the operation of the Club Property. The Association shall be

obligated to accept any such transfer or conveyance provided that it is made free and clear of any liens or other encumbrances which are monetary in nature. Upon such conveyance, the property shall thereafter be Common Property to be maintained by the Association for the benefit of its members, subject to the terms of the membership policies and membership agreements entered into by the owner of the Club Property prior to such conveyance and the rights of those persons then holding licenses to use the Club Property pursuant to membership policies and membership agreements. The owner of the Club Property, Declarant and its affiliates shall not be required to make any improvements whatsoever to any portion of the Club Property to be conveyed to the Association. The Association shall also accept assignment of, and shall assume and agree to perform, any contracts entered into by the owner of the Club Property, the Declarant and its affiliates for the benefit of the Club Property.

**Section 9. Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

**Section 10. Indemnification.** In accordance with, and to the full extent allowed by, the Georgia Nonprofit Corporation Code, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner 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. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

**Section 11. Construction and Sale Period.** Notwithstanding any provisions contained in this Declaration, the Bylaws, the Articles of Incorporation of the Association, rules and regulations, use restrictions, and any amendments to any of the foregoing, the Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the Community for the benefit of the Declarant, its successors and assigns, over, under, in, and/or on the Community, without obligation and without charge to the Declarant, for the purposes of taking all actions related to or connected with construction, installation, relocation, development, sale, maintenance, repair or replacement in the Community and any other property now owned or which may in the future be owned by the Declarant (such other property is hereinafter referred to as "Additional Property"). The reserved easement shall constitute a burden on the title to the Community and specifically includes, but is not limited to:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Community; and the right to tie into any portion of the Community with streets, driveways, parking areas and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee payable to the Association or any Owner for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(b) the right to use (continually or from time to time) without charge any clubhouse or similar structure and appurtenant recreational facilities, if any, for business purposes or company functions and any similar use, including, but not limited to, sales and marketing meetings, offices for sales or other employees and agents, a design studio, and employee parties; and

(c) the right to construct, install, replace, relocate, maintain, repair, use and enjoy signs, model residences, construction trailers and sales offices in the Community.

No rights, privileges and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the Community, but shall be held independent of such title, and no such right, privilege or easement shall be surrendered, conveyed or released unless and until and except by delivery of a quitclaim deed from the Declarant releasing such right, privilege or easement by express reference thereto.

If these reserved easements are exercised without annexing any Additional Property to the Community, the owners of the affected Additional Property shall share the costs, if any, of using and maintaining utility and similar facilities, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities, with the Owners in the Community in the proportion that the number of completed dwellings on the affected Additional Property bears to the sum of the number of completed dwellings on the affected Additional Property plus the number of Lots in the Community. The costs of maintenance and repair of Community streets and driveways shall likewise be apportioned to the affected Additional Property if the only means of vehicular access to the affected Additional Property is across the Community. For the purposes of this provision, a dwelling on the affected Additional Property shall be considered completed when a certificate of occupancy has been granted. The allocation of expenses and the collection therefor may be done on a monthly, quarterly or annual basis as may reasonably be determined by the Association in accordance with this Declaration. If any of the Additional Property is added to the Community, from the time of the annexation, the sharing of costs and expenses and the use of any property so added shall be governed by this Declaration, rather than by these reserved easements.

This Section shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any property primarily for development and/or sale in the

Community or has the right unilaterally to annex additional property to the Community. Section 12. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by holders, insurers or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

**Section 13. Financial Statements.** Financial statements for the Association shall be compiled annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all costs associated therewith, such holder shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

**Section 14. Notice of Sale or Lease.** In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

**Section 15. Agreements.** Subject to the prior approval of Declarant, so long as the Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article IX above, all agreements and determinations, including settlement

agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

**Section 16. Variances.** Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

**Section 17. Litigation.** No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IV hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant pursuant to Article XIII, Section 4 hereof, or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

**Section 18. Implied Rights.** The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

**Section 19. Use of Recreational Facilities by Nonmembers.** For so long as Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article IX above, Declarant shall have the right to grant to persons who are not members of the Association the right to use recreational facilities owned by the Association (if any). The extent and duration of nonmember use and the fee to be charged therefor shall be determined solely by Declarant. The Declarant may grant nonmember use rights to individuals as an easement appurtenant to such individuals' residential real property so that such use rights shall automatically inure to the benefit of both the original grantees and their respective successors-in-title to such real property. For so long as the Association does not own such recreational facilities, nonmember user fees shall be paid to Declarant. If such recreational facilities are conveyed to the Association, nonmember user fees due and payable after the date of such conveyance shall be paid to the Association. Declarant shall determine the amount of nonmember user fees which are due and payable after such conveyance. Such fees shall be paid in equal annual installments to the Association, unless otherwise determined by the Board.

The amount of such installment payments may be increased each year by the Board so long as the percentage increase (as compared to the previous year's installment) does not exceed the percentage increase in the annual assessment levied against members of the Association (as compared to the previous year's assessment).

Unless otherwise determined by the Declarant, any use right granted to nonmembers which extends beyond the termination of Declarant's option to unilaterally subject additional property to this Declaration shall be valid and may not be terminated so long as the terms and conditions imposed upon nonmember use by Declarant are complied with by the nonmember user.

Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege and easement with respect to the Community for the benefit of Declarant, its successors, assigns and the above discussed nonmember users, over, under, in and/or on the Community (including, without limitation, the above described recreational facilities), without obligation and without charge to the foregoing, for the purposes of taking all actions related to or connected with the granting of nonmember use and the use by such nonmembers as described above. Such right, privilege and easement shall include, without limitation, the right of access, ingress, use and egress of and to the above described recreational facilities and the right of access, ingress, use and egress for vehicular and pedestrian traffic over, under, on or in the Community roads, parking areas and walkways.

Declarant, its partners and affiliates, and the officers, directors, shareholders, employees, agents, successors and assigns of any of the foregoing, shall not be liable for and are hereby held harmless by the Association from any failure of any nonmember to pay a nonmember user fee to the Association where required to do so by this Section. In such case, the Association's sole remedy shall be to suspend the use right of the nonmember who has not timely paid until all amounts owed are paid. Declarant, its partners and affiliates, and the officers, directors, shareholders, employees, agents, successors and assigns of any of the foregoing, shall also not be liable for and are hereby held harmless by the Association from any personal injury or property damage caused by a nonmember entitled to use the above described recreational facilities.

So long as Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article IX above, Declarant shall have the sole right to grant use rights to the above described recreational facilities to nonmembers and the Board shall have no such right; provided, however, upon the expiration or earlier surrender in writing of this option, the Board shall have the rights of the Declarant set forth in this Section, subject to then existing nonmember use rights. The provisions of this Section shall apply notwithstanding any contrary provisions in this Declaration, the Bylaws, Articles of Incorporation, rules and regulations, use restrictions and any amendments to any of the foregoing.

**Section 20. Security.** The Declarant and the Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community and the Lots safer than they otherwise might be. HOWEVER, THE ASSOCIATION, THE DECLARANT, ITS PARTNERS AND AFFILIATES, ANY SUCCESSOR DECLARANT, AND THE OFFICERS, DIRECTORS, COMMITTEES, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING, SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMUNITY, NOR SHALL ANY OF THE FOREGOING BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, THE DECLARANT, ITS PARTNERS AND AFFILIATES, ANY SUCCESSOR DECLARANT, AND THE OFFICERS, DIRECTORS, COMMITTEES, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING, ARE NOT INSURERS AND THAT EACH PERSON USING THE COMMUNITY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO PROPERTY, TO LOTS, AND TO THE CONTENTS OF LOTS AND THE STRUCTURES THEREON RESULTING FROM ACTS OF THIRD PARTIES.

IN WITNESS WHEREOF, the undersigned has executed this instrument and affixed the seal this 22<sup>nd</sup> day of December, 1998.

Signed, sealed and delivered this the 22<sup>nd</sup> day of DECEMBER, 1998, in the presence of:

Witness [Signature]  
Notary Public [Signature]

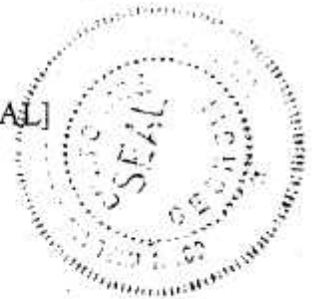
JOHN WIELAND HOMES AND NEIGHBORHOODS, INC., a Georgia corporation

By: [Signature]  
Dan Fields  
Assistant Secretary

[CORPORATE SEAL]

My commission expires: \_\_\_\_\_

[NOTARIAL SEAL]



## EXHIBIT "A"

### Definitions

The following words, when used in this Declaration or in any amendment thereof (unless the context shall prohibit), shall have the following meanings:

(a) "Association" shall mean and refer to Woodmont Golf and Country Club Community Association, Inc., a nonprofit Georgia corporation, -its successors and assigns.

(b) "Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, having its normal meaning under Georgia corporate law.

(c) "Bylaws" shall refer to the Bylaws of Woodmont Golf and Country Club Community Association, Inc., attached to this Declaration as Exhibit "D" and incorporated herein by this reference.

(d) "Club Property" shall refer to that real property located adjacent to portions of the Community which is operated as a golf and country club facility, on a club membership basis or otherwise, for the benefit of its members, if any, and such others as the owner and operator of the Club Property may authorize (which may include members of the public if so authorized), such facilities presently including or planned to include, without limitation or obligation, an 18-hole golf course, a clubhouse, swim and tennis facilities, parking areas, and related and supporting facilities and improvements.

(e) "Common Property" shall mean any and all real and personal property and easements, leaseholds and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

(f) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto, and (i) such additions thereto as may be made by Declarant (or its Mortgagee or transferee, as provided in the Declaration) of all or any portion of the real property described in Exhibit "C", attached hereto; and (ii) such additions thereto as may be made by the Association (as provided in the Declaration) of other real property.

(g) "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

(h) "Covenant to Share Costs" shall mean any declaration, agreement and/or covenant recorded in the Cherokee County, Georgia land records by Declarant and/or any affiliate of the Declarant, or by mutual agreement of the Association and the owner of the Club Property, which provides for the Association to contribute to certain costs incurred by the owner of the Club Property and/or vice versa, in recognition of benefits provided by one to the other or in consideration of activities undertaken by one which benefit the other. Any such Covenant to Share Costs may create easements over the Common Property and/or the Club Property and may impose obligations on the Association and/or the owner of the Club Property.

(i) "Declarant" shall mean and refer to John Wieland Homes and Neighborhoods, Inc., a Georgia corporation, and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "B", attached hereto, or in Exhibit "C", attached hereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "B", attached hereto, and in Exhibit "C", attached hereto, which is now or hereafter subjected to this Declaration, there shall be only one Person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time. An "affiliate" of Declarant shall mean any entity in which Declarant or John Wieland (and/or member(s) of his immediate family) own or control at least twenty (20%) percent of the beneficial interest thereof.

(j) "Golf Course" shall mean that portion of the Club Property consisting of an 18-hole golf course, practice facilities and golf-related and supporting grounds and facilities.

(k) "Golf Course Lot" shall mean any Lot which lies adjacent to or in the direct line of sight of the Golf Course.

(l) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site, as shown on any plats for the Community, or amendments thereto, recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association.

(m) "Majority" means those eligible votes, Owners or other group as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

(n) "Mortgage" means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(o) "Mortgagee" shall mean the holder of a Mortgage.

(p) "Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

(q) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(r) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

(s) "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

(t) "Total Association Vote" means all of the votes attributable to members of the Association (including votes of Declarant) and the consent of Declarant (so long as Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community).

**EXHIBIT "B"**

Property Submitted

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1095, 1096 and 1138 of the 3rd District, 2nd Section of Cherokee County, Georgia, containing approximately 25.866 acres as shown on that certain Final Subdivision Plat for Woodmont Unit I-A, dated June 22, 1998, prepared by Rochester & Associates, Inc., bearing the seal of James C. Jones, Georgia Registered Land Surveyor No. 2298, which plat was recorded on November 10, 1998 in Plat Book 57, Pages 201-203, Cherokee County, Georgia land records.

Together with:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 1137, 1138, 1167 and 1168 of the 3rd District, 2nd Section of Cherokee County, Georgia, containing approximately 25.229 acres as shown on that certain Final Subdivision Plat for Woodmont Unit IB, dated July 13, 1998, prepared by Rochester & Associates, Inc., bearing the seal of James C. Jones, Georgia Registered Land Surveyor No. 2298, which plat was recorded on November 10, 1998 in Plat Book 57, Pages 204-206, Cherokee County, Georgia land records.

**EXHIBIT "C"**

Additional Property which can be Unilaterally  
Submitted by Declarant

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 924, 948-960, 985-1000, 1017-1032, 1057-1072, 1090-1101, 1132-1144, 1161-1173, 1205-1216 and 1233-1243 of the 3rd District, 2nd Section, Cherokee County, Georgia.

rev. 122298

3463 230

Upon recording, please return to:

1/1 Richard A. Bacon  
John Wieland Homes and Neighborhoods, Inc.  
1950 Sullivan Road  
Atlanta, Georgia 30337

40.00  
# 1358

FILED IN OFFICE  
CLERK OF SUPERIOR COURT  
STATE OF GEORGIA  
50 JAN 15 PM 2:49  
BOOK 3463 PAGE 230  
Anne M. Brown

**DECLARATION OF COVENANT TO SHARE COSTS**  
**FOR**  
**WOODMONT GOLF AND COUNTRY CLUB**

**DECLARATION OF COVENANT TO SHARE COSTS  
FOR  
WOODMONT GOLF AND COUNTRY CLUB**

THIS DECLARATION OF COVENANT TO SHARE COSTS ("Covenant") is made as of the 14<sup>th</sup> day of January, 1999, by JOHN WIELAND HOMES AND NEIGHBORHOODS, INC., a Georgia corporation, on behalf of itself, its successors-in-title and assigns ("Declarant"), and WOODMONT GOLF CLUB, INC., a Georgia corporation, on behalf of itself, its successors-in-title and assigns ("Club Owner").

**BACKGROUND STATEMENT**

Woodmont Golf and Country Club is a planned community in Cherokee County, Georgia consisting of the real property now and hereafter submitted to the terms of the Declaration of Protective Covenants for Woodmont Golf and Country Club recorded by Declarant on December 28, 1998, in Deed Book 3433, Page 99, *et seq.*, of the Cherokee County, Georgia land records (such Declaration, as it may be amended or supplemented from time to time, is herein referred to as "Residential Declaration"). Woodmont Golf and Country Club Community Association, Inc., a Georgia nonprofit corporation ("Association"), is a mandatory membership owners association established pursuant to the Residential Declaration to administer the Residential Declaration and the real property now and hereafter submitted to its terms ("Residential Property").

Club Owner is the owner of the real property described on Exhibit "A" attached hereto and made a part hereof ("Club Property"), which Club Owner may develop and operate as an 18-hole golf course, a clubhouse and related facilities.

Declarant and Club Owner desire to provide for Club Owner to grant licenses to the Association's members (owners of the Residential Property) for use of certain clubhouse, swim, tennis and fitness facilities which may be located within the Club Property. This Covenant provides for, among other things, the Association's contribution to certain costs related to such facilities so long as such licenses are in effect.

**Article I  
Declaration of Intent and Binding Effect**

Declarant, as the initial owner of Residential Property, and Club Owner, as the initial owner of the Club Property, hereby declare that all of the Residential Property and all of the Club Property shall be held, sold and conveyed subject to the covenants, conditions and easements contained herein, which shall run with the title to all the Residential Property and the Club Property and shall inure to the benefit of the owners of the Residential Property, the

Association and the Club Owner, its licensees and guests, except as otherwise expressly provided or limited herein.

**Article II**  
**License to Use Portions of Club Property**

2.1. Grant of Licenses. The Club Owner hereby grants to the owner of each Lot (as defined in the Residential Declaration), other than Declarant, a license to use the "Resident Portion" (as defined below) of the clubhouse which may be located on the Club Property and the swim, tennis and fitness facilities which may be operated on the Club Property (collectively, "Shared Facilities").

Such privileges shall be limited to operating hours and subject to payment of such charges for food and beverage service as the Club Owner may establish from time to time. Such privileges shall also be subject to such rules and regulations as the Club Owner may establish from time to time.

The "Resident Portion" of the clubhouse refers to the portion of the clubhouse designated as the resident portion of the clubhouse, as established by Club Owner, and specifically does not include, without limitation, portions of the clubhouse used for golf operations, pro shop, food and beverage service operation, locker rooms and administrative offices of the Club Owner, but specifically including that portion of the clubhouse, if any, used by Declarant and its agents as sales or administrative offices in connection with the development and sale of the Residential Property, notwithstanding that access to such areas may be restricted during the period of Declarant's use.

Nothing herein shall obligate the owner of the Club Property to offer or maintain food and beverage service nor shall anything herein dictate the level of service or hours of operation of any food and beverage service provided.

2.2. Regulation of Licenses.

(a) Each license granted under Section 2.1 shall be subject to the following:

(i) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Shared Facilities (subject to the prior approval of the owner of the Club Property, which approval may be granted or withheld in such owner's sole and absolute discretion), to limit the number of guests of owners of Lots and tenants who may use the Shared Facilities, and to provide for the exclusive use and enjoyment of specific portions of the Shared Facilities at certain designated times by the owner of a Lot and such owner's family, tenants, guests and invitees (subject to the prior approval of the owner of the Club Property, which approval may be granted or withheld in such owner's sole and absolute discretion);

(ii) the right of the Association to suspend the voting rights, as described in the Residential Declaration, of the owner of a Lot and the right of an owner of a Lot to use the

Shared Facilities for any period during which any sums owed by such owner of a Lot to the Association, as provided for in the Residential Declaration, remain delinquent; and, for a reasonable period of time, for an infraction of the Residential Declaration, the Bylaws of the Association, or the rules and regulations of the Association; and

(iii) the right of Declarant and its agents to use (continually or from time to time), without charge, any clubhouse or portion thereof or any portion of the Shared Facilities for business purposes or company functions and any similar use, including, but not limited to, sales and marketing meetings, offices for sales or other employees and agents, a design studio and employee parties.

(b) Any owner of a Lot may delegate such owner's right of use and enjoyment in and to the Shared Facilities to the members of such owner's family and to such owner's tenants and guests, and any such owner of a Lot shall be deemed to have made a delegation of all such rights to the occupants of such owner's Lot, if leased.

### 2.3. Term of Licenses.

(a) Each license granted under Section 2.1 shall automatically terminate, as to the owner of each Lot, when such person ceases to be the owner of the Lot; however, the former owner shall remain obligated for all charges incurred on account of the use of such license prior to such termination. Subject to the following subsection (b), upon transfer of title to a Lot and termination of the license held by the previous owner, the license granted under Section 2.1 shall apply to the new owner of the Lot.

(b) All licenses granted pursuant to Section 2.1 shall automatically terminate if the Shared Facilities are conveyed to the Association pursuant to and in accordance with the second paragraph of Article XIII, Section 8 of the Residential Declaration, which conveyance, if any, may be subject to the rights of the club members who do not own a Lot within the Residential Property to continue to use the conveyed facilities. In such event, Club Owner shall refund to the Association that portion of any payment by the Association made in advance for its share of costs which is attributable to funding of reserves or other costs not yet incurred as of the date of such termination.

In addition, if such event occurs, Articles I, III and IV of this Covenant shall remain in effect, except that the Association shall then have the obligation to maintain, operate, insure, repair and replace the Shared Facilities and to incur the costs of owning, maintaining, operating, insuring, repairing and replacing the Shared Facilities, and the Club Owner shall then be responsible for contributing its share of such costs, as calculated under Section 3.2 only, to the Association. To accommodate this change in such event, Sections, 3.3, 3.4, 3.5 and 3.6 shall be considered amended from and after such event by substituting therein the words "Club Owner" for the word "Association" and substituting the word "Association" for the words "Club Owner." The Association shall continue to be solely responsible for the costs described in Section 3.1(a). Regarding the types of items and costs described in Section 3.1(b), the Association and the Club Owner shall then each be independently responsible for maintaining, repairing and replacing

such items and incurring the costs described therein which are attributable to each's respective portion of the clubhouse; provided, however, the Association and the Club Owner shall use reasonable efforts to cooperate in the maintenance, repair and replacement of such items in order to minimize disruption and maintain the consistent appearance and architectural style of the entire clubhouse.

**Article III**  
**Obligation to Share Costs**

3.1. Obligation to Share Costs of Clubhouse. The Association shall be responsible for:

(a) 100% of the costs incurred in owning, maintaining, operating, insuring, repairing and replacing the Resident Portion (as defined in Section 2.1) of the clubhouse within the Club Property, specifically including any part of the Resident Portion of the clubhouse used by Declarant and its agents as sales or administrative offices in connection with development and sale of the Residential Property. Such costs shall include, by way of example and not limitation:

(i) the costs of utility service (including telephone, water, sewer, electricity, natural gas and cable or similar television) provided to the Resident Portion of the clubhouse, which utilities may be separately metered from other portions of the clubhouse;

(ii) the costs of janitorial service; property and liability insurance; and similar ongoing expenditures related to the clubhouse which are allocated to the Resident Portion of the clubhouse; and

(iii) the costs of maintaining, repairing and replacing the fixtures, furnishings, equipment and systems located within or which serve only the Resident Portion of the clubhouse, which may include a reasonable contribution to a reserve fund for repair and replacement of such items; and

(b) a portion of any other costs incurred in owning, maintaining, operating, insuring, repairing and replacing portions of the clubhouse which are not directly attributable to either the Resident Portion or the balance of the clubhouse (e.g., repair or replacement of the roof, facade, foundation or structure). The Association's share of such costs shall be calculated by multiplying the total costs by a fraction, the numerator of which is the square footage of the Resident Portion of the clubhouse and the denominator of which is the total square footage of the clubhouse.

3.2. Obligation to Share Costs of Swim, Tennis and Fitness Facilities. The Association shall be responsible for a portion of the costs incurred in owning, maintaining, operating, insuring, repairing and replacing the swimming pool, tennis courts, fitness facilities and related facilities, as well as fixtures, furnishings and personal property provided for use in connection with such facilities. The Association's share of such costs shall be calculated by multiplying the total costs by a fraction, the numerator of which is the number of owners of Lots

holding licenses pursuant to Section 2.1 as of the "cutoff date" described below and the denominator of which is the sum of the numerator number plus the total number of club memberships which are issued by Club Owner and outstanding to persons who do not own a Lot within the Residential Property as of such cutoff date. Club Owner shall be responsible for the balance of such costs. The cutoff date shall be that date which is 30 days prior to the beginning of the Association's fiscal year.

3.3. Calculation of Shared Expenses and Association Contribution. On an annual basis, at least 45 days before the beginning of the Association's fiscal year, the Club Owner shall establish a budget estimating the expenses which it expects to incur during the upcoming fiscal year for which the Association is wholly or partially responsible pursuant to Sections 3.1 and 3.2, including, without limitation, such amounts, if any, as Club Owner determines to be reasonable to be placed in a reserve fund for capital repairs and replacements. Club Owner shall provide a copy of such budget to the Association at least 30 days prior to the beginning of the Association's fiscal year, along with notice of the amount of the Association's share of such estimated expenses pursuant to Sections 3.1 and 3.2.

The budget and the amount due from the Association pursuant to such budget shall be adjusted at least annually to reflect (a) any excess or deficiency in the budget prepared for the immediately preceding year as compared to actual expenses for that period and (b) any unreimbursed costs incurred during the previous fiscal year to collect amounts due from the Association hereunder.

3.4. Payment. The Association's share of the estimated expenses, as set forth in the notice pursuant to Section 3.3, shall be due and payable to Club Owner in equal quarterly installments on or before the first day of each quarter of the Association's fiscal year. Any amount due and owing to Club Owner which remains delinquent for a period of more than 30 days shall incur interest at the lesser of 18% per annum or the highest rate allowed by Georgia law on the principal amount due and shall include all costs of collection (including, without limitation, attorneys' fees) and any other amounts provided or permitted by law. All payments shall be applied first to costs and attorneys' fees, then to interest, and then to the principal amount of any delinquency.

3.5. Independent Covenant. The obligation to pay the amounts provided for herein shall be mandatory and shall be a separate and independent covenant on the part of the Association. No diminution, setoff or abatement of the amounts due hereunder shall be claimed or allowed by reason of any alleged failure of the Club Owner to perform its responsibilities under this Covenant, non-use of the licenses granted under Section 2.1, or abandonment of a Lot by the owner thereof. Each party's remedy for failure of the other to perform its responsibilities hereunder shall be to proceed under the mandatory binding arbitration procedures set forth in Section 4.1.

3.6. Recordkeeping; Audit. The Club Owner shall maintain or cause to be maintained full and accurate books of account with respect to the costs described in this Article IN. Such books and records shall be made available for inspection and copying by the officers, directors

and managing agent of the Association upon reasonable request during normal business hours. The requesting party shall pay all copying charges for requested copies. If the Association desires to have the records audited, it may do so at its expense and Club Owner shall cooperate by making available to the auditors the records, including all supporting material (e.g., check copies, invoices, etc.), for the year in question.

#### **Article IV** **General**

4.1. Mandatory Binding Arbitration. The parties will cooperate with one another in avoiding and informally resolving disputes between them. Any unresolved claims or disputes of any kind or nature between or among the parties arising out of or relating in any manner to this Covenant shall be resolved by final and binding arbitration conducted in accordance with this Section, and such resolution shall be final. In order to initiate arbitration for disputes, a party must provide clear and specific written notice to the other(s) that such party desires to arbitrate matters in dispute, together with a description of the claim or dispute and of the damages or relief being sought.

Arbitrations will be conducted by an independent, neutral third-party arbitrator selected by Endispute, Inc., d/b/a J.A.M.S./Endispute, Atlanta, Georgia (JAMS). Arbitrations will be conducted in Atlanta, Georgia in accordance with rules provided or determined by JAMS; provided, however, if any procedural matters are not covered in those rules, the arbitrator shall decide such matters. The arbitration shall be administered by JAMS, but if JAMS is unable or legally precluded from administering the arbitration, the American Arbitration Association shall serve. The arbitrator will commence a hearing on the claim(s) or dispute(s) within ninety (90) days after the date of the demand for arbitration and shall continue such hearing diligently to completion within a reasonable period of time. The arbitrator shall only, upon a showing of cause, be permitted to extend the commencement of such hearing for up to an additional sixty (60) days. The arbitrator shall promptly render a decision or award, and such decision or award shall be final and binding on the parties to the arbitration.

There shall not be any award by an arbitrator for or against any party to an arbitration hereunder for punitive damages; statutory damages; treble or other multiple damages; fees of attorneys, other professionals or experts; any costs or expenses (except as specifically provided herein); any type of consequential damages; or any other items of a punitive nature. Questions of whether issues are arbitrable and the actual interpretation of terms needing definition in order to arbitrate an issue shall be determined by the arbitrator. Arbitrations shall be governed by the U.S. Arbitration Act, 9 U.S.C. Sections 1-16, to the exclusion of any provisions of state law (or, if such Act is not applicable, by the applicable state law).

Judgment upon an award rendered by an arbitrator may be entered in any court having jurisdiction. Any party to this Covenant may bring an action, including, without limitation, a summary judgment or expedited proceeding, to compel arbitration of any controversy or claim to which this Section applies in any court having jurisdiction over such action. The costs and fees of arbitration will be equitably apportioned by the arbitrator based on the result of the

arbitration. Payment of the costs and fees of the arbitrator or the arbitration must be made in full when the request is made.

THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT THE ARBITRATION PROCEDURE SET FORTH HEREIN SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR THE RESOLUTION OF ANY AND ALL DISPUTES ARISING HEREUNDER BETWEEN AND AMONG THE PARTIES. THE PARTIES HEREBY WAIVE ANY AND ALL OTHER RIGHTS AND REMEDIES AT LAW, IN EQUITY OR OTHERWISE WHICH MIGHT OTHERWISE HAVE BEEN AVAILABLE TO THEM IN CONNECTION WITH ANY SUCH DISPUTES.

4.2 Notice. Each notice or document (collectively referred to in this Section as "notice") required or permitted to be given hereunder must comply with the requirements of this Section. Each such notice shall be in writing and shall be delivered either by confirmed telecopy, by personally delivering it, by delivering it utilizing Federal Express, UPS or other reputable courier service, or by depositing it with the United States Postal Service or any official successor thereto, certified mail, return receipt requested, with adequate postage prepaid, addressed to the appropriate party (and marked to a particular individual's attention). Such notice shall be deemed delivered at the time of confirmation of receipt by the transmitting telecopy, the date of personal delivery, the date of deposit for delivery with a courier, or, if mailed, when it is deposited as provided above, but the time period in which a response to any such notice must be given or any action taken with respect thereto shall commence to run from the date it is received by the addressee thereof, as evidenced by telecopy transmission confirmation, receipt for personal or courier delivery, or certified mail return receipt. Rejection or other refusal by the addressee to accept the notice shall be deemed to be receipt of the notice. In addition, the inability of the United States Postal Service to deliver the notice because of a change of address of which no notice was given as provided below shall be deemed to be the receipt of the notice sent. The addresses and telecopier numbers of the parties to which notice is to be sent shall be those set forth on the signature pages of this Covenant. Such addresses and telecopier numbers may be changed by notice to the other parties in writing.

4.3. Amendment. This Covenant may be amended only by an instrument signed by the Club Owner and by the Association, at the direction of its board of directors. So long as Declarant owns any portion of the Residential Property, any amendment to this Covenant shall also require Declarant's written consent.

Amendments to this Covenant shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Covenant.

4.4. Duration. Unless terminated by agreement of all persons required to consent to an amendment, the covenants and restrictions of this Covenant shall run with and bind the Residential Property and the Club Property, and shall inure to the benefit of and shall be

enforceable by the Declarant, the Association and the Club Owner, their respective legal representatives, heirs, successors and assigns, perpetually to the extent permitted by law; provided, however, if Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Covenant affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provisions shall be (a) automatically extended for successive periods of ten (10) years, unless a written instrument reflecting disapproval signed by the Club Owner, the Association, at the direction of its board of directors, and the Declarant (so long as Declarant owns any portion of the Residential Property) has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Covenant shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in all or any portion of the Residential Property or the Club Property, by acceptance of a deed or other conveyance therefore, thereby agrees that such provisions of this Covenant may be extended and renewed as provided in this Section.

If any of the covenants, conditions, restrictions or other provisions of this Covenant shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

4.5. Construction; Severability. This Covenant shall be governed by and construed under Georgia law. Invalidation of any provision of this Covenant, in whole or in part, by judgment or court order shall not affect other provisions.

4.6. Waiver. No failure of Declarant, the Club Owner or the Association to exercise any right or power under this Covenant or to insist upon strict compliance with this Covenant and no custom or practice at variance with the terms of this Covenant shall constitute a waiver of the right thereafter to demand exact compliance with the terms of this Covenant.

4.7. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

IN WITNESS WHEREOF, the Declarant and Club Owner have executed this Declaration of Covenant to Share Costs for Woodmont Golf and Country Club as of the date first above written.

[continued on next page]

**DECLARANT:**

Signed, sealed and delivered in the presence of:

**JOHN WIELAND HOMES AND NEIGHBORHOODS, INC.,** a Georgia corporation

Witness Jonathan F. Fry

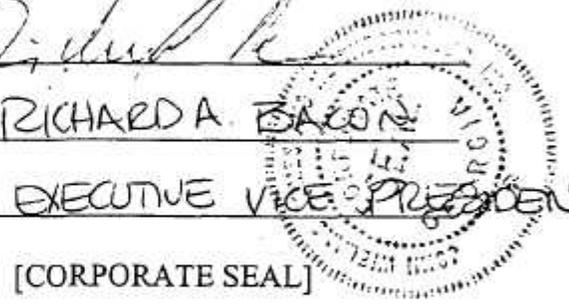
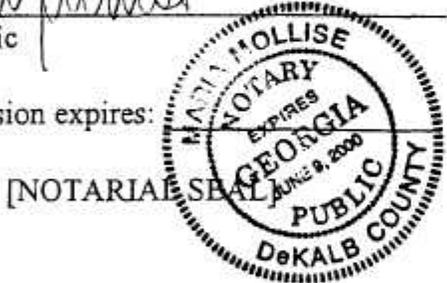
By: Richard A. Bacon

Notary Public [Signature]

Name: RICHARD A. BACON

My commission expires:

Title: EXECUTIVE VICE PRESIDENT



[CORPORATE SEAL]

Address: 1950 Sullivan Road  
Atlanta, GA 30337  
Attn.: Richard A. Bacon

Telecopier Number: (770) 907-3419

**CLUB OWNER:**

Signed, sealed and delivered in the presence of:

**WOODMONT GOLF CLUB, INC.,** a Georgia corporation

Witness Jonathan F. Fry

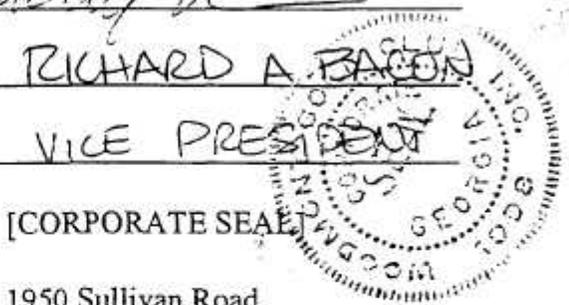
By: Richard A. Bacon

Notary Public [Signature]

Name: RICHARD A. BACON

My commission expires:

Title: VICE PRESIDENT



[CORPORATE SEAL]

Address: 1950 Sullivan Road  
Atlanta, GA 30337  
Attn.: Richard A. Bacon

Telecopier Number: (770) 907-3419

[continued on next page]

Consented to this 14th day of January, 1999 by Woodmont Golf and Country Club Community Association, Inc., for the purpose of becoming a party to this Covenant and acknowledging, agreeing to and accepting its responsibilities and obligations as set forth in this document.

Signed, sealed and delivered in the presence of:

Janathan F. Jones  
Witness

Maria Nollise  
Notary Public

My commission expires:



**WOODMONT GOLF AND COUNTRY CLUB COMMUNITY ASSOCIATION, INC.**, a Georgia corporation

By: Dan Fields  
Name: DAN FIELDS  
Title: VICE PRESIDENT  
[CORPORATE SEAL]

Address: 1950 Sullivan Road  
Atlanta, GA 30337  
Attn.: Dan Fields

Telecopier Number: (770) 907-3419

## EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 1022, 1066, 1067, 1094 and 1095, 3rd District, 2nd Section, Cherokee County, Georgia and being more particularly described as follows:

Beginning at an iron pin found (3/4 inch crimp top pipe) at the common corner of Land Lots 1021, 1022, 1067 and 1068, said District, Section, County and State; thence running along the common boundary line of said Land Lots 1021 and 1022 north 00 degrees 54 minutes 39 seconds east a distance of 124.36 feet to a point; thence leaving the common boundary line of said Land Lots 1021 and 1022 south 64 degrees 56 minutes 24 seconds east a distance of 1,118.56 feet to a point; thence south 00 degrees 39 minutes 08 seconds east a distance of 60.51 feet to a point; thence south 24 degrees 21 minutes 17 seconds east a distance of 32.44 feet to a point; thence south 39 degrees 45 minutes 11 seconds east a distance of 53.75 feet to a point; thence south 36 degrees 50 minutes 29 seconds east a distance of 74.17 feet to a point; thence south 31 degrees 30 minutes 53 seconds east a distance of 67.14 feet to a point; thence south 30 degrees 02 minutes 48 seconds east a distance of 52.41 feet to a point; thence south 17 degrees 55 minutes 44 seconds east a distance of 85.55 feet to a point; thence south 45 degrees 27 minutes 49 seconds east a distance of 59.75 feet to a point; thence south 83 degrees 39 minutes 30 seconds east a distance of 118.92 feet to a point on the northwesterly right-of-way line of Proposed Gaddis Road (proposed 80 foot right-of-way); thence running along the northwesterly right-of-way line of said Proposed Gaddis Road along the arc of a curve to the right (said curve being subtended by a chord having a bearing of south 08 degrees 18 minutes 10 seconds west and a chord length of 110.79 feet, and said curve having a radius of 2,885.02 feet) an arc distance of 110.80 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed Gaddis Road south 09 degrees 24 minutes 11 seconds west a distance of 310.93 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed Gaddis Road along the arc of a curve to the left (said curve being subtended by a chord having a bearing of south 05 degrees 05 minutes 33 seconds west and a chord length of 399.34 feet, and said curve having a radius of 2,656.54 feet) an arc distance of 399.72 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed Gaddis Road along the arc of a curve to the left (said curve being subtended by a chord having a bearing of south 11 degrees 20 minutes 59 seconds east and a chord length of 141.17 feet, and said curve having a radius of 335.85 feet) an arc distance of 142.23 feet to a point at the intersection of the northwesterly right-of-way line of said Proposed Gaddis Road and the northeasterly right-of-way line of Haley Farm Road (proposed 60 foot right-of-way); thence leaving the northwesterly right-of-way line of said Proposed Gaddis Road and running along the northeasterly right-of-way line of said Haley Farm Road north 71 degrees 19 minutes 30 seconds west a distance of 362.36 feet to a point; thence leaving the northeasterly right-of-way line of said Haley Farm Road north 18 degrees 40 minutes 30 seconds east a distance of 128.25 feet to a point; thence north 47 degrees 36 minutes 54 seconds west a distance of 119.40 feet to a point; thence north

68 degrees 07 minutes 16 seconds west a distance of 77.51 feet to a point; thence north 08 degrees 24 minutes 01 seconds east a distance of 117.22 feet to a point; thence north 41 degrees 38 minutes 40 seconds west a distance of 780.26 feet to a point; thence north 45 degrees 30 minutes 42 seconds west a distance of 438.26 feet to a point on the common boundary line of said Land Lots 1067 and 1068; thence running along the common boundary line of said Land Lots 1067 and 1068 north 00 degrees 52 minutes 26 seconds west a distance of 378.76 feet to an iron pin found (3/4 inch crimp top pipe) at the common corner of said Land Lots 1021, 1022, 1067 and 1068, which is the point of beginning.

Together with:

All that tract or parcel of land lying and being in Land Lots 1023, 1024, 1065, 1066, 1095, 1096, 1097, 1136 and 1138, 3rd District, 2nd Section, Cherokee County, Georgia and being more particularly described as follows:

Beginning at a point on the northeasterly right-of-way line of Proposed Gaddis Road (proposed 80 foot right-of-way), said point being 528.29 feet southeasterly along the northeasterly right-of-way line of said Proposed Gaddis Road from the intersection of the northeasterly right-of-way line of said Proposed Gaddis Road and the southeasterly right-of-way line of East Cherokee Drive (50 foot right-of-way); thence leaving the northeasterly right-of-way line of said Proposed Gaddis Road north 56 degrees 05 minutes 29 seconds east a distance of 107.22 feet to a point; thence south 33 degrees 54 minutes 40 seconds east a distance of 94.42 feet to a point; thence south 76 degrees 31 minutes 03 seconds east a distance of 911.25 feet to a point; thence south 57 degrees 57 minutes 01 seconds east a distance of 928.95 feet to a point on the northwesterly right-of-way line of a Proposed 50 foot right-of-way; thence running along the northwesterly right-of-way line of said Proposed 50 foot right-of-way south 11 degrees 06 minutes 33 seconds west a distance of 57.79 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed 50 foot right-of-way along the arc of a curve to the right (said curve being subtended by a chord having a bearing of south 29 degrees 23 minutes 59 seconds west and a chord length of 207.13 feet, and said curve having a radius of 330.00 feet) an arc distance of 210.69 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed 50 foot right-of-way south 47 degrees 41 minutes 26 seconds west a distance of 326.30 feet to a point; thence leaving the northwesterly right-of-way line of said Proposed 50 foot right-of-way north 68 degrees 18 minutes 36 seconds west a distance of 230.84 feet to a point; thence north 38 degrees 19 minutes 11 seconds west a distance of 116.27 feet to a point; thence north 45 degrees 12 minutes 03 seconds west a distance of 120.55 feet to a point; thence north 64 degrees 35 minutes 57 seconds west a distance of 514.89 feet to a point; thence south 07 degrees 10 minutes 02 seconds west a distance of 404.50 feet to a point; thence south 88 degrees 42 minutes 02 seconds east a distance of 170.21 feet to a point; thence south 05 degrees 00 minutes 11 seconds east a distance of 145.25 feet to a point; thence north 59 degrees 44 minutes 03 seconds east a distance of 33.29

feet to a point; thence south 13 degrees 01 minutes 42 seconds east a distance of 697.86 feet to a point; thence south 12 degrees 28 minutes 23 seconds west a distance of 812.18 feet to a point; thence south 45 degrees 33 minutes 41 seconds east a distance of 144.63 feet to a point; thence north 74 degrees 01 minutes 41 seconds east a distance of 586.56 feet to a point; thence north 01 degrees 03 minutes 55 seconds east a distance of 1,395.19 feet to a point on the southeasterly right-of-way line of said Proposed 50 foot right-of-way; thence running along the southeasterly right-of-way line of said Proposed 50 foot right-of-way north 47 degrees 41 minutes 26 seconds east a distance of 373.27 feet to a point; thence continuing along the southeasterly right-of-way line of said Proposed 50 foot right-of-way along the arc of a curve to the left (said curve being subtended by a chord having a bearing of north 34 degrees 23 minutes 01 seconds east and a chord length of 174.93 feet, and said curve having a radius of 380.00 feet) an arc distance of 176.51 feet to a point; thence leaving the southeasterly right-of-way line of said Proposed 50 foot right-of-way south 51 degrees 55 minutes 45 seconds east a distance of 58.91 feet to a point; thence north 71 degrees 06 minutes 19 seconds east a distance of 306.15 feet to a point; thence north 42 degrees 19 minutes 09 seconds east a distance of 70.11 feet to a point; thence south 38 degrees 31 minutes 03 seconds east a distance of 298.56 feet to a point; thence south 55 degrees 23 minutes 58 seconds west a distance of 139.15 feet to a point; thence south 04 degrees 38 minutes 55 seconds east a distance of 154.07 feet to a point; thence south 23 degrees 25 minutes 14 seconds west a distance of 70.08 feet to a point; thence south 51 degrees 46 minutes 29 seconds west a distance of 207.85 feet to a point; thence south 00 degrees 44 minutes 31 seconds west a distance of 725.00 feet to a point; thence south 11 degrees 33 minutes 25 seconds west a distance of 582.25 feet to a point; thence south 66 degrees 21 minutes 38 seconds east a distance of 1,386.86 feet to a point; thence south 62 degrees 20 minutes 23 seconds east a distance of 550.35 feet to a point on the southwesterly right-of-way line of Proposed Grandmar Chase (proposed 50 foot right-of-way); thence running along the southwesterly right-of-way line of said Proposed Grandmar Chase south 01 degrees 14 minutes 51 seconds west a distance of 158.97 feet to a point; thence continuing along the southwesterly right-of-way line of said Proposed Grandmar Chase along the arc of a curve to the right (said curve being subtended by a chord having a bearing of south 12 degrees 01 minutes 30 seconds west and a chord length of 177.64 feet, and said curve having a radius of 475.00 feet) an arc distance of 178.70 feet to a point; thence continuing along the southwesterly right-of-way line of said Proposed Grandmar Chase south 22 degrees 48 minutes 09 seconds west a distance of 42.01 feet to a point; thence leaving the southwesterly right-of-way line of said Proposed Grandmar Chase south 88 degrees 27 minutes 29 seconds west a distance of 617.48 feet to a point; thence north 59 degrees 09 minutes 45 seconds west a distance of 309.88 feet to a point; thence north 44 degrees 39 minutes 29 seconds west a distance of 92.74 feet to a point; thence south 50 degrees 37 minutes 08 seconds west a distance of 165.21 feet to a point on the northeasterly right-of-way line of said Proposed Grandmar Chase; thence running along the northeasterly right-of-way line of said Proposed Grandmar Chase north 39 degrees 22 minutes 52 seconds west a distance of 297.63 feet to a point; thence continuing along the northeasterly right-of-way line of said Proposed Grandmar Chase along the arc of a curve to the left (said curve being subtended by a chord having a

bearing of north 59 degrees 24 minutes 19 seconds west and a chord length of 342.42 feet, and said curve having a radius of 500.00 feet) an arc distance of 349.49 feet to a point; thence continuing along the northeasterly right-of-way line of said Proposed Grandmar Chase north 79 degrees 25 minutes 45 seconds west a distance of 272.39 feet to a point; thence leaving the northeasterly right-of-way line of said Proposed Grandmar Chase north 10 degrees 34 minutes 15 seconds east a distance of 117.04 feet to a point; thence north 52 degrees 36 minutes 19 seconds west a distance of 311.46 feet to a point; thence south 55 degrees 22 minutes 30 seconds west a distance of 797.68 feet to a point; thence south 58 degrees 31 minutes 01 seconds west a distance of 522.30 feet to a point; thence south 36 degrees 28 minutes 01 seconds west a distance of 194.15 feet to a point; thence south 67 degrees 29 minutes 02 seconds west a distance of 40.00 feet to a point; thence south 00 degrees 48 minutes 43 seconds west a distance of 185.00 feet to a point on the northwesterly right-of-way line of said Proposed Grandmar Chase; thence running along the northwesterly right-of-way line of said Proposed Grandmar Chase north 86 degrees 04 minutes 23 seconds west a distance of 112.56 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed Grandmar Chase south 84 degrees 45 minutes 20 seconds west a distance of 36.02 feet to a point, thence continuing along the northwesterly right-of-way line of said Proposed Grandmar Chase along the arc of a curve to the left (said curve being subtended by a chord having a bearing of south 76 degrees 49 minutes 02 seconds west and a chord length of 76.03 feet, and said curve having a radius of 275.24 feet) an arc distance of 76.27 feet to a point; thence continuing along the northwesterly right-of-way line of said Proposed Grandmar Chase south 68 degrees 52 minutes 43 seconds west a distance of 11.63 feet to a point at the intersection of the northwesterly right-of-way line of said Proposed Grandmar Chase and the northeasterly right-of-way line of said Proposed Gaddis Road; thence leaving the northwesterly right-of-way line of said Proposed Grandmar Chase and running along the northeasterly right-of-way line of said Proposed Gaddis Road the following 19 courses, distances and curves: (1) north 39 degrees 07 minutes 38 seconds west a distance of 41.23 feet to a point; (2) thence north 19 degrees 23 minutes 26 seconds west a distance of 177.32 feet to a point; (3) thence along the arc of a curve to the right (said curve being subtended by a chord having a bearing of north 11 degrees 41 minutes 01 seconds west and a chord length of 203.83 feet, and said curve having a radius of 759.96 feet) an arc distance of 204.44 feet to a point; (4) thence north 03 degrees 58 minutes 36 seconds west a distance of 142.10 feet to a point; (5) thence north 11 degrees 17 minutes 25 seconds west a distance of 67.93 feet to a point; (6) thence north 01 degrees 06 minutes 52 seconds west a distance of 146.11 feet to a point; (7) thence along the arc of a curve to the left (said curve being subtended by a chord having a bearing of north 05 degrees 07 minutes 44 seconds west and a chord length of 520.03 feet, and said curve having a radius of 3,713.97 feet) an arc distance of 520.46 feet to a point; (8) thence along the arc of a curve to the left (said curve being subtended by a chord having a bearing of north 19 degrees 25 minutes 46 seconds west and a chord length of 148.49 feet, and said curve having a radius of 415.80 feet) an arc distance of 149.29 feet to a point; (9) thence north 29 degrees 42 minutes 55 seconds west a distance of 14.69 feet to a point; (10) thence along the arc of a curve to the right (said curve being subtended by a chord having a bearing of north 14 degrees 28 minutes 00 seconds west and a chord length of 134.58 feet, and

said curve having a radius of 255.85 feet) an arc distance of 136.18 feet to a point; (11) thence along the arc of a curve to the right (said curve being subtended by a chord having a bearing of north 05 degrees 05 minutes 33 seconds east and a chord length of 387.31 feet, and said curve having a radius of 2,576.54 feet) an arc distance of 387.68 feet to a point; (12) thence north 09 degrees 24 minutes 11 seconds east a distance of 310.93 feet to a point; (13) thence along the arc of a curve to the left (said curve being subtended by a chord having a bearing of north 05 degrees 44 minutes 15 seconds east and a chord length of 379.13 feet, and said curve having a radius of 2,965.00 feet) an arc distance of 379.39 feet to a point; (14) thence along the arc of a curve to the right (said curve being subtended by a chord having a bearing of north 11 degrees 03 minutes 23 seconds east and a chord length of 96.83 feet, and said curve having a radius of 310.00 feet) an arc distance of 97.22 feet to a point; (15) thence north 20 degrees 02 minutes 28 seconds east a distance of 38.01 feet to a point; (16) thence along the arc of a curve to the left (said curve being subtended by a chord having a bearing of north 11 degrees 08 minutes 12 seconds east and a chord length of 120.73 feet, and said curve having a radius of 390.00 feet) an arc distance of 121.22 feet to a point; (17) thence along the arc of a curve to the right (said curve being subtended by a chord having a bearing of north 04 degrees 41 minutes 59 seconds east and a chord length of 234.54 feet, and said curve having a radius of 2,724.09 feet) an arc distance of 234.61 feet to a point; (18) thence north 07 degrees 10 minutes 02 seconds east a distance of 605.16 feet to a point; (19) thence along the arc of a curve to the left (said curve being subtended by a chord having a bearing of north 17 degrees 15 minutes 18 seconds west and a chord length of 425.86 feet, and said curve having a radius of 515.00 feet) an arc distance of 439.03 feet to a point, which is the point of beginning.

Said tract containing approximately 177.583 acres as shown on that certain Boundary Survey for John Wieland Homes, Inc. Being Woodmont Golf & Country Club Golf Course dated 4/14/98, prepared by Rochester & Associates, Inc., and certified by and bearing the seal of James C. Jones, Georgia Registered Land Surveyor No. 2298.

rev. 071498