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ANGELA WATSON  
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COURT  
OCONEE COUNTY

STATE OF GEORGIA,  
COUNTY OF OCONEE.

RETURN TO: JAMES C. WARNES  
P.O. BOX 1963  
ATHENS, GEORGIA 30603

**PROTECTIVE COVENANTS FOR WILLOW CREEK SUBDIVISION**

THIS DECLARATION OF PROTECTIVE COVENANTS, made and published this the  
31<sup>st</sup> day of October, 2006, by ARS Properties, LLC, a Georgia limited liability company,  
hereinafter referred to as Declarant.

**WITNESSETH:**

THAT WHEREAS, Declarant is the owner of the property known as WILLOW CREEK  
SUBDIVISION shown on a Plat entitled "FINAL PLAT FOR WILLOW CREEK", dated April  
14, 2006, prepared by Apalachee Land Surveying, Inc., Charles D. Norton, Registered Land  
Surveyor, and recorded in the Office of the Clerk of the Superior Court of Oconee County,  
Georgia, as described herein; and

WHEREAS, it is to the benefit and advantage of Declarant and to each and every Person  
who hereafter purchases any numbered lot in WILLOW CREEK SUBDIVISION, to have  
Protective Covenants governing and regulating the use and occupancy of the same declared to be  
covenants running with the land;

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by Declarant and each and every subsequent owner of any of the numbered lots in WILLOW CREEK SUBDIVISION, Declarant does hereby establish, promulgate, and declare the following protective covenants to apply to, and only to, each and every numbered lot in WILLOW CREEK SUBDIVISION, the Common Areas and the private roads identified as Willow Creek Drive, Sycamore Circle, Birch Circle, and Long Leaf Court, as delineated on the Plat entitled "FINAL PLAT FOR: WILLOW CREEK, dated April 14, 2005, by Apalachee Land Surveying, Inc., Charles D. Norton, RLS # 2872, which plat is recorded in Plat Book 36, page ~~444~~ <sup>454</sup> in the office of the Clerk of Superior Court, Oconee County, Georgia, and to all Persons owning these lots, or any of them hereafter. These Protective Covenants shall become effective immediately and run with the land and shall be binding upon all Persons owning or having an interest in any such numbered lot (hereinafter "lot") in WILLOW CREEK SUBDIVISION.

1. **DEFINITIONS.**

- A. "The Act" shall mean the Georgia Property Owners Association Act, O.C.G.A. §44-3-220, *et seq.*, as the same is or may be hereinafter amended.
- B. "Architectural Control Committee" shall mean and refer to the Architectural Control Committee initially comprised of and such other individuals as Declarant may appoint, and thereafter such Persons appointed by the Board of Directors.
- C. "Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be hereinafter amended.
- D. "Association" shall mean and refer to the Willow Creek of Oconee County Homeowners Association, Inc., a non-profit Georgia corporation, its successors and assigns.

- E. "Board of Directors" shall mean the Board of Directors of the Association, the members of which shall be elected from time to time as provided in this Declaration, the Articles of Incorporation, and the By-Laws. The Board of Directors shall be the governing body of the Association.
- F. "By-Laws" shall mean the By-Laws of the Association, as the same may be hereinafter amended.
- G. "Common Area and Common Element" shall mean all real and personal property submitted to the Declaration which is owned, leased by, used by, or for the benefit of the Association for common use and enjoyment of the members, including drainage easements, detention areas, stilling basins, and undisturbed buffers on individual Lots.
- H. "Common Expenses" shall mean all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the provisions of the Declaration.
- I. "Declarant" shall mean ARS Properties, LLC, or its successor in title in the event ARS Properties, LLC, sells all of the Lots to a single builder prior to conveying the Common Elements to the Association. In the event of such sale, the Person or entity buying all of such lots shall be the Declarant where the context so requires.
- J. "Declaration" shall mean this recordable instrument creating covenants upon property, which covenants are administered by a property owners' association in which membership is mandatory for all owners of lots in the subdivision.
- K. "Lot" shall mean any numbered lot which constitutes a single dwelling site designated on the Plat.

- L. "Lot Owner" or "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.
  - M. "Mortgage" shall mean any Mortgage, deed to secure debt, security deed, 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.
  - N. "Person" shall mean any natural Person, as well as a corporation, joint venture, partnership (general or limited), Association, trust, or other legal entity.
  - O. "Plat" shall mean the Plat entitled "FINAL PLAT FOR WILLOW CREEK", dated April 14, 2006, by Appalachian Land Surveying, Inc., Charles D. Norton, Registered Land Surveyor, and recorded in the office of the Clerk of the Superior Court of Oconee County, Georgia.
  - P. "Recreational Amenities" shall mean the Tennis Courts, Clubhouse, Swimming Pool, and Walking Trails.
2. **LAND USE AND BUILDING TYPE.** No Lot in WILLOW CREEK SUBDIVISION shall be used for any purpose except single-family residence. Provided, however, in the event a single family residence is maintained as a model home for the purpose of marketing single family residences for sale on the subject property, such model home shall be a permitted use. No building shall be erected, altered, placed, or permitted to remain on any numbered Lot other than one (1) detached single family dwelling, constructed and maintained for the use and occupancy of a single family unit and private garage for not

more than two (2) cars and other outbuildings customarily used in connection with and incidental to a single family dwelling.

3. **ARCHITECTURAL CONTROL.** No building, fence, wall or other structure or improvement shall be erected, placed, or altered on any Lot until the construction plans and specifications and a site plan showing location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, as to harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. Approval shall be as provided in Paragraph 25 below.
4. **DWELLING QUALITY AND SIZE.**
  - (A) All dwellings must contain a minimum of one thousand eight hundred (1,800) square feet of heated interior space.
  - (B) Each residence and other structures shall be constructed only of materials, and in colors, approved in writing by the Architectural Control Committee with the exterior of the residences being brick, stucco, rock, and hardy plank siding with wood accents. No vinyl siding shall be used in the development.
5. **BUILDING LOCATION.** No building shall be located on any Lot nearer to the front line or nearer to the side street line or side Lot line than the minimum building set-back lines shown on the recorded Plat.
6. **DRIVEWAYS.** All driveways shall be concrete.
7. **FENCES.** No fences shall be allowed in front or side yards beyond the rear line of the house extended to the side boundaries of the Lot. The only types of fences which are allowed are a four foot (4') or a six foot (6') wooden privacy fence.

8. **MAILBOXES.** The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering, and all other particulars of mail and newspaper boxes, if any, and of name signs on such boxes, as well as property identification markers and decorative hardware, whether attached to such mailbox, to any structure within the Lot or affixed or erected upon the grounds of the Lot. All mailboxes shall be cast iron with the style and shape approved by the Architectural Control Committee.
9. **LANDSCAPING.** All front yards shall be sodded or hydroseeded and shall have underground irrigation systems sufficient to provide water to the sodded or hydroseeded areas. Such sodding and irrigation shall be completed within thirty (30) days from the completion of the construction of the single family residence located on a Lot.
10. **EASEMENTS.** Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded final Plat of WILLOW CREEK SUBDIVISION and as otherwise provided in recorded easement documents.
11. **NUISANCES.** No noxious or offensive activity shall be carried permitted on any Lot, or amenity area, nor shall anything be done thereon, which may be or become an annoyance or nuisance to the neighborhood. Animals, such as unrestrained barking dogs, that make an undue amount of noise shall be considered a nuisance.
12. **OIL AND MINING OPERATIONS.** No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon any Lot; and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted on, upon, or in any Lot.
13. **ABOVE GROUND STORAGE TANKS.** No exposed above ground storage tanks will be permitted on any Lot.

14. **TELEVISION ANTENNAS.** Television "dish" antennas shall not be permitted in the front yard of any Lot and shall not be visible from the front yard of any Lot. Antennas on a corner Lot are required to be screened from view from the side street. Any screen required to comply with this requirement must be approved by the Architectural Control Committee.
15. **SIGNS.** No sign of any kind shall be displayed to the public view on any Lot except one (1) professional sign of not more than three feet by three feet (3' x 3') advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction period.
16. **LIVESTOCK AND POULTRY.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purposes. Pets should be restrained from undue barking or cause of any nuisance to other homeowners.
17. **GARBAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or waste. All incinerators or other equipment for the storage or disposal of such material are prohibited. Trash cans will be placed behind front corners of house and allowed in street for pick-up for no more than twenty-four (24) hours on the day of pick-up. The Association shall contract with one company to pick up all garbage and refuse on the same day. The cost of such pickup is a part of the annual assessment paid by each Lot Owner.
18. **SEWAGE DISPOSAL.** No individual sewage disposal system shall be permitted on any Lot, unless such Lot is not served by public sewer and such private sewerage system is designed, located, and constructed in accordance with the requirements, standards, and

recommendations of the Georgia Department of Public Health. Approval of such systems as installed shall be obtained from such authority.

19. **CARS, BOATS, CAMPERS, AND MOTOR HOMES.** The parking of any boats, campers, and motor homes on the street or in a driveway is prohibited. Vehicles must be kept in garage or parked on the driveway. On-street parking is provided for visitors, delivery, etc. No vehicle should be left unattended on the side of the street locations for more than twelve (12) hour periods. Vehicles left longer than twelve (12) hours may be towed at owner's expense. No on street parking is permitted which would prevent or obstruct the free passage of fire trucks, ambulances, or other emergency vehicles. No parking is permitted in any alley except on a temporary basis. Alleys are for the access to the garages on each lot.
20. **ACTIVITIES.** Any restricted Activities or uses that tend to detract from the aesthetic character of the property, improvements, or Common Areas used in connection with such activities or uses shall not be permitted unless carried out or conducted as directed by prior written authorization of the Architectural Control Committee.
21. **PLAY EQUIPMENT.** Play equipment shall be placed no closer to the street than the rear line of the house extended to the side boundaries of the Lot.
22. **GARAGES.** All garages are to be enclosed with doors. All primary garages must be no less than two cars in size. Unattached garages are permissible as long as such garage is constructed in the same architectural style, with the same colors as the dwelling on the Lot. All garages must face the rear of the Lot.
23. **SIGHT DISTANCE AT INTERSECTION.** No fence, wall, hedge, or shrub planting which obstructs sight-lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area



formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot which is within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstructions of such sight-lines.

24. **HOLIDAY DECORATIONS.** There shall be no permanent seasonal decorations (e.g. Christmas) allowed on any Lot. All such holiday decorations and lighting must be removed no later than thirty (30) days after the holiday for which they were displayed.

25. **ARCHITECTURAL CONTROL COMMITTEE.**

- (A) **Membership.** The Architectural Control Committee is composed of James Anderson, Thad Clark, Rick Clark, and Regina Sheinutt. The Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining member shall have full authority to designate a successor. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.

The Architectural Control Committee shall have the right to grant variances to these Covenants provided that the variance is in writing and signed by a majority of the Architectural Control Committee. Variance may not be granted for anything required by Oconee County Ordinances or state law.

- (B) **Procedure.** At such time as the last Lot in WILLOW CREEK SUBDIVISION is sold by a builder building house for resale to third parties and Declarant owns no

other Lots, the Board of Directors of the Corporation specified below shall appoint an Architectural Control Committee of not less than three (3) and not more than seven (7) Persons. The Committee's approval or disapproval of any matter required in these Covenants shall be in writing. In the event the Committee, or its designated representative, fails to approve or disapprove any such matter within fourteen (14) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, written approval will not be required and the related covenants shall be deemed to have been fully complied with.

26. **PLAN APPROVAL.** No residence, building, fence, wall, road, driveway, sidewalk, parking area, or other structure or improvement of any kind shall be erected, placed, altered, added to, modified, maintained, or reconstructed on any Lot until the plans therefor, and for the proposed location thereof upon the Lot, shall have been approved in writing by the Architectural Control Committee. "Improvement" shall mean and include any improvement, change, or modification of the appearance of a Lot from the state existing on the date of the conveyance of such Lot by Declarant to a Lot Owner. Before taking any action requiring approval under this Section, a Lot Owner shall submit a construction schedule and two (2) complete sets of final plans and outline specifications, together with a site plan (which site plan shall show driveways, patios, decks, accessory buildings, utility corridors, and all other components referenced in the first sentence of this Section), landscape layout, floor plans, exterior elevations, and exterior materials, colors, and finishes. The site plan must be prepared by an architect, engineer, landscape architect, or similar professional. Additionally, all brick selection must be approved by the Architectural Control Committee. No changes or deviations in or from plans and

specifications as approved shall be made without the prior written approval by the Architectural Control Committee. No alteration in the exterior appearance of any building, structure, or other improvement shall be made without the approval of the Architectural Control Committee. Further, before beginning any construction, the name of the builder must be submitted to the Architectural Control Committee and approval by the Architectural Control Committee as to builder's experience and ability to build houses or other structures of the class and type of those which are to be built on the Property must be granted. The Architectural Control Committee shall act upon receipt of such information to approve or disapprove the same within fourteen (14) days of such submittal. Failure of the Architectural Control Committee to act shall constitute an approval of the plans and specifications submitted. Neither the Architectural Control Committee, nor any Person or party to whom the Architectural Control Committee shall assign such function, shall be responsible or liable in any way for the performance of any builder or for any defects in any plans or specifications approved in accordance with the foregoing, nor for any structural defects in any work done according to such plans and specifications. The Architectural Control Committee may refuse approval of plan, siting, or specifications upon any ground, including purely aesthetic considerations, which in its sole discretion it shall deem sufficient. Approval of any one series of improvements hereunder shall not waive the Architectural Control Committee's right to disapprove subsequent improvements to the same Lot.

27. **RIGHT OF ENJOYMENT.** Every Owner shall have a right and easement to use and enjoy the Common Property in accordance with these Restrictions and subject to the rules and regulations which may be adopted by the Association, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner

shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit Persons who are not owners to use and enjoy any part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. Except for the right to use the streets and the easement for drainage and storm water detention which may not be interfered with, the right and easement of enjoyment granted or permitted by this section to any Owner is subject to suspension by the Association as provided herein.

28. **DAMAGE TO OR DESTRUCTION OF COMMON PROPERTY.** Repair, reconstruction, or rebuilding of the Common Property following damage or destruction to all or any portion of the Common Property shall be governed by the following provisions:

Section 1. Estimates of the cost of repair. As soon as practicable following the occurrence of any damage to, or destruction of, any portion of the Common Property, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring such portion of the Common Property so damaged or destroyed to substantially the same condition as such portion of the Common Property was in prior to the occurrence of such damage and destruction and shall proceed with the filing and adjustment of all claims arising under insurance maintained by the Association as a result of such damage or destruction.

Section 2. Determination to Repair, Reconstruct, or Rebuild. Any damage to, or destruction of, the Common Property will be repaired, reconstructed, or rebuilt unless the Owners of the Lots to which seventy-five percent (75%) of the votes in the Association are allocated shall determine within forty-five (45) days after the occurrence of the casualty not to repair, reconstruct, or rebuild the same.

Section 3. Manner of Repair, Reconstruction, or Rebuilding. All repairs,

reconstruction, or rebuilding to be made as a result of damage by fire or other casualty shall be made in accordance with the following provisions:

- (A) The damage shall be repaired, reconstructed, or rebuilt substantially in accordance with the plans and specifications for such damaged property prior to the occurrence of the damage:
- (B) All the work or repairing, reconstructing or rebuilding any portion of the Common Property, the damage to or destruction of which cause the payments of insurance liability insurance benefits under insurance policies maintained by the Association, shall be performed under the supervision of the Board of Directors which, in discharging such supervisory responsibility, shall be authorized to employ such building supervisors and architects as the Board of Directors shall deem to be in the best interest of the Association.

Section 4. Cost of Repairs, Reconstruction, or Rebuilding. The cost of repairing, reconstructing, or rebuilding any portion of the Common Property which have been damaged or destroyed shall be paid with any insurance proceeds which shall be paid to the Association on account of such damage or destruction. If such insurance proceeds are not sufficient to defray such cost of repair, reconstruction or rebuilding, then the Board of Directors may levy a special assessment against all of the Lot Owners to raise the excess funds necessary to defray such cost.

- 29. **MAINTENANCE.** The Association shall appoint a standing Maintenance Committee, which shall be responsible for overseeing the Maintenance of all of the streets located in the subdivision, the tennis courts, the swimming pool and club house, all walking trails,

and all storm water detention facilities. Maintenance shall include, but not be limited to, road surfacing, shoulders, sidewalks, signs, buildings, recreational amenities, and vegetation control. All storm drains, storm sewers, drainage easements, and storm water detention facilities shall be maintained in compliance with Oconee County's NPDES permit for storm water discharge.

30. **HOMEOWNER'S ASSOCIATION.** WILLOW CREEK OF OCONEE HOMEOWNERS ASSOCIATION, INC. (the "Association") is a Georgia not for profit corporation. Every Owner of a Lot in WILLOW CREEK SUBDIVISION shall be a member of the Association. Lot Owners are sometimes herein referred to as Members. If title to a Lot is held by more than one (1) Person, each of such Persons shall be members. Membership shall be appurtenant to each Lot and such membership shall be transferred automatically upon transfer or conveyance of the Lot. Notwithstanding the above, each Lot shall be entitled to one (1) vote in the Association.

The provisions of this Article are to be amplified by the Articles of Incorporation and By-Laws of the Association provided, however, no such amplification shall substantially alter or amend any of the rights or obligations of the owners of Lots as set forth herein. In the event of any conflict or inconsistencies among this Declaration, the Articles of Incorporation, or the By-Laws of the Association, this Declaration, the Articles of Incorporation, and the By-Laws, in that order, shall prevail. The Association shall have the authority to adopt and enforce reasonable rules and regulations for the use of the Recreational Amenities.

31. **COMMON AREA PROPERTY AND CONTROL OF THE ASSOCIATION.** Certain parcels have been delineated on the Plat as Open Space Area #1 (24.061 acres), Open Space Area # 2 (0.932 acres), Open Space Area # 3 (0.447 acre), Tennis Court Amenity Area (.0748

acre), and the Recreation Area (2.090 acres) (all of which is referred to herein as "the Common Property"). The Common Property has been conveyed to the Association contemporaneously herewith. The 25.44 acres of Open Space Area is subject to the Conservation Easement recorded contemporaneously herewith. At such time as seventy-five (75%) of the residences have been sold to owners other than builders who are building houses for sale to owners, control of the Association shall be delivered to the Lot Owners. Willow Creek Drive, Sycamore Circle, Birch Circle, and Long Leaf Court are private roads and have been conveyed to the Association contemporaneously herewith.

32. **ASSESSMENTS.** Assessments against the Lot Owners shall be made to raise funds to pay the Common Expenses of the Property, and contribute a pro rata share of the maintenance of the Common Areas of WILLOW CREEK SUBDIVISION and shall be governed by the following provisions:

- (A) **Liability.** Each Lot Owner shall be liable to the Association for all sums as are lawfully assessed by the Association against him/her or his/her Lot or Lots in accordance with the terms and provisions of this Declaration and Articles of Incorporation and By-Laws. In addition to exercising the remedies provided for herein, the Association may enforce such liability by an action at law to recover all amounts assessed against each unit owner in accordance with the provisions of this Declaration. Each Lot Owner shall also be liable to the Association for such monetary damages as the Association or its members may suffer or incur as a result of a Lot Owner's violation of or refusal to comply with these covenants.
- (B) **Creation of the Lien and Personal Obligation for Assessment.** Each owner of any Lot, other than Declarant or Builder who has purchased a Lot from Declarant to sell to a third party, by acceptance of a deed or other conveyance thereof,

whether or not so expressed in any such deed or other conveyance, covenants and agrees to pay to the Association any assessment which shall be fixed, established, and collected as herein provided; however, nothing contained herein shall be construed to obligate Declarant or Builder who has purchased a Lot from Declarant to sell to a third party to pay assessments on any Lot prior to the sale of such Lot to a third party.

- (C) **Uniform Rate of Assessment.** All annual assessments shall be fixed at a uniform rate for all Lots. The Initial Annual Assessment shall be set at Five Hundred and No/100 Dollars (\$500.00). This annual Assessment shall be paid in advance no later than January 15 of each calendar year. The Initial Annual Assessment for each Lot shall be prorated for the year in which the sale occurs and shall be collected at closing. Each Lot Owner (other than a builder) at the purchase of the Lot from Declarant, or from the builder, shall pay the Association a one time initiation fee of Two Hundred Fifty and No/100 Dollars (\$250.00) and a one time capital contribution of Two Hundred Fifty and no/100 Dollars (\$250.00) to the Association for the creation of the reserve fund required by Section 1413.1.e. of the Zoning Regulations of Oconee County, Georgia. The capital funds shall be kept in the reserve fund and utilized for road repair and maintenance.
- (D) **Purpose.** Assessments shall be levied against the Lot Owners and the Lots to defray the Common Expenses of the Common Property. The Common Expenses of the Common Property shall be all of the expenditures which are made or incurred by or on behalf of the Association in connection with the exercise of its powers and responsibilities, and shall include, but not be limited to, the following:



- (i) All expenses related to the maintenance and repair of the private roads, the club house, the pool (if any), the Common Areas, the buffer zones, and the storm water detention facilities located on the subject Common Property;
  - (ii) Premiums for all insurance policies maintained by the Association;
  - (iii) The expenses of performing the maintenance, repair, renovation, restoration, and replacement work which is the responsibility of the Association hereunder;
  - (iv) All expenses related to the maintenance and repair of the entrance and any recreation facility located on any of the Common Property of WILLOW CREEK SUBDIVISION;
  - (v) The Association is responsible for the upkeep and maintenance of all Common Property, including, but not limited to, grass cutting, tree pruning, trail maintenance, storm water maintenance, decorative entrance, and taxes;
  - (vi) The Association is responsible for the upkeep and maintenance of the private roads, the club house, the pool (if any), the buffer zone and the storm water detention facilities; and
  - (vii) Such other costs and expenses as may be determined from time to time by the Board of Directors to be Common Expenses.
- (E) **Special Assessments.** If for any reason, including nonpayment of any Lot Owner's assessments, an annual budget adopted by the Board of Directors for any fiscal year proves inadequate to defray the Common Expenses for such fiscal year, the Board of Directors may, at any time, levy a special assessment to raise the additional funds necessary to defray such Common Expenses, which special

assessment shall be due and payable at such time and in such installments as the Board of Directors shall determine. Additionally, the Board of Directors shall be authorized to levy special assessments under the circumstances described in this Declaration.

- (F) **Special Assessments for Capital Improvements.** In addition to the assessments which shall be levied against the Lot Owners, the Board of Directors shall be authorized, upon the affirmative vote of two-thirds (2/3) of the Lot Owners entitled to cast votes, to levy a special assessment for the purpose of defraying, in whole or in part, the costs of making repairs or replacements which are not provided for in the then current budget of the Association. Any such special assessment for the capital improvements and repairs shall be payable at such time and in such installments as the Board of Directors may determine.

- (G) **Collection.** In addition to all other remedies provided by law, the Association may enforce collection of the assessments for which a Lot Owner is liable, together with all other amounts as may be owed by such Lot Owner to the Association, as herein provided.

- (i) In the event that any Lot Owner shall fail to pay any installment of any assessment levied against him/her within ten (10) days after such installment shall be due and payable, such owner shall pay, in addition to the amounts so due the Association:

- (a) A late charge equal to Ten Dollars (\$10.00) or Ten Percent (10%) of the amount so due, whichever is greater;

- (b) Interest on the amount so due, including the late charge, from the date same became due and payable, at the rate of Ten Percent (10%) per annum, until paid;
  - (c) The cost of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Lot, and reasonable attorney fees actually incurred; and
  - (d) In the event the Association shall seek to foreclose its lien on the Lot of such owner, the fair rental value of the Lot from the time of the institution of suit until sale of the unit at foreclosure (or until the judgment rendered in such suit is otherwise satisfied).
- (ii) All sums lawfully assessed by the Association against any Lot Owner, whether for the share of the Common Expenses pertaining to that Lot, fines, or otherwise, and all reasonable charges made to any Lot Owner or Lot for material furnished or services rendered by the Association at the owner's request to or on behalf of the Lot Owner or Lot, shall, from the time the sums become due and payable, be the personal obligation of the Lot Owner and constitute a lien in favor of the Association on the Lot prior and superior to all other liens whatsoever except:
- (a) Liens for ad valorem taxes on the Lot;
  - (b) The lien of any first priority Mortgage covering the Lot and the lien of any Mortgage recorded prior to the recording of the Declaration; or

- (c) The lien of any secondary purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee of the Mortgage is the seller of the Lot.
- (iii) The rights of a Lot Owner, and all Persons entitled to occupy the Lot of such owner, to use the Common Elements shall be suspended for the period of time any amount due and owing to the Association in regard to any Lot owned by such owner shall remain unpaid; provided, however, that no such suspension shall deny any Lot Owner, or the occupants of any Lot, access to the Lot owned or occupied, nor cause any hazardous or unsanitary condition to exist.

**(H.) Suspension of Privileges.**

- (i) The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property by any Person who:
  - (a) Shall be subject to the right of abatement, as defined below, by reason of having failed to take the reasonable steps to remedy a violation or breach of the restrictions within thirty (30) days after having received notice of same as set forth below.
  - (b) Shall be delinquent in the payment of any assessment by the Association provided for herein; or
  - (c) Shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property. Any suspension of privileges because of violation of rules and regulations of the Association shall not abate a Lot Owner's obligation to pay any Assessment.

- (ii) Right of Abatement. In the event of a violation or breach of any restriction contained in this Declaration the Association shall give written notice by certified mail to the Lot Owner setting forth in reasonable detail the nature of such violation or breach and Actions needed to be taken to remedy such violation or breach within thirty (30) days after the mailing of such written notice, then the Association shall have the Right of Abatement. If any assessment, interest, cost or charge required by this Declaration is not paid within sixty (60) days after such assessment is due or such charge is imposed, the Association shall have the right to notify any or all Mortgagees having a security interest in the owner's Lot or Lots that such Lot Owner is in default in the performance of their obligations under the Development Documents, and of those actions taken or proposed to be taken by the Association as a result of the default. The Right of Abatement, means the rights of the Association, through its agents and employees, to enter at all reasonable times upon any Lot on which a violation, breach or other condition to be remedied exists, and to take the Actions specified in the notice to the Lot Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this section, and with the cost thereof, together with interest thereon at the lower of the highest rate permitted by law, or 10% , to be a binding personal obligation of such Lot

Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of this Section 30.

(L) **NO PUBLIC FUNDS.** No public funds of Oconee County are to be used to build, repair, or maintain any of the Private Streets or Alleys located in the WILLOW CREEK SUBDIVISION.

33. **INSURANCE.** The Association shall obtain and maintain hazard insurance for all improvements on the Common Property and a comprehensive policy of public liability insurance covering all of the Common Elements. Such liability insurance policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Lot Owner because of the negligent acts of the Association or other Lot Owners. Such liability insurance policy shall cover the Association, the Board of Directors, the officers of the Association, all agents and employees of the Association, and all unit owners and other Persons entitled to occupy any Lot or other portion of the Property, shall be for at least Five Hundred Thousand Dollars (\$500,000.00) for injury including death to a single Person; One Million Dollars (\$1,000,000.00) for injury or injuries, including death, arising out of a single occurrence; and Fifty Thousand Dollars (\$50,000.00) for property damages, with a cross-liability endorsement to cover the Lot Owners as a group and shall include protection for damage to the property of others.
34. **STORM WATER DETENTION AREAS.** The storm water detention facilities set forth on the Plat of the subject property shall be conveyed to the Association and shall be maintained by the Association as provided by the laws and regulations of Oconee County and the State of Georgia, including the maintenance of liability insurance on said facility as provided herein.

35. **TERMS.** These covenants are to run with the land and shall be binding on all parties and all Persons under them in perpetuity as provided in O.C.G.A. § 44-3-234. The portion of these covenants concerning the repair and maintenance of Willow Creek Drive, Sycamore Circle, Birch Circle, and Long Leaf Court, may not be rescinded or deleted unless such roads shall be conveyed to and accepted by Oconee County as public roads or other provisions have been made for the repair and maintenance of such roads that are binding on all Lot Owners in WILLOW CREEK SUBDIVISION.
36. **DISSOLUTION OF CORPORATION.** In the event of the dissolution of the Association, the assets thereof shall be distributed to the members at the time of such dissolution or conveyed to one or more non-profit organizations having purposes similar to those of the Association. Dissolution of the Association is prohibited without first obtaining written approval from the Oconee County Board of Commissioners to Willow Creek Drive, Sycamore Circle, Birch Circle, and Long Leaf Court as public roads to be maintained by the County.
37. **SPECIFIC PERFORMANCE.** Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Lot Owner to enforce the restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by this Declaration; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity.
38. **ENFORCEMENT.** Enforcement shall be by proceedings of law or in equity against any Person or Persons violating or attempting to violate any covenant either to restrain

violation or to recover damages, or both as may be applicable depending upon the nature of the violation.

In the event of default by the Association for any obligation to Oconee County, Georgia, including, but not limited to, the payment of ad valorem taxes or the maintenance of any storm water facility, Oconee County, Georgia, shall have the right to enforce such obligation against the Lot Owners on a pro rata basis.

39. **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument under seal effective the 31<sup>st</sup> day of October, 2006.

**ARS PROPERTIES, LLC, DECLARANT**

By: Regina Shelnutt (Seal)  
Regina Shelnutt, Manager

Signed, sealed, and delivered  
in the presence of:

[Signature]  
Witness

Glennie F. Mullins  
Notary Public,





CONSENT

Willow Creek of Oconee County Homeowners Association, Inc., hereby consents to the provisions of these Protective Covenants as the same govern the Private Roads and Common Areas of Willow Creek Subdivision.

This 31<sup>st</sup> day of October, 2006.

WILLOW CREEK OF OCONEE COUNTY  
HOMEOWNERS ASSOCIATION, INC.

By: *Orgina Sheburn* *(pres)*

Attest: *Julie G. d* *Sec*

*[Signature]*  
Witness  
*[Signature]*  
Notary  
