

STATE OF GEORGIA

COUNTY OF DOUGLAS

THIS DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR ELK RUN SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by EXXELL DEVELOPERS, INC., (hereinafter referred to as "Declarant" and "Owner").

WITNESSETH:

WHEREAS, Owner is the owner of certain property in the County of Douglas, State of Georgia, which is more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference;

WHEREAS, Declarant and Owner desire to provide for the preservation and enhancement of the property values in Elk Run Subdivision, and *for* the maintenance of property and improvements thereon, and to this end desires to subject the property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property; and

WHEREAS, Declarant and Owner have deemed it desirable, for the efficient preservation of the values in Elk Run Subdivision, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant will cause to be incorporated under the laws of the State of Georgia the Elk Run Homeowners Association, Inc., a non-profit corporation, for the purpose of exercising the aforesaid functions,

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

ARTICLE I
DEFINITIONS

Section 1. "Architectural Control Committee" shall mean and refer to Exxell Developers, Inc" Declarant, or such other individuals as Declarant may appoint, until all lots in Elk Run Subdivision have been fully developed and permanent improvements constructed thereon and sold to permanent residents, or at such other time as the Declarant in its sole discretion shall turn the same over to the Association.

Section 2. "Association" shall mean and refer to Elk Run Homeowners Association, Inc", its successors and assigns.

Section 3. "Exxell" shall mean Exxell Developers, Inc., a Georgia corporation, its successors and assigns.

Section 4. "Board" shall mean and refer to the Board of Directors of the Association,

Section 5. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common area to be owned by the Association at the time of the conveyance of the first lot is described in Exhibit "A" attached hereto and hereby made a part hereof by this reference.

Section 6. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to the Declaration and the By-Laws and Articles of Incorporation of the Association.

Section 7. "Declarant" shall mean and refer to Exxell Developers, Inc., its successors and assigns, if such successors and assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, and if said successors or assigns are named as Declarant by Exxell Developers, Inc, in any instrument of conveyance of said Lots.

Section 8. "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended. .

Section 9. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision made of the Properties with the exception of the Common Area, ' .

Section 10. "Owner" shall mean and refer to the record owner, whether one or more, persons, of the fee simple title to any lot which is part of the Property, but excluding those having such interest in merely as security for the performance of any obligation.

Section 11. "Person" shall mean and refer to a natural person, corporation., partnership, association, trust or other legal entity, or any combination thereof.

Section 12. "Property" shall mean and refer to that certain real property described on the plat hereinabove referenced.

Section 13. "Structure" shall mean and refer to:

(i) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(ii) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(iii) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (ii) of this Section applies to such change.

ARTICLE II
ARCHITECTURAL CONTROL COMMITTEE

Section 1, Purpose, Powers and Duties of the Architectural Control Committee

(a) The purpose of the Architectural Control Committee is to assure that the installation, construction, or alteration of any Structure on any Lot is in accordance with the standards determined by the Architectural Control Committee. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

(b) To preserve the architectural appearance of the neighborhood, no construction or placement of improvements of any nature whatsoever shall be commenced or maintained by any owner, his family, tenants, visitors, guests, servants, and agents with respect to the exterior of any house or with respect to any other portion of any Lot or other parcel of land, including without limitation, the construction or installation of sidewalks, driveways, decks, patios, swimming pools, tennis courts, greenhouses, playhouses, garages, guests or servants quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures

and topography by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the neighborhood. If same are not approved or disapproved within thirty (30) days from date submitted, then same shall be approved by default.

ARTICLE III PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility now or hereafter situated upon the Common Area;

(c) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for a period during which an assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members;

(e) no such decision *or* transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded;

(f) the right of the Association to borrow money for the purpose improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of two-thirds (2/3) of the Class A and B members to give as security a mortgage conveying all or any portion of the Common Area.

(g) the easements reserved in Article VI of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right or use and enjoyment in and to the Common Area and the improvements thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-[title] to the Lot.

Section 2. Voting Rights. The Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners, With the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B: Class B member(s) shall be the Declarant and shall be entitled to five (5) votes for each Lot owned. The Declarant shall have the right to assign its voting rights by contract, in which case the Declarant will have no further obligation unless it reassumes said voting rights. The Class B membership shall cease and be converted to Class A membership on the happening of the following events:

- (a) when the total votes outstanding in the Class A membership equal the total outstanding in the Class B membership; or
- (b) seven years from the date of this Declaration; or
- (c) when, in its discretion, Declarant so determines.

ARTICLE V
COVENANT FOR MAINTENANCE AND ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by the acceptance of a deed transfer, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be charged on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be personal obligation of the person who was the

Owner of such Lot at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties, for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Dollars (\$300,00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) only by the affirmative vote of two-thirds (2/3) of all votes entitled to be cast in person or by proxy, at a meeting duly called for this purpose,

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

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Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto provided that any such assessment shall have the assent of two-thirds (2/3) of the votes entitled to be cast in person or by proxy at a meeting called for this purpose. However, such assessments shall be within the limitations set forth in Section 3 hereof.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes entitled to be cast shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence on January 1, 1998 as to all Lots upon which there exist occupied residences. At the time of closing into a Purchase of a completed residence, there shall be paid the sum equal to the prorated annual due as the initial assessment for the calendar year in which said residence is purchased. This sum shall be prorated as of the date of closing over the entire calendar year during which the closing occurs. Anything contained herein to the contrary notwithstanding, neither Declarant nor any Purchaser of a Lot from Declarant who purchases solely to build and resale said Lot shall be responsible for assessments on Lots owned by the Declarant or such Purchaser for so long as said Lot does not contain an occupied residence. Declarant shall, however, fund any deficit which may exist between assessments and the annual budget until such time as any portion of the Additional Property is subjected to this Declaration. Thereafter, Declarant shall fund any such deficit for as long as there is a Class B member of the Association. Failure of Declarant to meet its obligation to fund budget deficits shall constitute a lien against the land it owns in the aforementioned subdivision. The due dates shall be established by the Declarant until there is no longer a Class B member, and then shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, not to exceed Ten Dollars (\$10.00), 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 specified Lot is binding upon the Association as of the date of its issuance. If the Association fails to respond to any such request within ten (10) days after receipt of such request, any lien then outstanding shall be deemed to have been extinguished.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments not paid within thirty (30) days after the due date, shall bear interest from the due date at a rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, or Recreation Area, or abandonment of his Lot.

Section 9. Subordination of Lien to First Mortgage. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of any such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; and (c) all properties exempted from, taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens except as set forth in Article V, Section 7.

ARTICLE VI
EASEMENTS

Section 1. Utility Easements. There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and system, including but not limited to water, sewer, gas, telephone, electricity, television cable or communication lines and systems, An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines of other utilities may be installed or relocated on the Property except as initially programmed and approved by the Declarant or thereafter approved by the Declarant or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Declarant or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms thereof.

Section 2. Easement for Declaration. Declarant and Owner hereby reserve for themselves, their successors, and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Declarant and Owner and the Common Area for so long as Declarant and Owner own any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary to proper attachments in connection with the transmission of electricity, gas, water, telephone, community antennae, television cables and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For use of the Common Area and any sales office, model units and parking spaces in connection with its efforts to market Lots;
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Declarant may be reasonably required, convenient or incidental to -the completion, improvement and sale of Lots.

Section 3. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area and the Lots to perform their respective duties.

ARTICLE VII
GENERAL COVENANTS AND RESTRICTIONS

The following covenants and restrictions shall apply to all Lots and to, all Structures erected or placed thereon:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use; provided, however, that nothing herein shall be construed to prohibit or prevent Declarant or any builder of residences in Elk Run Subdivision from using any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development improvement and sale of Lots and/or new homes in Elk Run Subdivision.

Section 2. Common Area. The Common Area shall be used by the Owner and its agents, servants, tenants, family members, invitees, and licensees for such other purposes as may be authorized by the Association.

Section 3. Debris. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of any Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property.

Section 4. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot except for the initial construction of residences and development of the Property.

Section 5. Signs.

(a) No signs whatsoever shall be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign; provided, however, that in no event any such sign be larger than six (6) square feet in area;

(iii) directional signs for vehicular or pedestrian safety; and

(iv) entry signs used to identify subdivision, marketing signs used to advertise subdivision by Declarant and, in conjunction therewith, brochure holders.

(b) Following the consummation of the sale of any Lot, the sign located thereon shall be removed immediately.

Section 6. Fences. The Declarant shall have the right and the power to construct or have constructed chain link fences around the tennis courts on the Common Area. Except as set

forth in the preceding sentence, no chain link fences or cyclone fences may be placed in any front yard of any Lot. All fences must be approved by the Architectural Control Committee.

Section 7. Recreational Vehicles, Trailers, etc. Recreational vehicles, trailers, campers, trucks (except pickups and vans), travel buses or any such equipment must be parked in extreme rear of Property and sufficient natural cover erected to shield same from visibility. No inoperative vehicle shall be parked on any Lot for a period of time in excess of fourteen (14) days. No Owners or occupants of any Lot or parcel of land shall repair or restore any vehicle of any kind upon any Lot or upon any parcel of land, except for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. No automobile, truck or vehicle of any type of nature shall be parked in any street or road of the Property at anytime.

Section 8. Recreational Equipment. No recreational and playground equipment shall be placed or installed between the street on which any residence on said Lot fronts and a line parallel with the street from the furthest portion of the residence from the street. All recreational and playground equipment to be placed on a Lot shall be approved by the Architectural Control Committee.

Section 9. Accessory Structures. A detached accessory structure may be placed on a Lot to be used for a playhouse, swimming pool, tennis court, a tool shed, a mailbox, a dog house or a garage; a garage may also be an attached accessory structure. Such accessory structures shall not exceed twenty (20) feet in height and shall conform in exterior design and quality to the dwelling on the same Lot. With the exception of a garage that is attached to a dwelling, an accessory structure placed on a Lot shall be located only behind the dwelling, as such dwelling fronts on the street abutting such Lot. Such accessory structures shall also be located with such side and rear setback lines as may be required by applicable zoning law. However, there shall be no lighting for tennis courts or other outside lighting, except as may be approved by the Architectural Structure Committee. Any such accessory structure must be approved, in advance, in writing by the Architectural Control Committee.

Section 10. Improvement of Lots. All construction of dwellings, accessory structures and all other improvements in Elk Run Subdivision shall be undertaken and completed in accordance with the following conditions:

(a) All construction shall be carried out in compliance with the laws, code, rules, regulations and orders of all applicable government agencies and authorities.

(b) Concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot.

(c) Only one mailbox shall be located on any Lot, which shall be approved by the Architectural Committee.

- (d) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials, or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory structure on such Lot, nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.
- (e) No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee.
- (f) Adequate off-street parking shall be provided for each Lot.
- (g) All garages must have doors, and each garage door must be coordinated in design and color with the dwelling to which it is appurtenant.
- (h) No above-ground swimming pools shall be allowed, and all pools shall be approved by the Architectural Control Committee.
- (i) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) shall contain not less than one thousand one hundred (1,100) square feet.
- (j) Exterior TV or radio equipment shall not be permitted which are visible from the street *upon* which the home faces.

Section 11. Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance.

Section 12. Accessory Structures Installed by Declarant. Entry signs, fences, walls and landscaping installed by Declarant on the Property shall be and are hereby dedicated to the use and benefit of all Owners, and shall not be removed or altered without a two-third (2/3) vote of the Association Class A members, and then only with unanimous consent of the Association and members.

Section 13. Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance throughout the neighborhood, no awnings, shades or window boxes shall be attached to, or hung or used on the exterior of, any window or door of any house, and no railings, fences, walls, antennae or satellite dishes shall be installed or constructed upon any Lot or parcel of land without the prior written consent of the Architectural Control Committee. Further, no foil or other reflective material shall be used on any windows or sunscreens, blinds, shades or for any other purpose, nor shall any window-mounting heating, air conditioning or fan units be permitted. Outside clotheslines or other facilities for drying clothes are specifically prohibited and shall not be erected, placed or maintained upon any Lot or parcel of land, nor shall any clothing, rugs, or other items be hung on any railing, fence, hedge or wall.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. Enforcement.

(a) Declarant, the Association, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges for or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed as a waiver of the right to do so thereafter.

(b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the mailing of a written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents or employees, to enter at all reasonable times upon any Lot or Structure as to which violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions.

Section 1. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of which period such covenants and restrictions shall be automatically extended for successive periods often (10) years.

Section 5. Rights and Obligations. Each grantee of the Declarant and Owner, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits, and privileges or every character hereby imposed shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall

inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Annexation. Additional residential property and Common Area may be annexed to the Properties at the sole discretion of the Declarant/Owner. Notwithstanding the above, the additional property set forth in Exhibit "B," attached hereto and incorporated by this reference (hereinafter referred to as "Additional Property"), may be annexed by the Declarant without the consent of the members within five (5) years of the date of this instrument, provided that the Federal Housing Administration and the Veterans Administration does not determine such annexation not to be in accord with the general plan heretofore approved by them.

Section 7. Amendment. This declaration may be amended at any time and from time to time by Declarant and a vote of two-thirds (2/3) of the votes entitled to be cast; provided, however, so long as there is a Class B member, any amendment shall require approval of the Federal Housing Administration or the Veterans Administration:

(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; or

(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; or

(c) if such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association, or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as 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.

(d) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable title insurance company to insure loans on the Lots subject to this Declaration. Such amendment would not include the right to re-plat Lots or the Common Area unless limited to changes specifically required by a reviewing agency to meet its requirements. Further, this Declaration may be amended' at any time and from time to time by an agreement signed by at least seventy five percent (75%) of the votes entitled to be cast; provided, however, such amendment by the Owners shall not be effective unless also signed by Declarant, if Declarant is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest, or privilege herein granted or accorded to the holder of any Deed to Secure Debt encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any

real property made subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that this Declaration may be amended as provided in this Section,

Section 8. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: (1) annexation of additional properties, other than the Additional Property set forth in Exhibit "B" attached hereto; (2) dedication of Common Area; and (3) amendment of this Declaration of Covenants, Conditions and Restrictions,

IN WITNESS WHEREOF, Declarant and Owner has hereunto set hand and seal; this the 30th day of December, 1997

EXXEL DEVELOPERS, INC.

By: Signature
WALTER HUDSON, President

Signed, sealed and delivered
in the presence of:

Signature
Unofficial Witness

Signature
Notary Public

EXHIBIT "A"

ALL THAT TRACT and parcel of land lying and being in Land Lots 72 and 73 of the 1st District and 5th Section of Douglas County, Georgia, and being all of Elk Run Subdivision, Unit One, as shown by plat of said subdivision recorded in the real property records of Douglas County, Georgia, in Plat Book 23, Pages 156, 157, 158, 159 and 160; said plat being made a part hereof by this reference thereto for a more complete description of the metes and bounds, courses and distances of said property.

EXHIBIT "B"

TRACT ONE:

ALL THAT TRACT and parcel of land lying and being in Land Lots 72 and 73 of the 1st District and 51h Section of Douglas County, Georgia, and being more particularly described as follows:

BEGINNING AT A POINT marked by an iron pin located at the northeasterly land lot corner of Land Lot No. 72, same being the common land lot corners of Land Lots NO. 72, 73, 89, and 90); running thence South 00 degrees 23 minutes 07 seconds West along the easterly land lot line of Land Lot No. 72 a distance of 1,374.75 feet to a point marked by an iron pin; running thence North 89 degrees 09 minutes 50 seconds West a distance of 857.37 feet to a point marked by an iron pin; running thence North 89 degrees 23 minutes 37 seconds West a distance of 932.86 feet to a point marked by a nail; running thence North 89 degrees 29 minutes 17 seconds West a distance of 313.41 feet to a point marked by an iron pin; running thence North 89 degrees 16 minutes 53 seconds West a distance of 828.65 feet to a point marked by an iron pin located on the easterly side of Chapel Hill Road (80' ROW); running thence in a northerly direction and along the easterly side of Chapel Hill Road, and following the curvature thereof, a distance of 396.87 feet to a point marked by an iron pin (said curvature forming an arc which is subtended by a chord measured North 02 degrees 36 minutes 00 seconds East a length of 396.54 feet); running thence South 89 degrees 35 minutes 48 seconds East a distance of 550.05 feet to a point marked by an iron pin; running thence North 06 degrees 35 minutes 11 seconds East a distance of 676.33 feet to a point marked by an iron pin; running thence North 28 degrees 57 minutes 21 seconds West a distance of 136.32 feet to a point marked by an iron pin; running thence North 32 degrees 59 minutes 26 seconds West a distance of 454.45 feet to a point marked by an iron pin located on the southeasterly side of Anneewakee Road (80' ROW); running thence North 47 degrees 51 minutes 13 seconds East and along the southeasterly side of Anneewakee Road a distance of 1,550.01 feet to a point; running thence in a northeasterly direction and continuing along the southeasterly side of Anneewakee Road, and following the curvature thereof, a distance of 275.92 feet to a point marked by an iron pin (said curvature forming an arc which is subtended by a chord measured North 49 degrees 34 minutes 26 seconds East a length of 275.68 feet); running thence South 00 degrees 16 minutes 14 seconds West a distance of 958.52 feet to a point marked by an iron pin; running thence South 89 degrees 44 minutes ;W seconds East a distance of 399.99 feet to a point marked by an iron pin; running thence North 00 degrees 15 minutes 04 seconds East a distance of 359.87 feet to a point marked by an iron pin; running thence South 88 degrees 39 minutes 39 seconds East a distance of 239.95 feet to a point marked by an iron pin located on the easterly side of the termination of Doublegate Drive; running thence South 88 degrees 41 minutes 45 seconds East a distance of 179.56 feet to a point marked by an iron pin; running thence South 89 degrees 19 minutes 43 seconds East a distance of 209.76 feet to a point marked by an iron pin located on the easterly land lot line of Land Lot No. 73; running thence South 00 degrees 20 minutes 08 seconds West along the easterly land lot line of Land Lot No. 73 a distance of 823.90 feet to a point marked by an iron pin located at the southeasterly land lot corner of Land Lot No. 73, same being the northeasterly land lot corner of Land Lot No. 72 and being the point of beginning; being all as shown upon the plat of survey prepared by Robert G. Vansant, Registered Land Surveyor, dated August 27, 1996; said plat being made a part hereof by this reference thereto.

ALL THAT TRACT and parcel of land lying and being in Land Lot 73 of the 1st District and 5th Section of Douglas County, Georgia, and being more particularly described as follows:

BEGINNING AT A POINT marked by an iron pin located at the intersection of the easterly side of Chapel Hill Road (80' ROW), and the northwesterly side of Anneewakee Road (80' ROW); running thence in a northerly direction and along the easterly side of Chapel Hill Road, and following the curvature thereof, a distance of 268.83 feet to a point (said curvature forming an arc which is subtended by a chord measured North 01 degrees 18 minutes 09 seconds East a length of 268.81 feet); running thence North 00 degrees 02 minutes 30 seconds West and along the easterly side of Chapel Hill Road a distance of 360.70 feet to a point marked by an iron pin; running thence North 88 degrees 41 minutes 20 seconds East a distance of 336.44 feet to a point marked by an iron pin; running thence South 31 degrees 23 minutes 57 seconds East a distance of 281.21 feet to a point marked by a concrete monument located all the northwesterly side of Anneewakee Road; running thence South 47 degrees 51 minutes 13 seconds West and

along the northwesterly side of Anneewakee Road a distance of 594.34 feet to a point; running thence North 87 degrees 57 minutes 17 seconds West and continuing along the northwesterly side of Anneewakee Road a distance of 48.08 feet to a point marked by an iron pin located at the intersections of the Road, same being the point of beginning; being all as shown upon that plat of survey prepared by Robert G. Vansant, Registered Land Surveyor, dated May 2, 1996; said plat being made a part hereof by this reference thereto.

LESS AND EXCEPT:

ALL THAT TRACT and parcel of land lying and being in Land Lots 72 and 73 of the 1st District and 5th Section of Douglas County, Georgia, and being all of Elk Run Subdivision, Unit One, as shown by plat of said subdivision recorded in the real property records of Douglas County, Georgia, in Plat Book 23, Pages 156, 157, 158, 159, and 160; said plat being made a part hereof by this reference thereto for a more complete description of the metes and bounds, courses and distances of said property.