

Hillcreek
HOA
Covenants



amenities and services provided previously to the owners of the area designated for single family residential use; and

WHEREAS, Developer desires to have such protective covenants and easements recorded in the Office of the Clerk of Superior Court of Richmond County, Georgia, so that the rights, restrictions and obligations contained herein shall run with the land, be binding upon and inure to the benefit of all future owners of any portion of the property within the subdivision. Original covenants are recorded in Realty Reel 288, page 823; First Amendment recorded in Realty Reel 311, page 1916; and Second Amendment recorded in Realty Reel 444, page 966; and Third Amendment recorded in Realty Reel 444, page 966;

NOW, THEREFORE, in consideration of the mutual benefits to be derived by all present and future owners of the property affected hereby, Developer hereby subjects the entire parcel of property described above (hereinafter called the "Property") to the following restrictions, covenants, obligations, and easements; and hereby grants to and bestows upon all present and future owners of fee simple title to any portion of the Property, the easements and rights attributed below to such owners:

Section 1. Subdivision of Property. The division of the Property into separate lots, roads, and other usages shall be as set forth in that portion of the recorded plat referred to above (the "Initial Plat") which has been subdivided into recorded plat referred to above (the "Initial Plat") which has been subdivided into lots. This area, plus other areas to be divided into lots, streets, and common areas in the future (as provided below) are together referred to herein as the "Subdivision".

Neither the Developer nor any other owner of any lot within the Property shall further subdivide any of the lots shown on the Initial Plat or any supplemental plat. Nothing contained herein shall prevent the Developer or any other lot owner from merging two or more contiguous lots into a single lot; provided the requirement to pay

assessments, set forth herein, shall continue to bind both lots as separate lots.

Section 2. Road Easement. Developer hereby grants to all present and future owners of any lot, including the owner of the parcel entitled Club/Fitness Center Site in the plat (herein after referred to as “Club Site”), a perpetual non-exclusive easement of right-of-way over all areas designated as roads, streets, or roadways on the Initial Plat and on any supplemental plat prepared and recorded as set forth in Section 1 hereof. Said easement and right-of-way is granted for the benefit of owners of all such properties and shall be deemed to run with the land. The easement and right-of-way created hereby shall be limited to the use of such roads and roadways for vehicular and pedestrian ingress, egress, and movement within the Property. Said easement and right-of-way may be enjoyed and utilized by all parties to whom such easement and right-of-way is granted above in this Section 2, and to their assignees, guests, lessees, invitees, and licensees of any successor owners of the fee simple title to any of the lots, parcels, or other forms of property referred to above.

Section 3. Restrictions on Use. No building or other improvement of any kind shall be constructed upon or placed upon any lot in the Subdivision except as specifically permitted herein. Such lots designated as “single family residential use only”, on any recorded plat may be used only for the construction of single family residential dwellings. No more than one building may be located on any such lot, except detached garages approved by Architectural Control Committee. No portion of any building or other structure shall be located on or protrude into any area between any property line and the building setback line or buffer zone relating to such property line, as shown on the Initial Plat or any supplemental plat. No mobile homes, house trailers, outbuilding, or any temporary structures or items shall be placed on any lot either temporarily or permanently, except that the Developer may elect to utilize such structures for temporary office space. No lot shall be used for vehicle repair work,

whether performed by the owner or other parties. All boats and equipment utilized with boats, including boat trailers, and all vehicles other than automobiles shall be kept under suitable cover, such as a garage and out of public view in all directions.

Section 4. Quality and Size of Houses in Subdivision, Insurance Requirement.

Dwellings built on lots designated as “single family residential use only” shall have a minimum of 1,000 square feet of heated living area. Each dwelling unit shall have accommodations for at least one automobile. The parking area for such automobile shall have at least 180 square feet of area.

No building shall be erected on any lot, nor shall any substantial change or addition be made to any building erected on any lot, without the approval of the Architectural Committee (described below). The Committee shall be charged with the responsibility to assure that all such buildings are basically compatible with the designs of the buildings which will be constructed with the Subdivision.

Section 5. Architectural Committee. The Architectural Committee shall consist of the follow persons:

NOTE: Architectural Committee now elected by Board of Directors of Association.

No buildings or other structures, including fences, shall be constructed, erected, or placed on any lot in the Subdivision, nor shall any building or structure be repaired, restored, or altered in any way after it has been constructed, until the proposed building plans and specifications, including designation of exterior colors or finishes and exact location of proposed building within the lot, shall have been submitted to the Architectural Committee and approved by it in writing. The Architectural Committee may base its disapproval on any reasonable ground, including purely aesthetic considerations.

Upon the death or resignation of any member of the Architectural Committee,

the remaining members shall, within thirty (30) days after such death or resignation, select a replacement. In the event the Architectural Committee shall cease to function, either by resignation of all its members or for other reason, HILLCREEK HOMEOWNER'S ASSOCIATION, INC. shall have the right to select a new Architectural Committee or to take over its functions. A majority of the then serving members of the Architectural Committee shall constitute a quorum.

The Architectural Committee must respond to proposals submitted to it within forty-five (45) days after receipt of such proposals. Failure to do so shall constitute approval of such proposals.

The Architectural Committee shall be governed by the following restrictions and guidelines, although the restrictions set forth below shall not be the exclusive criteria governing their determinations:

(a) The proposed plans and specifications must include a construction schedule which calls for the completion of construction within one year after commencement.

(b) No dwelling, garage or other approved building or portion of a building shall be located on any lot nearer to any lot line than the building line limits shown on the plat or required under any applicable subdivision or zoning regulations then in effect. For purposes of this restrictions, eaves, steps, patio garden walls and unenclosed porches shall not be considered as part of any building. Fire Department and zoning regulations will apply as to spacings between buildings.

(c) All buildings shall be constructed with high quality materials and workmanship to ensure that no dwelling shall present an unsightly appearance.

(d) In order to assure optimum location of the homes and other structures to be placed on the Property so that a desirable view will be available to each home, all structures will be located with regard to the topography of each individual lot in such as way as to maximize the desirability of the view available not only to the home to be

placed on that lot but to all other homes within the Property, taking into consideration the elevation contours of each lot, the location of large trees, and similar considerations.

(e) All fuel tanks and containers shall be covered or buried underground consistent with normal safety precautions and local government regulations.

(f) No tower, television antenna or other antennas shall be erected on homes or lots; provided, the Architectural Committee may approve a central receiving and transmitting system to be erected at one or more locations within the Property if the Architectural Committee deems it desirable for the common good of the Subdivision.

(g) No large trees measuring more than four inches in diameter at ground level may be removed without the approval of the Architectural Committee.

(h) Mailboxes shall be of uniform design as specified or approved by the Architectural Committee and shall be maintained by HILLCREEK HOMEOWNER'S ASSOCIATION, INC. In the event an owner's mailbox is damaged, it shall be repaired by said Association and the cost of the repair shall be billed to the owner as an additional assessment, the repayment of which shall be secured as other assessments created by Section 11 hereof are secured.

(i) No vegetable gardens are permitted without the approval of the Architectural Committee and they must be fenced so that they cannot be seen from the street.

(j) Animals will not be permitted to bark or whine excessively.

Section 6. General Restrictions. The following restrictive covenants shall be applicable to all portions of the Property;

(a) Except for the activities to be conducted by the Developer (or its successors for such purposes) or its designees, lessees, and permittees on the Club Site, and except for normal sales activities by the Developer or any other party allowed by the Developer to conduct such activities, no portion of the Property designated on a

recorded plat as “single family residential use only” may be utilized for any business or commercial enterprises.

(b) No offensive or noxious activity may be carried on in any portion of the Property, including, but not limited to, outside use of radios and loud speakers by owner, their agents and invitees or construction personnel.

(c) No building erected on any portion of the Property designated on a recorded plat as “single family residential use only” shall exceed 25 feet in height.

(d) No sign or advertising displays, including signs or displays advertising the sale of lots or homes, may be placed on any lot or any other Residential Unit, except builder’s signs and permits (1 only) per lot will be allowed with approval of Architectural Committee’s common design.

(e) No animals, livestock or poultry of any kind shall be raised or bred on the Property; except that dogs, cats or other common household pets shall not exceed two (2) in number may be kept so long as the owners of such pets do not keep, breed, or maintain such animals for any commercial purpose. All such pets must be kept inside the home; and when taken out for exercise, the pet must be kept on a leash at all times and not allowed to become a nuisance to other residents. Pets will not be allowed to walk upon, exercise, or deposit wastes on any portion of the Property (including streets, common areas, and Club Site) other than the lot owned by the owner of the pet and out of public view and such wastes will be removed by pet owner from his own yard. Animals will not be permitted to bark or whine excessively.

(f) No garbage or refuse shall be dumped or otherwise placed or disposed upon any portion of the Property, nor shall any garbage cans be placed on any location, other than those places and locations designated for garbage cans and garbage disposal by the Developer or by the Architectural Committee in its initial approval or proposed building plans. No burning of leaves or trash outside of fireplaces or receptacles

specifically constructed for burning shall be permitted, except for such burning as may be necessary in the normal course of construction and approved in advance by the Architectural Committee.

(g) After a dwelling unit has been built on a lot or on any other portion of the Property, no weeds, underbrush or other unsightly growth shall be permitted to grow or remain on such portion of the Property; and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain thereon. Following approval of the initial plans for any given Residential Unit, no substantial changes in the elevation of the land shall be made without the approval of the Architectural Committee.

(h) No fence, wall, hedge, or other shrub or similar plant shall be allowed if such fence, hedge, or other plant has the effect of obstructing vision of opposing traffic at any intersection within the Property or any intersection of any road within the Property with any public road. Trees which are located near such intersections must also be trimmed and maintained in such a way that the lower branches and foliage on such trees shall not obstruct the view of opposing traffic.

(i) Residents of homes located in the “single family residential use only” area shall not be allowed to park vehicles on the streets except in emergencies. On-street parking shall be allowed to visitors and guests of the owners of said homes for short durations, so long as the health, safety and convenience of other residents within the Property are not impaired. HILLCREEK HOMEOWNER’S ASSOCIATION, INC., each independently, shall have the right to tow or otherwise remove or move any vehicle parked in violation of these restrictions, and charge the cost to the owner as an additional assessment, the repayment of which shall be secured as other assessments are secured by Section 11 hereof.

(j) To protect and enhance the appearance of the community, all garage doors will be kept closed except when in use for moving automobile and other items to and

from the garage. Garages are to be used for parking vehicles of owner and outside parking is not permitted, except with approval of HILLCREEK HOMEOWNER'S ASSOCIATION, INC.

(k) No outdoor clothes lines are permitted.

Section 7. Easements.

(a) Developer reserves easements for itself and for the benefit of any public authorities and utility companies to which Developer may choose to grant such easements, over and through all areas designated as roads or streets within the Property and such additional portions of the Property as may be necessary in order to provide water, sewerage, power, gas, television cable, and other utility and common services to owners of any portion of the Property. All lots within the Property are also subject to an access, drainage and utility easement five feet in width along and inside all property lines; and 10 feet in width along all rear property lines. For the purpose of this Agreement, the rear property line for Lot 52, Block D, of this Subdivision shall be that property line abutting Wey Hill Court.

The easement reserved to the Developer above, and the easements which Developer shall have the right to grant to appropriate public authorities and utilities, shall include the right to go upon, over, across, and under any area of the Property for ingress, egress, erection, maintenance, installation and use of electrical and telephone poles, wires, cables, conduits, sewers, water mains, gas lines, and other suitable equipment for the conveyance, movement, and use of electricity, telephone equipment, television cable, gas, water, sewer, and other public conveniences, and utilities. Said easements shall also allow Developer or any appropriate utility or other authority to cut drain ways for surface water wherever and whenever such action may be reasonable standards of health, safety and appearance. Said easements include the right to cut any trees, bushes, or shrubbery, and to make any grading of the soil or take similar actions

reasonably necessary to provide safe and effective utility installation and maintenance. Developer shall have the right, but not obligation, to transfer or grant to HILLCREEK HOMEOWNER'S ASSOCIATION, INC., or any other owners Association created by Developer pursuant to this document, or any public utility all or any of the easements reserved to Developer hereunder.

(b) In the event that any dwelling unit, or any combination to two dwelling units, shall include a garden wall or similar wall which lies along or close to a common property line, the lots on both sides of such property line shall be subject to an easement for the reconstruction of such wall in the event it shall be damaged or destroyed, such easement to be limited to such time and such interference as shall be reasonably necessary to reconstruct the wall to the condition which existed prior to the destruction or damage.

(c) All lots within the Property designated as "single family residential use only" are subject to easements along all side lot lines for the construction of a party wall, to the extent necessary to allow the Developer and any other party whose plans are approved by the Architectural Committee. The owners of the two lots affected by a party wall shall share equally in the responsibility for maintenance and replacement thereof, in the event of destruction or damage; provided that if such destruction or damage shall be caused by the acts or omissions of one of said lot owners, or any person coming upon the Property through permission of one of said lot owners, then that lot owner shall be entirely responsible for the cost of maintenance or rebuilding of the common wall. In the event it becomes necessary to rebuild the common wall, it shall be erected within one year after the damage occurs, in the same location and of comparable size, materials and quality as the initial wall.

Section 8 (Deleted)

Section 9. Maintenance of Buildings. Property owners are required to maintain their property in good condition which condition shall be determined by HILLCREEK HOMEOWNER'S ASSOCIATION, INC. In the event an appropriate Property owner fails to maintain the property as required, HILLCREEK HOMEOWNER'S ASSOCIATION, INC. can have the required work performed and charge the cost of such maintenance to the Building owner as an assessment, the repayment of which shall be secured as, the other assessments are secured by Section 11 hereof.

HILLCREEK HOMEOWNER'S ASSOCIATION, INC. shall also be responsible for repair and maintenance of fencing, lawns and other improvements constructed or placed in the Subdivision in areas other than lots, as defined by the areas of responsibility.

Except as specifically provided above in this Section 8, each owner of a residence within the Subdivision shall maintain and repair such residence, at his own expense, in such a manner as to assure that the exterior appearance of the residence is consistent with the standards of appearance and quality established by these Protective Covenants and the Architectural Committee. In the event said owner fails to maintain his property in accordance with such standards, HILLCREEK HOMEOWNER'S ASSOCIATION, INC. shall have the right to cause such exterior maintenance to be performed and shall bill the cost of same to owner as an assessment, the repayment of which shall be secured as other assessments are secured by Section 11 hereof.

HILLCREEK HOMEOWNER'S ASSOCIATION, INC. shall have the right to cause exterior maintenance to be performed upon written notice to an owner that said property is not being satisfactorily maintained accompanied by a specific list of required repairs. The owner shall have thirty (30) days to make the required repairs. Upon failure of the owner to complete such repairs as required, HILLCREEK HOMEOWNER'S ASSOCIATION, INC. may proceed as authorized by this provision.

Section 10. Hillcreek Homeowner's Association, Inc. (The Successor to Hillcreek Association, Inc.) An organization to be known as the "HILLCREEK ASSOCIATION, INC." now by name change HILLCREEK HOMEOWNER'S ASSOCIATION, INC., has heretofore been formed by the Developer as a non-profit corporation under the laws' of the State of Georgia. HILLCREEK HOMEOWNER'S ASSOCIATION, INC., is organized and shall operate in accordance with by-laws distributed to all owners of lots designated "single family residential use only" in HILLCREEK HOMEOWNER'S ASSOCIATION, INC., at the time they purchase their lots in the area designated as "single family residential use only." HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall have the right and the responsibility to impose assessments against all owners of "single family residential use only" lots for the purpose of maintaining streets, maintaining lawns, maintaining other common areas, funding all services and facilities to be provided by the Developer or other parties on or in connection with the Club Site, and funding other services to be provided to the owners as provided by these Covenants. The members of HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall consist of two classes, Class A members and Class B members, who respectively shall have the rights, voting privileges and duties as set forth in the corporate charter or by-laws of HILLCREEK HOMEOWNER'S ASSOCIATION, INC., and as hereinafter set forth, to-wit:

(a) Class A members shall initially consist of the Developer, who shall be entitled to voting privileges, in the amount of three (3) votes for each lot owned by it in the area designated as "single family residential use only" in HILLCREEK SUBDIVISION, or with the initial vote of Developer being three (3) times the vote per Class B member stated below.

(b) Class B members shall consist of all other owners of property in the area of

HILLCREEK SUBDIVISION designated as “single family residential use only” other than the Developer. Class B members shall not have voting privileges until the Developer shall have conveyed ninety-five (95%) percent of all property in HILLCREEK SUBDIVISION, at which time Class B members shall automatically become Class A members. In the event that a Class B member shall own more than one contiguous lot upon which only one residence is constructed, such member, upon becoming a Class A member, shall be entitled to only one (1) vote and shall likewise only be subject to the imposition of dues and assessments calculated for a single lot pursuant to this Section 9 of these Declarations, provided said residence is partially physically located on each such contiguous lot. A corporation owning one or more lots in HILLCREEK SUBDIVISION shall have one (1) vote for each lot owned, but no member, stockholder, director, employee or officer of such corporation shall acquire thereby any rights individually to become a member of HILLCREEK HOMEOWNER’S ASSOCIATION, INC.

HILLCREEK HOMEOWNER’S ASSOCIATION, INC., is advisory only until such time as Developer in its sole discretion relinquishes control over said Association.

Developer shall retain the right to elect a lesser number or none of the Directors, and hence surrender a portion or all of the control of HILLCREEK HOMEOWNER’S ASSOCIATION, INC., to the owners of lots, at any time the Developer may choose.

Until such time as the Developer shall surrender total control of HILLCREEK HOMEOWNER’S ASSOCIATION, INC., to the owners of lots, as stated above, the Developer shall be entitled (but shall not be required) to be relieved from the responsibility to pay periodic assessments with respect to the lots owned by the Developer. In lieu of paying such assessments, Developer shall underwrite that portion of the costs of maintaining improvements on the Club Site and other recreational facilities not paid by the dues assessed and paid by the other owners of property in the

area designated as “single family residential use only”. If the Developer elects this option, the Developer shall have the obligation to maintain lots owned by the Developer in the same manner as other vacant lots in the Subdivision.

Until such time as Developer shall surrender total control of HILLCREEK HOMEOWNER’S ASSOCIATION, INC., to the owners of lots, Developer shall have such association meetings as it deems necessary in such format as it deems appropriate, including telephonic meetings.

Until control has been totally surrendered to owners of lots, the Developer shall have the sole authority to set the amount of the periodic assessments, and to determine the dates on which such assessments shall be due; provided its determination shall be based upon the actual costs of providing the services and of discharging its other responsibilities described herein, including reasonable charges for overhead and for fees initially set by the Developer. The charge as of this date of this Amendment is Six Hundred and No/100 (\$600.00) Dollars per lot per year. That portion of the fees Devoted to Common Facilities, as designated by the Developer in its notices to single family residential lot owners regarding fees, may be waived by the Developer until such facilities are fully developed and operable. Thereafter, the periodic assessments may be increased by HILLCREEK HOMEOWNER’S ASSOCIATION, INC.; provided the maximum increase applicable to any calendar year shall not be more than the greater of (i) 10% or (ii) the increase in the consumer price index applicable to wage-earners in the southeastern portion of the United States, measured from December to December of each preceding year.

In addition to the periodic assessments described above, HILLCREEK HOMEOWNER’S ASSOCIATION, INC., may impose special assessments for designated capital improvements or repairs upon the approval by majority vote, at or following a meeting of HILLCREEK HOMEOWNER’S ASSOCIATION, INC.,

provided the notice for such meeting must specifically mention the proposed assessment and intended use thereof and such notice is sent by mail to all owners at least twenty (20) days in advance of the scheduled meeting date. A quorum of forty (40%) percent of the lot owners shall be required at that meeting. If the requisite approval cannot be obtained at such meeting, it can only be obtained by the written consent of two-thirds of the votes of the Association within thirty (30) days after the adjournment of such meeting. HILLCREEK ASSOCIATION, INC., shall also have the right set forth elsewhere in this declaration as to individual lots which rights shall be exercised upon a decision by a majority of the Board of Directors.

Section 11. Imposition of Assessment. Each owner of a lot in the “single family residential use only” area of HILLCREEK SUBDIVISION, as defined in Section 10 of these Declarations, obligates himself, or itself, and by the ownership of a lot in the area designated “single family residential use only” in HILLCREEK SUBDIVISION shall be deemed to covenant and agree to pay HILLCREEK ASSOCIATION, INC., when due the annual or special assessment for any dues or charges established hereby or by its Board of Directors from time to time hereinafter provided. In no event shall ownership by the Developers of any residential lot in HILLCREEK SUBDIVISION be construed as imposing upon the Developers the duty or obligation of paying any dues, easements, or other charges in HILLCREEK ASSOCIATION, INC., for such lots.

Each lot on the aforementioned plat of HILLCREEK SUBDIVISION designated “single family residential use only” shall be made subject to a continuing lien to secure the payment for any annual or special assessment or charge when due. This provision shall not apply to lots while still owned by the Developer. In addition thereto, the owner of such lot at the time of commencement of ownership by him, her or it, shall execute and deliver to HILLCREEK ASSOCIATION, INC., a security deed conveying such owner’s lot as security for the performance of the obligation to pay such annual

or special assessments or charges, which security deed shall be in such form and contain such provisions as HILLCREEK ASSOCIATION, INC., shall prescribe. Each security deed shall provide that the lien created thereby shall be subordinate to the lien of each and every security deed given by an owner of a lot in good faith and for the value of any lender to secure the indebtedness of such owner, but shall be subordinate only to assessments or any dues or charges owned by such owner to HILLCREEK HOMEOWNER'S ASSOCIATION, INC., which become due between the date of the security deed given by the owner to a lender and the date of a sale under power contained therein or the date of a deed given in lieu of the foreclosure of such a security deed or the date of sale made pursuant to some other right given to the holder thereof under the laws of the State of Georgia. No sale or conveyance of a lot, whether voluntarily or involuntarily made, by or in the name of an owner, shall operate to extinguish the obligation of the owner as a member HILLCREEK HOMEOWNER'S ASSOCIATION, INC., to pay the sums owed by such owner to it.

Section 12. Amount of Assessment. Such annual or special assessment or charge shall be in an amount to be fixed from year to year by the Board of Directors of HILLCREEK HOMEOWNER'S ASSOCIATION, INC.; provided, however, that the amount of each annual or special assessment shall be in equal amounts with respect to each lot subject to charge or assessment under the terms of these Declarations. Such annual assessment will be fixed by said Board of Directors at Six Hundred and No/100 (\$600.00) Dollars per lot, subject to be changed by majority vote at the annual meeting or special meeting of HILLCREEK HOMEOWNER'S ASSOCIATION, INC., called in accordance with its by-laws.

Each such annual assessment shall be paid in four (4) equal quarterly installments, such installments to be due and payable in advance on January 1, April 1, July 1, and October 1, of each year beginning January 1, 1989. The amount of said

annual assessment due for each lot conveyed from the Developers prior to January 1, 1989, shall be prorated to January 1, 1989, based upon said initial annual assessment. Special assessments imposed in accordance with these Declarations and the by-laws of HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall be due and payable at such time as HILLCREEK HOMEOWNER'S ASSOCIATION, INC. designated.

For each quarter prior to the completion of the structure or installation of landscaping, whichever event first occurs, the annual assessment payable on a quarterly basis shall be one-half of the annual assessment otherwise payable hereunder, plus special assessments due.

Section 13. Use of the Assessment. The amount so paid to HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall be administered by HILLCREEK HOMEOWNER'S ASSOCIATION, INC., and may be used for the payment of expenses incurred for the following purposes:

(1) maintenance and cleaning of islands in the area designated as "single family residential use only" and the landscaped area adjacent to Hillcreek Drive and the Clubhouse, ponds and other common areas;

(2) maintenance of entrance signs, entrance ways, medians, and green areas of HILLCREEK SUBDIVISION including any signage located on Hillcreek Drive;

(3) maintenance of the storm water drainage system of HILLCREEK SUBDIVISION; and other utilities not dedicated to governmental units;

(4) for such purposes as set forth in the corporate charter or by-laws of HILLCREEK HOMEOWNER'S ASSOCIATION, INC., as they now exist or as the same may be hereafter amended; and

(5) for such other lawful purposes as the Board of Directors of HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall determine.

[Sections 14, 15, 16, 17, 18 are deleted]

Section 19. Dedication of Streets. etc. The developers shall convey title to the streets, medians, street islands, green areas and storm drainage system of HILLCREEK SUBDIVISION to HILLCREEK HOMEOWNER'S ASSOCIATION, INC. at such time as they, in their sole discretion, deem proper.

Section 20. Club Site. The area designated as Club/Fitness Center Site on the Initial Plat shall initially be owned by the Developer and all improvements constructed thereon shall be constructed by the Developer. Said property and all improvements thereon shall be utilized solely for the benefit of owners of property within the Property and their tenant and such outside members as may subsequently be approved pursuant to any outside membership program which might be adopted by the Board of Directors of HILLCREEK HOMEOWNER'S ASSOCIATION, INC.

Section 21. Enforcement. In the event of a violation of any covenant or obligation set forth herein, the Associations created herein, either individually or jointly, the Developer, and the owners, or any of them jointly or separately, shall have the right to proceed at law or in equity to compel compliance with such covenants or obligations or to prevent the violation or breach of any such covenant or obligation, or to recover damages by reason thereof. The failure to enforce any right, reservation, obligation, restriction, or condition contained herein, for any period of time, shall not be deemed as a waiver of the right to do so.

These covenants and obligations are deemed to run with the land and shall be binding upon all parties owning any portion of the Property, their heirs, administrators, executors, successors, and assigns, and all parties claiming against them and through them for a period of fifty (50) years from the date these covenants are recorded in the office of the Clerk of Superior Court of Richmond County, Georgia, after which time such covenants shall be automatically extended for successive periods of ten years each

unless an instrument signed by persons owning a majority of the owners of Property at such time, agreeing to terminate or change said covenants in whole or in part, shall be recorded in the Office of the Clerk of Superior Court or Richmond County, Georgia.

Section 22. Amendments. These Covenants shall be further amended only upon the approval of the Board of Directors of the Association and the approval of 2/3 of the Owners of property in the Subdivision upon the presentation of the Amendment at the annual meeting of the membership or a called meeting of the membership for the purpose of amending these Covenants, the notice for such meeting must specifically describe the proposed Amendment and such notice is sent by mail to all owners at least twenty (20) days in advance of the scheduled meeting date. The written approval of the proposed Amendment shall be obtained at the meeting and for a period of sixty (60) days after the adjournment of the meeting. The Amendment after it has received the required approval shall be filed in the Office of the Clerk of the Superior Court of Richmond County, Georgia. The term "Owner" as used herein shall be the owner of record of a lot as of the date of the meeting. For the purpose of this provision, Owners shall not include holders of security deeds on the property.

Section 23. Miscellaneous.

(a) Nothing contained herein shall cause the owners of various portions of the Property to be deemed a partnership, an Association, or other legal entity, other than as specifically set forth herein. The relationship among owners of portions of the Property is strictly a contractual relationship governed by the terms of this instrument and by applicable law.

(b) This instrument shall be interpreted and enforced according to the laws of the State of Georgia.

(c) The Developer shall have the right to assign all or any portion of the its rights and responsibilities hereunder to any party or parties it may choose. Following the recording in the Office of the Clerk of Superior Court of Richmond County, Georgia of

any appropriate instrument transferring Developer's title to all of those portions of the Property which is owns at any given time, the transferee or transferees of such title shall thereafter be solely responsible for discharging Developer's responsibilities hereunder.

(d) Invalidation of any of these Covenants by judgment or court order shall in no wise affect any of the other provisions hereof, all of which shall remain in full force and effect.

(e) Notwithstanding certain duties of HILLCREEK HOMEOWNER'S ASSOCIATION, INC. to maintain, repair and replace certain portion of residences, other improvements, within lots, and certain common facilities (as described herein), HILLCREEK HOMEOWNER'S ASSOCIATION, INC., or Developer, shall not be liable to any party for injury or damage caused by any latent condition, or by any other condition which is not created by the acts or omissions of HILLCREEK HOMEOWNER'S ASSOCIATION, INC. or Developer, nor for injury or damage caused by the elements, other owners of portions of the Property, or any other parties.

Section 24. [Deleted]

Section 25. Limitation of Liability for Provider of Services. The Developer has constructed certain roads, green areas, club house, utilities, and other amenities for the benefit of the residents in HILLCREEK SUBDIVISION. All owners or tenants of property in HILLCREEK SUBDIVISION hereby release Developer, utility companies and the Homeowner's Association from any and all liability which may arise out of the failure to maintain such improvements in proper condition.

Section 26. Enforcement. The Associations, individually or jointly, the Developer, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restriction, conditions, covenants, reservation, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Associations, the Developer, or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

[Section 27 and 28 deleted]

Section 29. Term and Severability. The provisions of this Declaration shall run with and bind the Properties, and shall be and remain in effect perpetually to the extent permitted by law. All easements contained in this Declaration shall run with and bind the Properties, and shall be and remain in effect perpetually to the extent permitted by law. All affirmative obligations of owners contained in this Declaration, including, but not limited to, the obligation to pay Association assessments, shall run with and bind the Properties, and shall be and remain in effect perpetually to the extent permitted by law. All covenants contained in this Declaration restricting the Properties to certain uses shall run with and bind the Properties, and shall be and remain in effect 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 so affected shall run with and bind the Properties so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law for successive periods not to exceed the period permitted by such law, provided such renewal or extension is approved by at least a majority of the votes of members of the Associations present or represented by proxy which are entitled to cast votes at a meeting duly called for such purpose. Further, no such renewal or extension shall be effective unless there is filed for record in the Office of the Clerk of Superior Court of Richmond County, Georgia, on or before the effective date thereof, an instrument executed by the President and Secretary of the Associations which shall state the terms of such renewal or extension, and which shall contain a certification by the Secretary that such renewal or extension was duly approved by a majority vote of the Associations. Every purchaser or grantee of any interest in the Properties subject to this Declaration, by acceptance of a deed or other conveyance therefor, hereby agrees that such provisions of this Declaration may be renewed or extended as provided in this Section. Invalidity of any provision of this Declaration by

Judgement or Court order shall in no way affect the other provisions hereof which are hereby declared to be severable, and which shall remain in full force and effect.

Section 30. The Developer hereby declares that HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall account separately for the cost of maintaining Hillcreek Drive from Augusta West Parkway to the point where such road enters the area designated as "single family residential use only" and also shall account separately for the cost of maintaining the landscaped area immediately to the north of the above described portion of said Hillcreek Drive.

Of the reasonable cost expended for the maintenance and repair of the road HILLCREEK HOMEOWNER'S ASSOCIATION, INC., shall pay 57% of said cost and the other users of said parcel located in the area designated "Future Development Parcel" on the plat dated March 14, 1988, last recorded May 16, 1988, in the Office of the Superior Court of Richmond County, Georgia in Realty Reel 288, pages 817-822, shall pay 43% of said cost. This cost and allocation thereof shall be terminated if the road is dedicated to any governmental unit, which accepts the responsibility for maintenance thereof.

HILLCREEK HOMEOWNER'S ASSOCIATION, INC., will pay 75% of the reasonable cost expended for the maintenance and repair of the landscaped area and the other users of said parcel located in the area designated "Future Development Parcel" shall pay 25% of said cost.

These costs shall be initially expended by HILLCREEK HOMEOWNER'S ASSOCIATION, INC., and quarterly bills for those costs shall be submitted to the owner in the other area designated "Future Development Parcel". Developer shall designate in its deeds to purchasers of that property known as the "Future Development Parcel", the percentage each such owner shall be obligated to pay, and in the event of subsequent subdivision of said parcel, the grantor in each such deed shall designate the percentage each purchaser is to pay.

