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***PRESTWICK***  
***HOMEOWNERS ASSOCIATION, INC.***

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***COVENANTS, CONDITIONS***  
***RESTRICTIONS & EASEMENTS***

RETURN AFTER RECORDING TO:  
Prestwick Homeowners Association, Inc.  
P.O. Box 1555  
Duluth, Georgia 30096

Cross Reference: Deed Book 9103  
Page 1

**AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS OF PRESTWICK**

This Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Prestwick is made this 22 day of Dec., 1998.

**WITNESS ETH**

WHEREAS, Prestwick is a residential subdivision created pursuant to that certain Declaration of Covenants, Conditions, Restrictions and Easements of Prestwick recorded at Deed Book 9103, Page 1, Fulton County, Georgia records (hereinafter, as previously amended, the "Original Declaration");

WHEREAS, the Plat for the Prestwick subdivision is recorded in Plat Book 143, page 12, Fulton County Georgia, records;

WHEREAS, pursuant to Article VIII, Section 4 of the Original Declaration, said Declaration may be amended by the affirmative vote of at least seventy-five percent (75%) of the Owners of Lots in the Prestwick subdivision;

WHEREAS, the following Amendment has been approved by the affirmative vote of at least seventy-five percent (75%) of the Owners of Lots within the Prestwick subdivision as evidenced by the Certification of Approval attached hereto as Exhibit "B" and by this reference made a part hereof;

NOW THEREFORE, the Original Declaration is hereby amended by striking said Original Declaration in its entirety and substituting therefor the following:

Recorded at Fulton County  
Clerk of Superior Court  
Book 25925 Page 311

**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS OF PRESTWICK**

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**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND EASEMENTS OF PRESTWICK**

This Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements for Prestwick Subdivision (hereinafter the "Declaration") is made on the day and year set forth below. By virtue of the recording of this Declaration, the property described on Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter the "Property") is hereby submitted and made subject to this Declaration. By virtue of the recording of this Declaration, the Property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of this Declaration, and every grantee of any interest in said Property, by acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Declaration and shall be deemed to have consented to the same. This Declaration shall apply to govern, control and regulate the sale, resale or other disposition, acquisition, ownership, use and enjoyment of the Property and the improvements located thereon, and all of its provisions shall be and are covenants to run with the Property and shall be binding on the present owners of said Property and all of their successors and assigns and all subsequent owners of the Property and improvements located thereon, together with their grantees, successors, heirs, executors, administrators, devisees, and assigns.

1. **Name and Location.** The name of the Development is "Prestwick". The Development is located in Land Lots 252, 253, 254, 289, 290 and 291 of the 1st District, 1st Section of Fulton County, Georgia, and is more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

2. **Definitions.** Unless the context requires otherwise, the following capitalized terms, as used in this Declaration, shall have the meanings set forth below:

(a) **Architectural Standards** shall mean and refer to the Architectural Standards adopted by the Architectural Control Committee in accordance with Section 6 of this Declaration.

(b) **"Articles of Incorporation"** shall mean the Articles of Incorporation of the Association as the same now exist or as may hereafter be amended.

(c) **"Association"** shall mean and refer to Prestwick Homeowners Association, Inc., a Georgia non-profit corporation, and its successors and assigns..

(d) **"Board of Directors"** or **"Board"** 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, the By-Laws, and the Georgia Non-Profit Corporation Code. The Board of Directors shall be the governing body of the Association.

(e) "ByLaws" shall mean and refer to the Bylaws of the Association, as the same now exist or as may hereinafter be amended.

(f) "Cluster Home Lots" shall mean and refer to those plots of land amounting to approximately 9000 square feet and designated in the Plat and referred to as Parcel B, which are intended for single family residential use.

(g) "Common Area or Common Areas" shall mean all real property (including any improvements thereon) designated as "Common Area" on the Plat or owned by the Association for the common use and enjoyment of the Owners. The Common Area shall include, without limitation, the "Planter Easements" as shown on the Plat, together with all easements and appurtenances reserved or granted to the Association in this Declaration.

(h) "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions, Resolutions and easements for Prestwick, as the same may be amended and supplemented.

(i) "Development" or "Prestwick" or "Prestwick Subdivision" shall mean the Property subject to this Declaration and known as Prestwick.

(j) "Dwelling" shall mean and refer to a detached single-family dwelling unit located on a Lot.

(k) "First Mortgage" shall mean a first priority Mortgage and "First Mortgagee" shall mean the holder of a First Mortgage.

(l) "Governing Documents" shall collectively mean and refer to this Declaration, the Articles, the Bylaws, the Rules and Regulations and the Architectural Standards as the same may be amended from time to time.

(m) "Improvement" when capitalized in this Declaration shall mean and refer to (i) any dwelling , structure, building, improvement or landscaping of any kind which may affect the appearance of all or any exterior portion of any Lot, including, by way of example and not limitation, any building or part thereof, pet enclosures, sidewalks, driveways, curbing, paving, mail boxes, garages, porches, decks, gazebos, patios, courtyards, swimming pools, tennis courts , sheds, greenhouses, playhouses, basketball goals, play equipment, awnings, walls, steps, stoops, walls, fences, trees, shrubs, exterior lights, guest or servants' quarters, or other outbuildings, or any other temporary or permanent improvement to a Lot; (ii) any landscaping, excavation, grading, filling or fill ditch, diversion dam or other thing, object or device which effects or alters elevation or 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.

(n) "Lot" shall mean and refer to one or more of the Lots subject to this Declaration, and identified by number on the Plat. Where the context indicates or requires, the term "Lot" shall include any structures and improvements on the Lot.

(o) "Lot Owner" or "Owner" shall mean and refer collectively to the Person or Persons who are the record title owners of a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

(p) "Mortgage" shall mean a mortgage, deed to secure debt or deed of trust. "Mortgagee" shall mean the holder of a Mortgage.

(q) "Person" shall mean a natural person, corporation, partnership, limited liability company, association, trust, or other legal entity, or any combination thereof.

(r) "Planter Easements" shall mean the perpetual easements for construction and maintenance of landscaping signs and appurtenances thereto as shown on the Plat.

(s) "Plat" shall mean and refer to that certain Plat entitled Prestwick and recorded in Plat Book 143, Page 12, Fulton County, Georgia records, as the same may be amended and supplemented.

(t) "Property" shall mean and refer to the property described on Exhibit "A" attached hereto and incorporated herein by this reference and hereby made subject to this Declaration.

(u) "Rules and Regulations" shall mean the Rules and Regulations of the Association as may be adopted, amended and repealed by the Board of Directors of the Association.

### 3. The Association.

(a) Membership in Association. All Owners, by virtue of their ownership of a Lot, are automatically mandatory members of the Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote, pursuant to this Declaration and in accordance with the By-Laws. Subject to the provisions of the Declaration and the By-Laws, the Owner(s) of each Lot shall be entitled to one (1) vote for such Lot. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine, and if one (1) of such multiple Owners exercises the vote without opposition by any other of such multiple Owners at the same time as such vote is exercised, the vote shall be as so exercised. In the event that more than one (1) of such multiple Owners seeks to exercise the vote or if any one or more of such multiple Owners disputes any other's right to so vote, the Lot vote for such Lot shall not be counted. The foregoing is not intended to include Persons who hold an interest in a Lot merely as security for performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership in the Association.

(b) Meetings of Association. Meetings of the members of the Association shall be held in accordance with the provisions of the By-Laws and in any event not less frequently than annually. Notice shall be given to each Lot Owner at least twenty-one (21) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting and shall state the time, place and purpose of such meeting. Such notice shall be delivered personally or sent by United States mail, postage prepaid, to all

Lot Owners of record at such address or addresses as designated in writing by such Lot Owners, or, if no other address is then so designated, at the address of their respective Lots. At the annual meeting, reports of the affairs, finances and budget projections of the Association shall be made to the Lot Owners. A quorum shall be deemed present throughout any meeting of the members of the Association if persons entitled to cast one-half (1/2) of the votes of the Association are present at the beginning of the meeting in person or by proxy.

(c) Powers and Duties of the Association. Subject to the terms and conditions of this Declaration, the Association shall have the power to:

(i) employ, retain, dismiss and replace agents and employees to exercise and discharge the powers and responsibilities of the Association;

(ii) make or cause to be made additional improvements on and as a part of the Common Area; provided, however, that any capital improvement requiring the expenditure of Association funds in excess of \$1,500.00 shall require the approval of seventy-five percent (75%) of the Owners present in person or by proxy at a meeting duly called for such purpose;

(iii) to grant easements, leases and licenses over the Common Area, and to accept easements, leases and licenses benefiting the Development or any portion thereof and to acquire or lease property in the name of the Association;

(iv) to exercise all of the powers of a corporation organized under the Georgia Non-Profit Corporation Code;

(v) to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration and the other Governing Documents of the Association;

(vi) to adopt, amend and repeal Rules and Regulations governing the use and enjoyment of the Property. Such Rules and Regulations shall be binding upon each Owner and each Owner's family, tenants, guests, agents and invitees;

(vii) to impose reasonable monetary fines and other sanctions for violations of the Governing Documents of the Association, which monetary fines may be collected by lien and foreclosure as provided in this Declaration; and

(viii) to institute, intervene, prosecute, represent or defend in its own name litigation or administrative or other proceedings of any kind concerning claims or other matters relating to any portion of the Lots or Common Area, which the Association has the responsibility to administer, repair or maintain.

(d) Board of Directors. Except to the extent otherwise expressly required by this Declaration, the Articles of Incorporation or By-Laws of the Association, or by Georgia law, the powers inherent in or expressly granted to the Association may be exercised by the Board of Directors, acting through the officers, without any further consent or action on the part of the Owners.

4. Assessments.

(a) Annual Assessment. There is hereby created an annual assessment as may from time to time be authorized by the Board of Directors to be levied against each respective Lot. The annual assessment shall be used to pay expenses determined by the Board to be for the benefit of the Association, its members and the Property as a whole, including, but not limited to improvement, maintenance and insurance of the Common Area, the enforcement of the restrictions contained in the Declaration, the payment of operating costs and expenses of the Association, the payment of all principal and interest due on all debts owed by the Association, and expenses otherwise incurred by the Association, in accordance with its rights, powers and privileges for the purpose of promoting the recreation, health, safety, welfare and common benefit and enjoyment of its members, and in maintaining the Property and improvements thereon. All such common expenses not specifically assessed pursuant to the provisions of this Declaration shall be allocated equally among and between the Lots subject to this Declaration. The annual assessment may include a reserve contribution towards the maintenance of a general operating reserve and a reserve for repairs and replacements. Not later than thirty (30) days before the annual meeting of the Association, the Board of Directors shall prepare and submit in writing to the Owners an estimated budget for the ensuing fiscal year, together with notice of the amount of the annual assessment based thereon, payable by each Owner during the new fiscal year. If the budget requires an annual assessment of not more than one hundred fifteen (115%) percent of the prior year's assessment, Owner approval of the budget and assessment shall not be required. If the budget requires an annual assessment that is more than one hundred fifteen percent (115%) of the prior year's assessment, the budget and assessment shall require the approval of seventy-five percent (75%) of the Owners present in person or by proxy at a meeting duly called for such purpose. If for any reason an annual budget is not made or approved as required hereby, a payment of the amount required by the prior year's budget shall be due until changed by the adoption of a new budget. The annual assessment shall be paid in such manner and on such dates as may be fixed by the Board of Directors.

(b) Special Assessments. In addition to the annual assessment authorized above, the Board of Directors may levy special assessments for the purpose of defraying, in whole or in part, the cost of any capital addition to, capital improvement of, or repair and replacement of any portion of the Common Area (including the necessary fixtures and personal property related thereto) or any lawful expense or obligation of the Association. Special assessments pursuant to this subsection shall be allocated equally among and between the Lots subject to this Declaration. The due date(s) of any such special assessment shall be as specified by the Board of Directors. Special assessments shall require the approval of seventy-five percent (75%) of the Owners present in person or by proxy at a meeting duly called for such purpose.

(c) Specific Assessments. Any expenses occasioned by the conduct or failure to act of any Owner or any family member, tenant, guest, licensee or invitee of any Owner shall be specifically assessed against such Owner and shall be a lien against such Owner's Lot or Lots, as provided in Subsection (d) hereof. Any expenses related to an optional service provided by or through the Association may be specifically assessed against those Lots utilizing such service. The specific assessments provided for in this Section shall be levied by the Board of Directors and the amount and due dates of such specific assessments as so levied shall be as specified by the Board.

(d) Creation of Lien and Personal Obligation. All assessments, fines and other charges lawfully assessed by the Association against any Lot Owner or Lot as provided for in this Declaration shall, from the time such 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: (i) liens for ad valorem taxes on the Lot; (ii) the lien of any First Mortgage covering the Lot and the lien of any Mortgage recorded prior to the Original Declaration; and (iii) the lien of any secondary purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot. The recording of this Declaration shall constitute record notice of the existence of the lien, and no further recordation of any claim of lien for assessments, fines or other charges shall be required. No Lot Owner shall be exempted from any liability for any assessment for any reason whatsoever, including, without limitation, abandonment, nonuse or waiver of the use and enjoyment of his or her Lot or any part of the Common Area. The grantee in a conveyance of a Lot shall be jointly and severally liable with the grantor thereof for all unpaid assessments, fines and other charges against the latter up to the time of the conveyance without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee; provided, however, that if the grantor or grantee shall request a statement from the Association as provided in subsection (f) of this Section hereof, such grantee and his or her successors, successors-in-title and assigns shall not be liable for the Lot conveyed which is subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement. Notwithstanding the foregoing, in the event that the holder of a First Mortgage or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Lot), or in the event that any other Person acquires title to any Lot as a result of foreclosure of any such Mortgage, such holder or other Person and his or her successors, successors-in-title and assigns shall not be liable for, nor shall the Lot be subject to any lien for any assessments or charges under this Declaration chargeable to the Lot on account of any period prior to such acquisition of title.

(e) Nonpayment of Assessment: Remedies of Association. If any assessment, or portion thereof, payable by an Owner is not postmarked (U.S. Mail, Federal Express, UPS, etc.) for delivery to the Association, within thirty (30) days after the billing date, the lien and personal obligation of the Lot Owner shall also include (i) a late charge; (ii) interest at such rate as may be determined by the Board and permitted by applicable law on any assessment, installment, delinquency or late charge from the date such sum was first due and payable; (iii) costs of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Lot, and reasonable attorney's fees actually incurred; and (iv) the fair rental value of the Lot from the time of the institution of suit until the sale of the Lot at foreclosure or until the judgment rendered in such suit is otherwise satisfied. If any delinquent assessment or portion thereof is not paid within ten (10) days after written notice is given to the Lot Owner to make such payment, proceedings may be instituted to enforce such lien and personal obligation. Such notice shall be sent by certified mail, return receipt requested, to the Lot Owner both at the address of the Lot and at any other address or addresses the Lot Owner may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. The lien for such assessments may be foreclosed by the Association by an action, suit, judgment or foreclosure in the same manner as other liens for the improvement of real property. The Association shall, in addition to and not in lieu of the

foregoing remedy, have the right to bring an action against the Lot Owner to recover all assessments, interest, late fees, costs of collection (including court costs and reasonable attorney's fees actually incurred), fines and other charges for which such Lot Owner is personally obligated pursuant to the terms hereof.

(f) Statement from Association. Any Lot Owner, Mortgagee of a Lot, Person having executed a contract for the purchase of a Lot, or lender considering the loan of funds to be secured by a Lot, shall be entitled upon request to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, together with late charges and interest applicable thereto against that Lot. Such request shall be in writing, shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. The information specified in such statement issued by the Association shall be binding upon the Association shall be binding upon the Association and upon every Lot Owner.

(g) Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all sums collected in such year by way of assessments or otherwise and may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply such surplus to the reduction of the amount of assessments levied in any succeeding year but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes;

#### 5. Property Rights.

(a) General. The ownership of each Lot shall include and there shall pass with the title to each such Lot as an appurtenance thereto, whether or not separately described, all rights and obligations of a member in the Association and all of the right and interest of use in and to the Common Areas set forth herein.

(b) Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas, subject to any restrictions, limitations or provisions contained in this Declaration. The aforementioned right and easement shall be appurtenant to and shall pass with the title to every Lot. Such easement shall, without limitation, be subject to the right of the Association to borrow money for the purpose of acquiring or improving any Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon and, in those cases where additional Common Area is being acquired, to give as security therefor, a Mortgage encumbering such additional Common Area;

(c) General Association Easement. There is hereby reserved for the benefit of the Association, its officers, agents and employees a general right and easement to enter upon the exterior portion of any Lot for the purpose of exercising any right or performing any duty of the Association set forth in the Governing Documents.

(d) Additional Association Easements. The following additional easements are reserved to the Association: (i) an easement of six (6') feet on either side of the center of each side line of each Lot and across the rear ten (10') feet of each Lot for (A) the erection, installation, construction, and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television and other utilities and similar features; and (B) the erection, installation, construction

and maintenance of storm water drains, land drains, public and private sewers, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function; and (ii) an easement over the Planter Easement area as shown on the Plat for the erection, installation, construction, and maintenance of such signs and plantings as the holder of this easement may deem appropriate. Within these easements, no Improvement, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the easements. The appearance of the easement areas of each Lot and all improvements in them (other than signs and landscaping installed pursuant to the above Planter Easement) shall be maintained continuously by the Owner of the Lot. Each Owner is responsible for damage to or destruction of the easement area and all improvements on it caused directly or proximately by the acts or omissions of such Owner and any guests, invitees, residents or other persons occupying or present upon said Lot.

(e) Use of Common Area. Other than for the right of ingress and egress and the normal intended use as interpreted by the Board, the Owners are hereby prohibited and restricted from using any of the Common Area except as may be allowed by the Board or as may be expressly permitted in this Declaration or any amendment thereto. By way of explanation and not limitation, no planting or gardening shall be done upon the Common Area without the prior approval of the Board, and no fences, hedges, walls or structures shall be erected or maintained upon the Common Area, except as are installed or modified by the Association, or are approved by the Board. It is expressly understood and agreed by all parties concerned that this Paragraph is for the mutual benefit of all Owners and is necessary for the protection of all Owners.

(f) Acknowledgement of Rights of Use. Each Owner, by acceptance of a deed or contract for deed to any Lot is deemed to accept the reservations, rights of use, licenses and permits existing in, through and over the Common Area.

## 6. Architectural Controls.

(a) Purposes and Powers. In order to preserve the natural setting and beauty of the Development and to maintain, preserve and protect within Prestwick a unique, pleasant, attractive and harmonious physical environment, all portions of the Property, including the Lots and all Dwellings, structures, landscaping and Improvements located thereon, shall be subject to the architectural standards, procedures and requirements set forth herein. Every grantee of an interest in the Property, including any Lot, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of this Section 6 .

(b) Architectural Control Committee. The Board shall establish an Architectural Control Committee ("ACC"), the members of which shall be Owners or spouses of Owners. Members of the ACC shall be appointed by the Board of Directors and shall serve at the pleasure of the Board. The ACC shall operate in accordance with policies and procedures established from time to time by the Board. The Board shall appoint a Chairperson who shall preside at all meetings of the ACC. The ACC, subject to Board approval, shall be authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ACC in performing its functions set forth herein.

(c) Submission of Plans and Specifications. No Improvement shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Improvements upon any Lot or Dwelling be altered in any way which materially changes the exterior appearance of the Lot, unless and until two (2) copies of the plans and

specifications therefor shall have been first submitted to and approved in writing by the ACC as to the compliance of such plans and specifications with the ACC from time to time. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC and may include, without limitation, the following:

(i) a Site Plan showing the location of all Lot lines and all proposed and existing Improvements on the Lot, including setbacks, open space, driveways, walkways, site lighting, and parking spaces;

(ii) Floor plans;

(iii) Exterior elevations of all proposed Improvements and alterations to existing Improvements as such Improvements will appear after all back-filling and landscaping are completed;

(iv) Specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors of all proposed Improvements and alterations to existing Improvements; and

(v) Plans for landscaping and grading.

(d) Construction Activities. No construction of any Improvements on any Lot shall be undertaken or conducted on Sundays, except as may be permitted by the ACC. Lots may not be temporarily or permanently occupied until the exterior of the Dwelling and the landscaping thereon have been completed, and a certificate of occupancy for the Dwelling on such Lot has been issued. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the Lot in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot on which such construction has been completed.

(e) Approval and Disapproval of Plans and Specifications.

(i) The ACC shall have the right to approve or disapprove any plans and specifications which are submitted to it in its sole discretion, which approval or disapproval may be based upon any grounds, including purely aesthetic considerations and conformity or lack of conformity with surrounding properties.

(ii) Upon approval by the ACC of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be maintained with the permanent records of the Association, and an additional copy of such plans and specifications bearing such approval shall be returned to the applicant submitting the same. Approval of any plans and specifications for use in connection with any Lot shall not be deemed a waiver of the right of the ACC, in its sole discretion, to disapprove similar plans and specifications for any of the features or elements included therein, if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Upon approval of any such plans and specifications relating to any Lot, no further approval under this Section 7 shall be required with respect thereto, unless (1) construction has not substantially commenced within three (3) months of approval of such plans and specifications, or (2) such plans and specifications are materially altered or changed.

(f) Obligation to Act. The ACC shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ACC, if granted, together with any conditions placed on such approval, shall be noted in writing on the plans and specifications and returned to the applicant.

(g) Architectural Standards. The ACC, subject to approval of the Board, is hereby authorized to promulgate written architectural standards, regulations, policies, procedures and guidelines ("Architectural Standards") governing the construction, location, height, size, dimensions, materials, and design of Improvements located or to be located on any Lot, the time within which such Improvements must be completed, the contents of submitted plans and specifications, and such other information as may be required in order to evidence compliance with and obtain approval pursuant to this Section. By way of example and not limitation, the ACC shall have the right to establish a maximum percentage of a Lot which may be covered by Dwellings, buildings, structures, or other Improvements, which percentage shall be promulgated on the basis of topography, percolation rate of the soil, soil types and conditions, vegetation cover, and other environmental factors. The Architectural Standards shall be binding upon and enforceable against all Owners as if fully set forth herein.

(h) Right of Inspection. The ACC, and its agents and representatives, shall have the right to enter upon and inspect any Lot at any time before, during or after completion of any work for which approval is required hereunder for the purpose of ascertaining whether the installation, construction, alteration or maintenance or the use of the Lot is in compliance with the provisions of this Declaration; and no such person or entity shall be deemed to have committed a trespass or wrongful act by reason of such entry or inspection.

(i) Effect of Approval. The Association, the Board and the ACC shall not be responsible or liable for (i) any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Declaration; (ii) any loss or damages to any person arising out of the approval or disapproval of, or the failure to act upon, any plans and specifications; or (iii) any loss or damage arising from the noncompliance of such plans and specifications with any governmental or administrative regulations, or any defects in construction undertaken pursuant to such plans and specifications.

(j) Fees. The ACC, subject to Board approval, may impose and collect a reasonable and appropriate fee to cover the costs of its review and inspection pursuant to this Section. The amount of such fee shall be established from time to time by the Board of Directors or the ACC. Additionally, the ACC, subject to Board approval, may require placement of a deposit or bond by an applicant to insure compliance with this Declaration and the Architectural Standards and to cover any expenses or damages caused by construction or improvement activities required to be approved by it.

(k) Correction of Non-Compliance. Upon written notification by the ACC of any non-compliance with the requirements of this Section or Section 7 hereof, the Owner shall at that time immediately discontinue working, building, installing or erecting any phase or portion of the Improvement until written approval to continue has been given by the ACC. The ACC shall be entitled in all cases to enjoin further construction and to require, at the full cost and expense of the violating Owner, the removal or correction of any work, structure or Improvement in place which does not comply with the approved plans and specifications. In addition to and not in limitation of the foregoing, the Association, acting through the Board or the ACC, shall

have all of the powers and remedies set forth in Section 13(c) hereof to enforce compliance with this Section and the other provisions of this Declaration.

(1) Board Right to Act. The Board of Directors may, at any time, by resolution, assume all or any of the duties and responsibilities of the ACC. In such event, the Board shall be entitled to exercise all of the rights, powers and authorities of the ACC as set forth in this Declaration.

7. Improvement of Lots. All construction within the Development and all modifications, alterations and additions to existing Improvements shall be subject to the restrictions set forth in this Section.

(a) Building Construction. No more than one single-family Dwelling, not to exceed two and one-half (2 ½) stories in height, shall be erected on any Lot.

(b) Setbacks and Building Lines.

(i) Dwellings. Each Dwelling which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback lines shown on the Plat or required by applicable law.

(ii) Walls and Fences. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line unless approved by the ACC. The exposed part of retaining walls shall be made of claybrick, natural stone, stucco, railroad ties, or veneered with brick or natural stone.

(iii) Merger and Subdivision of Lots. No merger or subdivision of Lots shall be permitted.

(iv) Terraces, Eaves, Decks, Stoops and Detached Garages. For the purpose of determining compliance or noncompliance with the foregoing building line requirements, terraces, stoops, eaves, wing-walls, and steps extending beyond the outside wall of a structure, shall be considered as a part of the structure and should be located in accordance with building and setback lines. Driveways may be located within setback lines.

(c) Building Requirements. For Standard Lots, the ground floor living areas of the Dwelling, exclusive of open porches, garages, carports, patios, gazebos and breezeways, shall be not less than 2,800 square feet for a one-story Dwelling. For Dwellings consisting of two stories or more, including split-level Dwellings the enclosed floor area shall be no less than 2,800 square feet overall and the first floor of such a Dwelling must contain at least 2,000 square feet of floor area. The requirements of this paragraph shall apply to all Dwellings constructed or reconstructed after the effective date hereof.

For Cluster Lots the ground floor living area of the Dwelling, exclusive of open porches, garages, carports, patios, gazebos and breezeways, shall not be less than 2,500 square feet for a one-story Dwelling. For Dwellings consisting of two stories or more, including split level Dwellings, the enclosed floor area shall be no less than 2,500 square feet overall and the first floor of such Dwelling must contain at least 1,800 square feet of floor area.

(d) Delivery Receptacles and Property Identification Markers. The ACC shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

(e) Use of Outbuildings and Similar Structures. No structure or other Improvement of a temporary nature, shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure of a similar nature shall be used as a residence, either temporarily or permanently.

(f) Building Materials. No building materials or equipment used for building purposes shall be stored on any Lot, except for the purpose of construction on such Lot and in such event, for no longer than the length of time reasonably necessary for the construction to completion of the Improvement to which the same is to be used.

(g) Commencement and Completion of Construction. The purchaser of any undeveloped Lot shall commence construction of a Dwelling and related Improvements within one (1) year of the date of purchase. The foregoing requirement shall apply to all purchasers who acquire title to an undeveloped Lot after the effective date of this Declaration. All construction must be completed within one (1) year of the date of commencement of construction. The Association shall have the right to take appropriate court action, whether at law or in equity, to compel the immediate completion of any Dwelling or other Improvement not completed within one (1) year from the date of commencement of construction. The construction of any Dwelling or other Improvement, or the repair or replacement of any Dwelling or other Improvement damaged by fire or otherwise, must be promptly undertaken and pursued diligently and continuously to completion by its Owner without reasonable delay. Without limitation, if any Owner leaves any Dwelling or other Improvement in an incomplete condition for a period of more than ninety (90) days, and during such ninety (90) day period makes no material progress toward completion, the Association may complete all required restoration or construction, or may enter upon the Lot and raze and otherwise remove the incomplete Dwelling or other improvement from such Owner's Lot, by a vote of not less than two-thirds (2/3) of the members of the Board after reasonable notice to, and reasonable opportunity to be heard by, the Owner affected. All costs so incurred by the Association may be specifically assessed against such Lot, and Lot Owner as provided in Section 4 hereof.

(h) Aesthetics. Nature Growth, Screening, Underground Utility Service. Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior approval, in writing, of the ACC. Garbage cans and equipment shall be screened to conceal them from view of neighboring Lots and streets. All residential utility service and lines to residences shall be underground. All swimming pools must be screened from view and fenced.

(i) Exterior: Painting and Materials. No change in the colors of the exterior painting or exterior materials of any Dwelling or other Improvement located upon any Lot shall be made unless first approved by the ACC.

(j) Lighting. No exterior lighting may be installed without the prior approval of the ACC, except for seasonal decorative lighting during the holiday season. Plans

for all other exterior lighting must be submitted to and approved by the ACC in accordance with Section 6 hereof.

(k) Sight Distance At Intersections. Notwithstanding anything contained herein to the contrary, no obstructions to visibility at street intersections shall be permitted.

(l) Recreational and Playground Equipment. No recreational or playground equipment shall be placed or installed upon any Lot without the prior written approval of the ACC. All such equipment as is permitted shall be placed upon the rear of the Lot within setback lines in such a manner as not to be visible from any street or Common Area. Above-ground swimming pools are expressly prohibited. Such inground swimming pools as are permitted must conform to all applicable setback and building requirements.

(m) Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance throughout the neighborhood, no awnings, shades or window boxes shall be attached to, hung or used on the exterior of any Dwelling without the prior written consent of the ACC. Further, no foil or other reflective material shall be used on any windows for sunscreens, blinds, shades, or for any other purpose, nor shall any window mounted heating, air conditioning or fan units be permitted without the prior written consent of the ACC.

(n) Garages. Each Dwelling must have a garage of sufficient size to house at least two (2) passenger automobiles and in all events, contain at least 500 square feet including any utility or storage areas. All garages must be substantial and conform architecturally to the Dwelling to which they relate. When garages are not in use, garage doors shall be closed. All garages shall be equipped with automatic door operators.

8. Use Restrictions. To provide harmony among the Owners and thereby protect the value of the Lots within the Development, all portions of the Property shall be subject to the restrictions set forth in this Section and to such Rules and Regulations as may be adopted from time to time by the Board. Such Rules and Regulations shall be in addition to and may expand upon or add to the Use Restrictions set forth in this Section.

(a) Residential Use. The Lots within Prestwick shall be and are restricted exclusively to single-family residential use and no trade or business of any kind may be conducted in or from a Lot or any part of the Development either as a primary or accessory use of either the Lot or any portion of the Development; provided, however, an Owner or occupant may conduct such business activities within a Dwelling located thereon so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Dwelling; (b) the business activity does not regularly involve persons or vehicles coming into the Development who do not reside in the Development; (c) the business activity does not involve having any tools of a particular trade stored or placed in any area which can be seen from another Lot or the Common Areas; (d) the business activity conforms to all zoning requirements for the Property; (e) the business activity is consistent with the residential character of the Property; (f) the business activity does not require use of Common Area utilities; and (g) the business activity does not constitute a nuisance or a hazardous or offensive use, as may be determined in the sole discretion of the Board of Directors.

(b) Nuisances. No unlawful, noxious or offensive activity shall be undertaken on any Lot or on the Common Areas, nor shall anything be done therein or thereon

which constitutes a nuisance, causes unreasonable noise or disturbance to others, or unreasonably interferes with other Owners' use or enjoyment of their Lots.

(c) Vehicles. All vehicles owned or used by Owners or occupants other than temporary guests or visitors shall be parked within garages to the extent garage space is available. Garages shall not be used for storage or otherwise so that they become unavailable for parking vehicles therein. Garage doors shall be closed at all times except during ingress and egress into and out of the garage. No house trailers or mobile homes, school buses, trucks or commercial vehicles over one (1) ton capacity, boats or boat trailers shall be kept, stored or parked overnight either on any street or on any Lot, except within the enclosed garages or completely screened from view or with prior Board approval. Vehicles shall not be stored, repaired or restored upon or within any Lot or any portion of the Common Area, except: (i) within any enclosed garage, or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. No vehicles shall be parked on the Common Areas other than in authorized parking areas. No vehicles shall be parked so as to obstruct the fire lanes or roadways within the Property. The Association is expressly authorized to remove, by towing or other methods, at the Owner's expense, any vehicle parked on the Property in violation hereof.

(d) Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot within any Dwelling, except that dogs, cats or other usual household pets may be kept by their respective owners in their respective Lots and within their respective Dwelling, provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health, safety or welfare, or unreasonably disturb the Owner or occupant of any Lot within the Prestwick Development; provided, that the Board of Directors may, by adoption of Rules and Regulations (i) prohibit from the Property animals which are determined by the Board to be dangerous and detrimental to the health, safety or welfare of the Owners; (ii) prohibit any respective pet from traveling on all or any portion of the Common Area; and (iii) prohibit animals on the basis of size, weight or type. The Board of Directors shall have the power and authority to determine, in its sole and absolute discretion, whether, for the purposes of this Section, a particular animal or bird is a generally recognized household pet, whether such animal or bird endangers the health or unreasonably disturbs the Owner of any Lot or any occupant thereof, or whether the number of animals or birds on any Lot is unreasonable. No pet enclosure shall be erected, placed or permitted to remain on any portion of the Property except as approved pursuant to Section 6 hereof. Pets shall be under leash at all times when walked or exercised on any portion of the Common Areas.

(e) Signs. No signs whatsoever shall be installed, erected, altered or maintained on any portion of the Property except (i) a single professionally manufactured sign of not more than four (4) square feet in area for the purpose of advertising a Lot for sale or rent; (ii) such signs as may be required by legal proceedings; (iii) such signs as are erected and/or maintained by the Association; (iv) directional signs for vehicular or pedestrian safety as are approved by the ACC; (v) such other signs, including but not limited to name and address signs and security company signs, as may be approved, from time to time by the ACC.

(f) Antennas. Satellite Dishes and Similar Equipment. The installation and maintenance of television antennas, radio receivers, radio receiver equipment, satellite dish equipment and other similar devices shall be subject to such Rules and Regulations as are adopted from time to time by the Board or the ACC and all such Rules and Regulations shall be enforceable as if fully set forth herein.

(g) Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers designed for that purpose. All equipment for the storage or disposal of such waste material shall be kept in a clean and sanitary condition. If such litter or other materials is found on any Lot, the same shall be removed by the Owner of such Lot, at the Owner's expense, upon written request of the ACC or the Board. All trash receptacles and rubbish shall be brought to the curb on the day designated for pickup, but shall be kept off the street at all times.

9. Sale and Leasing of Lots.

(a) Notice Provisions. Any Owner who sells or who leases his Lot shall give prior written notice to the Board of Directors or its designee of such sale or lease stating the name, address, and telephone number of the purchaser or lessee, the term of the lease, and such other information as the Board may reasonably require.

(b) Leasing Provisions. All leases shall be in writing and shall be for a minimum term of six (6) months. Each lease shall contain the following express terms, but if not included in the lease, these terms shall be deemed to be incorporated into such lease by the existence of this covenant. Any Lessee, by occupancy of a Lot, agrees to the applicability of this covenant and to the incorporation of this language into such Lessee's lease with the Lot Owner:

(i) Upon the failure of the Lot Owner to pay any assessments, fines or other charges due to the Association hereunder, Lessee shall, upon request by the Association, pay to the Association all rents and other charges payable to Lessor under the Lease. All such payments made by Lessee to the Association shall reduce, by the same amount, Lessee's obligation to make monthly rental payments to Lessor. It shall be the responsibility of the Association and not of the Lessee to account to the Lessor for funds actually received by the Association from the Lessee.

(ii) Lessee agrees to abide and comply with all provisions of the Declaration, By-Laws, and Rules and Regulations of the Association adopted pursuant thereto.

10. Maintenance.

(a) Association Responsibility. The Association shall maintain and keep in good repair the Common Areas. The Association shall have the right, but not the obligation, to maintain property not owned by the Association where the Board has determined that such maintenance would benefit Owners and/or the Development. Notwithstanding any provision contained herein to the contrary, the Association shall not be liable for any injury or damage to any person or property (i) caused by the elements; (ii) caused by any Owner or the family, guests or invitees of any Owner; (iii) resulting from any rain or other surface water which may leak or flow from any portion of the Common Area; or (iv) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to the Owner for any loss or damage, by theft or otherwise, of any property of such Owner or the family, guests or invitees of such Owner which may be stored in or upon any portion of the Common Area or any portion of the Property. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action

taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or governmental authority, the obligation to pay each such assessment being a separate and independent covenant on the part of the Owner.

(b) Owner's Responsibility. Each Lot Owner shall maintain and keep in good repair his or her Lot and all Dwellings and other Improvements located thereon except to the extent said maintenance responsibility is expressly assigned to the Association by this Declaration. Each Lot Owner's responsibility shall include, without limitation, the responsibility (i) to maintain the exterior of all buildings and other Improvements located on the Lot in a neat, clean and attractive condition; (ii) to regularly water, treat with appropriate chemical applications, and mow, cut or prune all turf, trees, shrubbery and other landscaping or vegetation located on the Lot; (iii) to regularly remove from the Lot all trash, all standing water, debris, dead or disabled trees, or trees which, in the opinion of the Board or the ACC, create a hazardous condition, (iv) to maintain all ponds, fountains, walls and other hardscapes in a neat, clean and attractive condition and (v) to otherwise maintain the Lot in a neat, clean and attractive condition. The maintenance responsibility of each Lot Owner hereunder shall extend to the curb of any street adjoining such Owner's Lot, irrespective of the actual boundary of the Lot. In the event the Board of Directors or the ACC determines that any Owner has failed and refused to discharge properly his or her obligations with regard to the maintenance, repair or replacement of items for which he or she is responsible hereunder, the Association and its agents and representatives may, upon ten (10) days written notice to the Owner thereof, enter upon any Lot for the purpose of causing any weeds, grass, trees or landscaping to be cut, pruned or removed, or for the purpose of removing garbage or trash, or for the purpose of performing such other exterior maintenance as the Board, in the exercise of its sole discretion, deems necessary or advisable. Only one written notice shall be required prior to exercising such rights in cases of repeated or continuing violations. Such right shall include, without limitation, the right to remove dead or diseased trees or trees which, in the Board's sole discretion, create a hazardous condition. Such Owner shall be personally liable to the Association for all direct and indirect costs of such maintenance, which costs shall be added to and become part of the assessment to which the Lot is subject.

11. Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief. This insurance shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Each such insurance policy may contain a deductible, and the amount thereof shall be added to the face of the policy in determining whether the insurance at least equals the full replacement cost. The Board shall also obtain a general commercial liability policy covering the Association, its officers, directors, members, and agents. The Board of Directors shall be authorized to obtain such other insurance as it determines to be in the best interest of the Association.

12. Condemnation. Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation) by any authority having the power of condemnation or eminent domain, the award of such taking shall be payable to the Association, and shall be used for such purposes as the Board of Directors shall reasonably determine. If the taking or conveyance in lieu thereof includes all or any portion of a Lot and also includes any part of the Common Area, any court of competent jurisdiction shall apportion such award or proceeds and such award of proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners of any Lot; provided, however, such

apportionment may instead be resolved by the agreement of the Board of Directors and the Owners of all Lots wholly or partially taken or sold, together with the Mortgagees for each such Lot, if required.

13. **General Provisions.**

(a) Duration. This Declaration shall run with and bind the Property for the maximum time permitted under Georgia law, and shall, to the extent so permitted, have perpetual duration.

(b) Amendments. This Declaration shall be amended only by the affirmative vote of seventy five percent (75%) of the Owners present in person or by proxy at a meeting duly called for such purpose. Approval of the required majority of Lot Owners to any Amendment shall be evidenced by their execution of the Amendment or, in the alternative, by the sworn statement of the President, any Vice-President or Secretary of the Association attached to or incorporated in an Amendment executed by the Association, stating unequivocally that approval of the required majority was lawfully obtained and that all notices required by the Declaration were properly given. Any Amendment to this Declaration shall become effective only when recorded in the Fulton County, Georgia records or at such later date as may be specified in the Amendment.

(c) Enforcement.

(i) Each Owner and each Owner's family members, tenants, guests, invitees and licensees shall comply strictly with this Declaration and the other Governing Documents of the Association, as any of the same may be amended from time to time. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the Association or, in any proper case, by one or more aggrieved Owners, on their own behalf or as a class action. Inasmuch as the enforcement of the Governing Documents is essential for the effectuation of the general plan of the Development and for the protection of present and future Owners, it is hereby declared that any breach thereof cannot be adequately compensated by recovery of damages, and that the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or threatened violation or breach.

(ii) In the event of any failure to comply strictly with the Governing Documents, the Board of Directors may, in addition to exercising the other remedies provided for herein, levy fines against the Owner or occupant for such failure in an amount which the Board, in its sole discretion, determines to be reasonable under the circumstances. Each day or time a violation is continued or repeated after written notice is given to the Owner or occupant to cease and desist shall be considered a separate violation. All fines shall be an assessment and a lien against the Lot collectible as provided in Section 4 hereof.

(iii) In addition to all other remedies set forth herein, the Association, or any duly authorized agent thereof, shall, after ten (10) days written notice, have the right to enter upon any portion of the Development (including any Lot) where a violation exists and summarily abate or remove, at the expense of the violating Owner, using such force as may be reasonably necessary, any erection, thing or condition that may be or exist contrary to the intent and meaning of the provisions hereof; provided, however, that no notice shall be required in cases of emergency and only one written notice shall be required in cases of repeated or continuing violations. Notwithstanding the foregoing, the Association shall have the right to immediately tow, at the

Owner's expense, without any additional notice or period in which to correct such violation, any improperly parked or prohibited vehicle as identified herein or within the Governing Documents of the Association. Neither the Association, nor its agents, shall be deemed guilty or liable for any manner of trespass for such entry, abatement or removal. All costs and expenses incurred pursuant to this paragraph shall be an assessment and a lien against the Lot collectible as provided in Section 4 hereof.

(iv) Should the Association employ legal counsel to enforce the Governing Documents of the Association, all costs incurred in such enforcement, including reasonable attorney's fees actually incurred, shall be paid by the violating Owner and shall be an assessment and a lien against the Owner's Lot collectible as provided in Section 4 hereof.

(v) No delay, failure or omission on the part of the Association in exercising any right, power or remedy shall operate as a waiver or bar or otherwise affect its right to exercise or enforce any right, power or remedy provided for herein. No right of action shall accrue nor shall any action be brought or maintained by anyone whomsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach of the Governing Documents, however long continued, or for adopting provisions which may be deemed unenforceable.

(d) Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall not have personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contact or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

(e) Mortgagee Provision. In the event a provision of this Declaration is deemed or determined by a court of competent jurisdiction to be unenforceable as to any Mortgagee, the provision of the Original Declaration which was intended to be superseded and substituted by such provision shall automatically apply as to such Mortgagee with full validity, force and effect.

(f) Rights of Third Parties. This Declaration is being recorded for the benefit of the Lot Owners and their Mortgagees as herein provided, and no adjoining property owner or third party shall have any right, title or interest whatsoever in the Development or in the operation or continuation thereof or in the enforcement of any provisions herein, and subject to the rights of and such Mortgagees as herein provided, the Lot Owners shall have the right to cancel, extend, modify, amend or otherwise change the provisions of this Declaration without the consent or approval of any adjoining owner or third party.

(g) Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable. If any modification or elimination by this Declaration of a provision contained in the Original Declaration is deemed or determined by a court of competent jurisdiction to be unenforceable as to any person or property, the provision in the Original Declaration modified or eliminated by this Declaration shall automatically apply to such person or property and the validity of the balance of this Declaration shall be unaffected thereby.

(h) Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of the United Kingdom of Great Britain and Northern Ireland.

(i) Incorporation by Reference. All dedications, limitations, restrictions, and reservations shown on the Plats are incorporated herein and made a part hereof as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance conveying any of the Properties, whether specifically referred to therein or not.

(j) Interpretation. In all cases, the provisions set forth and provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board of Directors of the Association, will best effect the intent of the general plan of the Development.

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

(l) Effective Date. This Declaration shall be effective upon recordation in the Fulton County, Georgia records.

(m) Notice. Any notice required or permitted to be given under the provisions of this Declaration shall be in writing and shall be deemed received and effective three (3) days after deposit in the United States mail, postage prepaid, addressed to the last known address of an Owner as shown on the County Tax Records for that year, or the address on record with the Association at the time of such mailing. All Owners are required to notify the Association of any change of address within ten (10) days of the effective date of such change.

IN WITNESS WHEREOF, the Association does hereby consent to the foregoing Amendment and has caused this instrument to be executed under seal as of the date and year first appearing above and, by execution hereinbelow, the undersigned hereby certify that the foregoing Amendment was lawfully adopted by the required majority of the Lot Owners.

PRESTWICK HOMEOWNERS ASSOCIATION, INC.,  
a Georgia non-profit corporation

By: Charles H. Turner  
Charles H. TURNER, President

Attest: Hugh Cholick  
Hugh Cholick, Secretary

[Seal]

Signed, sealed and delivered  
in the presence of

Russ E. Jones  
Unofficial Witness

Russ E. Jones  
Notary Public  
My Commission Expires: \_\_\_\_\_

Notary Public, Fulton County, Georgia  
My Commission Expires Jan. 9, 2001

[Notary Seal]

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 252, 253, 254, 289, 290, and 291 of the 1st District, 1st Section, Fulton County, Georgia, and being more particularly described as follows:

BEGINNING AT AN IRON PIN FOUND at the intersection of the West Land Lot line of Land Lot 254, with the Southerly right-of-way line of Old Alabama Road (an 80 foot right-of-way); run thence Easterly along the Southerly right-of-way line of Old Alabama Road and following the curvature thereof a distance of 184.65 feet to a point (said last point also being North 83 degrees 01 minutes 06 seconds East a distance of 194.34 feet as measured along a chord line from the point of beginning); thence North 88 degrees 48 minutes 00 seconds East along the Southerly right-of-way line of Old Alabama Road a distance of 1851.52 feet to an iron pin found; thence North 88 degrees 48 minutes 00 seconds East along the Southerly right-of-way line of Old Alabama Road a distance of 37.23 feet to an iron pin found; thence South 18 degrees 43 minutes 30 seconds West a distance of 349.63 feet to an iron pin found; thence South 15 degrees 50 minutes 00 seconds West a distance of 160.15 feet to an iron pin found; thence South 15 degrees 30 minutes 21 seconds West a distance of 198.22 feet to an iron pin found; thence South 36 degrees 30 minutes 05 seconds West a distance of 124.4 feet to an iron pin found; thence South 48 degrees 41 minutes 52 seconds West a distance of 164.53 feet to an iron pin found; thence North 88 degrees 50 minutes 55 seconds West a distance of 80.0 feet to an iron pin found; thence South 35 degrees 43 minutes 34 seconds West a distance of 147.3 feet to an iron pin found; thence South 47 degrees 06 minutes 20 seconds West a distance of 126.62 feet to an iron pin found; thence South 45 degrees 12 minutes 25 seconds West a distance of 158.21 feet to an iron pin found; thence South 39 degrees 42 minutes 11 seconds West a distance of 220.57 feet to a point; thence South 39 degrees 39 minutes 19 seconds West a distance of 14.02 feet to an iron pin found; thence South 39 degrees 39 minutes 19 seconds West a distance of 212.74 feet to an iron pin found; thence South 25 degrees 19 minutes 42 seconds West a distance of 138.14 feet to an iron pin found; thence South 22 degrees 47 minutes 22 seconds West a distance of 252.05 feet to an iron pin found; thence South 49 degrees 27 minutes 25 seconds East a distance of 82.41 feet to a point; thence South 00 degrees 43 minutes 00 seconds East a distance of 107.71 feet to an iron pin found; thence South 11 degrees 10 minutes 10 seconds West a distance of 160.03 feet to an iron pin found; thence South 08 degree 31 minutes 51 seconds East a distance of 60.67 feet to an iron pin found; thence South 12 degrees 57 minutes 27 seconds West a distance of 115.95 feet to an iron pin found; thence South 30 degrees 42 minutes 27 seconds East a distance of 97.09 feet to an iron pin found; thence South 90 degrees 00 minutes 00 seconds East a distance of 346.98 feet to an iron pin found; thence South 57 degrees 30 minutes 00 seconds East a distance of 235.39 feet to an iron pin found; thence South 27 degrees 15 minutes 00 seconds East a distance of 204.85 feet to an iron pin found; thence South 70 degrees 00 seconds 00 minutes East a distance of 40.00 feet to an iron pin found on the Northwesterly right-of-way line of Georgia Highway No. 141, a/k/a Medlock Bridge Road (a 104 foot right-of-way); thence South 29 degrees 09 minutes 30 seconds West along the Northwesterly right-of-way line of Georgia Highway No. 141, a/k/a Medlock Bridge Road, a distance of 650.00 feet to an iron pin found; thence North 64 degrees 07 minutes 59 seconds West a distance of 726.29 feet to an iron pin found; thence South 88 degrees 13 minutes 51 seconds West a distance of 1024.92 feet to an iron pin found on the West Land Lot line of Land Lot 252; thence North 00 degrees 12 minutes 00 seconds West along the West Land Lot lines of Land Lots 252, 253, and 254 a distance of 3,169.31 feet to an iron pin found and the POINT OF BEGINNING; said property being described on that certain plat of survey prepared by J. A. Evans & Associates, James A. Evans, Jr., Georgia Registered Land Surveyor No. 2167, dated May 30, 1984, and containing 108.00 acres according to said plat of survey.

Exhibit "B"

Certification of Approval

The undersigned, being the President and Secretary of Prestwick Homeowners Association, Inc., a Georgia non-profit corporation (the "Association") hereby certify under oath that the foregoing Amendment to the Declaration of Covenants, Conditions, Restrictions and Easements of Prestwick was duly approved by the affirmative vote of at least seventy-five percent (75%) of the Owners of Lots subject to the Declaration in accordance with the terms thereof.

Dated 22 day of Dec., 1998

Charles H Turner  
~~Charles H Turner~~ President

Hugh Cholich  
~~Hugh Cholich~~ Secretary

Sworn to and subscribed  
Before me this 22 day  
of December, 1998

Ann E. Judd  
Notary Public

My Commission Expires: My Commission Expires Jan. 9, 2001  
Notary Public, Fulton County, Georgia

[Notary Seal]