

4972

DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
OF  
CHEROKEE RIDGE SUBDIVISION

RECORDED  
1975 JUN 20 PM 3:46

19750  
100  
19850

This instrument was prepared by:

Tom Mullis  
113 South Main Street  
Arab, AL 35016

1114 02

*See supplement to covenants 1575-43  
See supplement to covenants 1718-221*

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
CHEROKEE RIDGE SUBDIVISION

RECORDED  
INDEXED  
APR 20 PM 3:44  
CIVIL RIGHTS  
SECTION

THIS DECLARATION, made on this 20th day of APRIL 1992, by Cherokee Ridge Corporation, an Alabama corporation (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property (hereinafter sometimes referred to as "Properties"), and Declarant wishes to impose certain restrictions on the Properties for the benefit thereof:

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

ARTICLE I

DEFINITIONS

Section 1. "Architectural Committee" shall mean the committee created pursuant to ARTICLE VI hereof.

Section 2. "Architectural Committee Rules" shall mean the rules, if any adopted by the Architectural Committee.

Section 3. "Articles" shall mean the Articles of Incorporation of the Association, as said Articles may be amended from time to time.

Section 4. "Association" shall mean and refer to Cherokee Ridge Property Owner's Association, Inc., an Alabama nonprofit corporation, its successors and assigns.

Section 5. "Board" shall mean the Board of Directors of the Association.

Section 6. "Bylaws" shall mean the Bylaws of the Association as such Bylaws may be amended from time to time.

Section 7. "Club" shall mean Cherokee Ridge Country Club, Inc., a non-profit corporation organized under the laws of the State of Alabama, its successors and assigns.

Section 8. "Club Property" shall mean that real property leased by the Club and sometimes referred to as Golf Course Property, the description of which is more particularly described in Exhibit 1, attached and incorporated herein by reference, and any other property hereafter acquired or owned by the Club, set forth on the Subdivision Map, and includes the golf course, the swimming pool and the tennis courts and all appurtenances incidental to the operation or maintenance of the same. Neither the Club nor the Association own any part or portion of these properties, but, to the contrary leases, or will lease, the right to the use of the Club property from Cherokee Ridge

Golf, Inc. pursuant to certain restrictive terms and conditions as specified in the lease.

Section 9. "Common Area" shall mean all real property to be owned by the Association for the common use and enjoyment of the Owners, as set forth in the Subdivision Map and shall include, but not be limited to, all roads and the right of way for said road as shown on the Subdivision Map and any additions, amendments, or supplements to the Subdivision Map. Neither the swimming pool, the tennis courts nor the golf course or any other Club Property shall be a part of the common area nor will the Association or any Owner have any ownership interest in said properties.

Section 10. "Condominium" shall mean the form of ownership of real property under a declaration providing for ownership of units of the property by one or more owners.

Section 11. "Declarant" shall mean Cherokee Ridge Corporation, its affiliate, Cherokee Ridge Golf, Inc., both Alabama corporations, their successors, assigns, or affiliates.

Section 12. "Declaration" shall mean the covenants, conditions, and restrictions herein set forth in this entire document, as the same may be amended from time to time.

Section 13. "Golf Course" means the Cherokee Ridge Golf Course which is owned by Cherokee Ridge Golf, Inc. and not by Cherokee Ridge Country Club. The Golf Course will be open to use by members of the public, as well as to members of the

Club, until such time, if ever, as the membership and income of the Club are sufficient to sustain the maintenance and operation of the Club properties and of the Golf Course and to further pay the lease payments to Cherokee Ridge Golf, Inc. The Golf Course is not a part of the Properties subject to this Declaration.

Section 14. "Golf Course Lot" shall mean any lot having any boundary, or portion thereof, adjacent to any portion of the Cherokee Ridge Golf Course as shown on the plat of the Subdivision as the same is filed for record in the Probate Office of Marshall County, Alabama.

Section 15. "Golf Course Property" shall mean the Golf Course, the club house, the swimming pool and the tennis courts and the accessory structures or properties (parking lots, maintenance buildings, pump house, lakes, etc.) associated with them or otherwise necessary or desirable to their operation, all constructed by the Declarant and the ownership of which will be retained by the Declarant, subject to the lease of certain rights to the use of the same by the Club, pursuant to the terms of the Lease. The Properties do not include the Golf Course Property. Greenway Easement areas shall not be deemed to be a part of the Golf Course Property.

Section 16. "Governmental Entity" means any and all federal, state, county, city governmental, or quasi-governmental agencies, bureaus, departments, divisions or

regulatory authorities having jurisdiction over any portion of the Properties.

Section 17. "Greenway Easement" shall mean a viewing easement, as shown on the Subdivision Map, in favor of the Association, for the benefit of Members, which shall not have any man-made viewing obstacle located thereon and which is intended to provide a view of the golf course from points located off of the golf course.

Section 18. "Improvement" shall mean the buildings, garages, carports, roads, driveways, parking areas, fences, walls, docks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind; further, including any device or implement that is permanently installed on any part or portion of any lot.

Section 19. "Lease" shall mean that certain lease of the Club Property wherein Cherokee Ridge Golf, Inc. is the lessor and the Club is the lessee.

Section 20. "Lot" shall mean any parcel of real property designated as a Lot on the recorded Subdivision Map or any additions thereto. A Lot shall be deemed "Developed" when streets, water lines, power lines and telephone lines serving said Lot have been completely installed. A Lot shall be deemed "Improved" when a residence has been completely constructed thereon. All other Lots shall be deemed "Undeveloped" Lots.

Section 21. "Member" shall mean any person who is a member of the Association. Every Owner of every lot, developed or undeveloped, improved or unimproved, shall be a Member.

Section 22. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of equitable or beneficial title (or legal title if same has merged) of any Lot. The foregoing does not include persons or entities who hold an interest in any Lot merely as security for the performance of an obligation. For the purposes of ARTICLE IV only, unless the context otherwise requires, "Owner" shall also include the family, invitees, licensees, and lessees of any Owner, together with any other person or parties holding any possessory interest granted by such Owner in any Lot.

Section 23. "Properties" shall mean and refer to that certain real property hereinbefore referred to and described in the Subdivision Map, such additions thereto as may hereafter be brought under the Declaration, any other property described in Exhibit 2, attached hereto and, where the context permits, any property that is considered to be a part of the Undeveloped Tract, as hereinafter defined. The Properties do not include the Golf Course or the Golf Course Property notwithstanding their inclusion in the Subdivision Map or in any Exhibit attached hereto.

Section 24. "Purchaser" shall mean any person who acquires any Lot.

Section 25. "Single Family" shall mean a group of one or more persons each related to the other by blood, marriage or legal adoption, or having a guardian\ward relationship created by decree of the Probate Court or any other court of competent jurisdiction, or a group of not more than three persons not all so related, who maintain a common household in a dwelling.

Section 26. "Single Family Residence" shall mean a dwelling constructed in accordance with the restrictions and conditions set forth in ARTICLE IV hereof. The term shall also include, town houses and patio homes in areas developed for town house construction or for patio home construction.

Section 27. "Single Family Residential Use" shall mean the occupation or use of a Single Family Residence in conformity with this Declaration.

Section 28. "Subdivision Map" shall mean the recorded map or plat of Cherokee Ridge Subdivision, covering any or all of the property referred to in this Declaration, together with any additions, amendments, or supplements thereto, as now or hereafter recorded in the Probate Office of Marshall County, Alabama.

Section 29. "Visible From Neighboring Property" shall mean, with respect to any given object, that such object or any part thereof is or would be visible to a person six feet tall, standing on any part of such neighboring property at an elevation no greater than the elevation of the base of the object being viewed.



ARTICLE II

PROPERTY RIGHTS AND EASEMENTS

Section One. OWNERS' EASEMENTS OF ENJOYMENT. Subject to the provisions of this Declaration, and the rules, regulations, fees and charges as may be established by the Board, every Owner shall have a permanent and perpetual non-exclusive right and easement of enjoyment in and to the Common Area or Areas, existing now or in the future, which shall be appurtenant to and shall pass with the title to any Lot acquired by any Owner, subject to the right of the Association, with the written and publicly recorded agreement of Members representing seventy-five percent (75%) of the votes held by all Owners, to dedicate the roads and the right of way for said roads to Marshall County, Alabama or to any other appropriate political entity or subdivision.

Nothing contained herein shall be construed, however, to prohibit the dedication, by this Declaration, of appropriate easements for appropriate utilities to install and maintain water lines, sewer lines, natural gas lines, electric power lines, telephone cable, and television cable and any related facilities necessary or desirable to the operation of said utilities.

Section Two. WAIVER OF UNLIMITED ACCESS. Each Owner, by acceptance of a deed or other instrument conveying any interest in any Lot, does waive all rights of unlimited and uncontrolled access, ingress to and egress from such Lot, and agrees that:

- A. To attempt to provide a more secure environment, access, ingress to and egress from the Properties may be controlled, restricted and limited to exclude the general public therefrom; and
- B. Access, ingress to and egress from any Lot shall be limited to the roads, walkways, paths designated as Common Area on the Subdivision Map.

Provided, however, that, subject to the provisions of this Declaration, vehicular and pedestrian access to and from all Lots shall be provided at all times.

Section Three. GATES AND ATTENDANTS. Declarant and/or the Association may, but shall not be required to, provide a gate at or near the entrance to the Properties which gate may or may not be attended by one or more attendants, at the option of the Association, for the purpose of limiting vehicular and pedestrian access to the Properties.

Section Four. EASEMENT TO GOVERNMENT ENTITIES. Subject to the provisions of this Declaration, Declarant does hereby grant a permanent, perpetual and non-exclusive easement to each department, branch or agency of any Governmental Entity, and to any agents or employees of said Governmental Entity, over, across and through all private roads located on the Properties, now or in the future, for the purpose of performing such duties and activities as may be necessary or desirable for the common welfare of all Owners or for the Association which may include, but are not limited to, duties

and activities related to law enforcement, fire protection, garbage collection, mail delivery and medical and emergency services.

Section Five. EASEMENTS TO UTILITIES. Subject to the provisions of this Declaration, Declarant does hereby grant to itself, to the Association, to the Arab Electric Cooperative, the Arab Water Works, the Marshall County Gas District, Brindlee Mountain Telephone company, their successors or assigns, a permanent, perpetual and non-exclusive easement over, across, under and through all private roads, all Lots and all Common Areas located on the Properties, now or in the future, which are reasonably necessary or desirable for the purpose of installing, replacing, constructing, maintaining and operating, utilities or utility systems which are necessary or desirable for the use of any part of the Properties which include, but are not limited to, publicly or privately owned and operated electrical service, telephone service, water services, sewer services, gas services, cable television, drainage systems, pipes, lines, conduits, storage devices, equipment, machinery or other devices necessary to the provision of such utility services. The easements established, reserved and granted herein shall include the right, where reasonably necessary, to cut and remove trees and other vegetation, to dig, grade, excavate, fill and to take any other action necessary to provide for the installation, maintenance, replacement, relocation or operation of any utility service.

Notwithstanding the foregoing, it is distinctly understood that the Association reserves unto itself, its successors or assigns, the exclusive right to provide sewer service and cable television service within the Properties.

Provided, however, that the easements herein granted or reserved shall not cause any undue interference with the use or occupancy of any Improvement situated on any Lot and further, the Declarant and/or the Association shall use good faith efforts to attempt to cause any utility provider, utilizing this easement, to repair any damage caused by such utility.

#### ARTICLE III

##### PROPERTY SUBJECT TO RESTRICTIONS

Section 1. GENERAL DECLARATION. The Declarant intends to sell and convey the Lots to Purchasers, subject to this Declaration and any subsequent amendment or supplement thereto. Declarant hereby declares that all of the Properties are and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Declaration, as amended or supplemented from time to time. This Declaration is declared and agreed to be in furtherance of a general plan for the subdivision and improvement of the Properties and is established for the purpose of enhancing and protecting the value, desirability and attractiveness thereof. All of the provisions of this Declaration shall run

with the Properties for all purposes and shall be binding upon and inure to the benefit of Declarant, the Association, the Club, all Owners and their heirs, successors and assigns.

Section 2. UNDEVELOPED TRACT. Included in the Properties is one or more tracts (which may be designated as Undeveloped Acreage on the Subdivision Map or included in the property described in Exhibit 2, attached hereto) and herein referred to as the "Tract") which is located adjacent to or in the vicinity of the Lots referred to in Section 1 of Article IV hereof and which is not to be immediately subdivided and developed, but which may be subdivided and developed at a later date. The Tract may include, at the option of the Declarant, other property owned by the Declarant now or in the future, which lies adjacent to Cherokee Ridge Subdivision as it now exists or as it may exist in the future. The Tract may be subdivided and developed by the Declarant, in whole or in part, without the consent of Owners or Members. Upon recordation of any subsequent plat, the common areas and easements, including specifically the roads and any utilities to be owned, leased, operated or maintained by the Association, located on such common area or easement, shown on said subsequent plat, within such property may be, at the sole discretion of the Declarant, conveyed to the Association to be held and administered and maintained in the same manner as herein provided for similar facilities. Specifically, the Association will assume responsibility to incorporate roads,

sewer, and any other utility into existing roads and utilities, just as if those roads and utilities had been included in the plat of the first Lots in Cherokee Ridge. Owners of Lots in any part of the Tract subdivided, developed and made a part of Cherokee Ridge will also be Members of the Association. Declarant will, at the time of the development of the Tract or any part thereof, record additional declarations which will incorporate this Declaration by reference and will supplement or modify this Declaration with such additional covenants, conditions, and restrictions as may be appropriate for that property, provided that such additional covenants, conditions and restrictions shall be consistent with this Declaration, with covenants, conditions, and restrictions contained herein, and no use shall be made of the Tract which will be inconsistent with these Declarations.

Section 3. EXCEPTIONS TO GENERAL DECLARATIONS.

Notwithstanding anything to the contrary contained in these Declarations, Declarant reserves the right to establish one or more areas, in its sole judgment, by designation of such area on the recorded Subdivision Map, or by filing in the Office of the Probate Judge of Marshall County, Alabama, a written instrument describing the property affected and identifying the intended use, which may be utilized for construction and operation of one or more of the following:

- A. A Conference Center;
- B. A Post Office;

- C. A 7-11/Country Store;
- D. A Guest House;
- E. A Real Estate Sales Office;
- F. An Office Complex;
- G. A Hotel; and
- H. Townhouses, Golf Cottages, Condominiums, and/or  
Patio Homes, the use of which will be limited, on a  
unit basis, nonetheless, to single family use  
although other or different covenants or  
restrictions may be adopted that are consistent with  
Townhouse, Golf Cottage, Condominium and/or Patio  
Home use or development. Such different covenants  
and restrictions would include, for example, but not  
be limited to, elimination or reduction of the  
requirement that no building shall be built closer  
than ten feet to any side lot line, reduction of  
minimum floor space requirements, etc.
- I. Such other uses as would be consistent with the  
needs and requirements of a recreational community  
including, but not by way of limitation, parks,  
playgrounds, schools, non-denominational chapels,  
barber shops, beauty shops, drug stores, laundries  
and dry cleaners, and doctors offices.

This Declaration shall not apply to or affect the Golf  
Course or Golf Course Property nor shall these Declarations  
apply to any other real property owned by the Declarant

unless the same is subjected specifically by written instrument to this Declaration.

Improvements and alterations on the Lots or tracts that may be identified for the hereinabove mentioned uses may, nonetheless, be sold and conveyed to a purchaser for use as a single family residence, subject to the terms and conditions applicable thereto. Such sale can be accomplished by the recording, by the Declarant, of a statement to that effect in the Probate Office of Marshall County, Alabama.

#### ARTICLE IV

##### LAND USE, CLASSIFICATIONS, PERMITTED USES AND RESTRICTIONS

Section 1. PERMITTED USES AND RESTRICTIONS. The Permitted uses, easements, and restrictions for the properties shall be as follows:

- A. Single Family Residential Use. Except as otherwise provided herein, all lots shall be used, improved and devoted exclusively to Single Family Residential Use.
- B. One Dwelling Per Lot. No building shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling not to exceed three stories in height. No Lot may be further subdivided except where such subdivided portion is made a part and parcel of a contiguous Lot as hereinafter provided for in Section 5 of this



Article. In the sole discretion of the Architectural Committee, hereinafter sometimes referred to as the "Committee", other accessory structures may be permitted upon the written request of the property owner.

- C. Construction Plans. No Improvement shall be commenced, erected, placed, altered, added to or improved on any lot until a complete set of the construction plans and specifications and a plan showing the location of any structure and all improvements on the lot have been submitted to, and approved, in writing, by the Architectural Committee. The set of plans will be retained by the Committee and shall include floor plans, exterior elevations, material details, setting, and landscaping plans. The Committee shall have responsibility to ensure that no improvement, whether building construction or landscaping, shall be initiated unless the quality and appearance of such improvement is compatible with neighborhood standards. The Architectural Committee shall have the right to establish reasonable procedures and appropriate application fees for the preparation, submission, and determination of applications for any improvement or alteration. The Architectural Committee shall have the right to refuse to approve any plans or specifications or landscape plans,

which are not reasonably suitable or desirable, in its opinion for aesthetic or other reasons, and in so passing upon such plans, specifications and landscape plans, and without any limitation of the foregoing, it shall have the right to take into consideration the suitability of the proposed building or other structure, and of the materials of which it is to be build, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings and the effect of the building or other structure as planned, on the appearance from neighboring property. Notwithstanding that improvements meet or exceed specified minimum size requirements, the quality and attractiveness of every improvement must also meet high neighborhood standards and the Architectural Committee is hereby granted broad discretion in judging the compatibility of proposed improvements for the neighborhood. In any case, it is intended that the Committee will not approve plans, materials or specifications that do not conform to the following requirements:

- (1) Minimum Size. No residence shall be erected upon or allowed to occupy any lot unless the area of the heated main structure, exclusive of open porches, screen porches, basements,

garages, attached garages and decks is not less than:

- (a) For Lot 1 through Lot 27, inclusive, 1,000 square feet;
- (b) For Lot 31 through Lot 47, inclusive, 2,750 square feet;
- (c) For Lot 51 through Lot 80, inclusive, 2,850 square feet;
- (d) For Lot 81 through Lot 93, inclusive, 2,400 square feet; and
- (e) For Lot 101, 2,400 square feet.

Notwithstanding the exclusion of basements from the foregoing calculation of square footage, the Committee, by unanimous consent, may, at its option and in its sole discretion and judgment, include in its computation of square footage, up to twenty-five per cent (25%) of the square footage of that portion of a basement that is finished. The Committee, in its deliberations, will consider the following factors in this regard:

- i. That the finished ceiling height is not less than eight feet (8');
- ii. That the exterior grade of the dwelling is such that said finished area is located substantially above ground level;
- iii. That the exterior finish of said basement area is in substantial conformity with the exterior finish of the remainder of the dwelling;

iv. That the interior basement finish is substantially similar in quality and appearance to the interior finish of the remainder of the dwelling; and

v. That basement windows, in such finished area, are similar in size, number and location to windows located in the remaining portions of the dwelling.

Minimum size requirements will be added by supplement to this Declaration, as determined by the Declarant, upon the subdivision, by Declarant, of additional lots contained in the Undeveloped Tract.

(2) Exterior Materials. Approved exterior finishes include brick, stone, wood, stucco, synthetic plaster such as "dryvit", and such other materials as may be approved by the Committee. In no case will exposed concrete block, particle board, plywood, logs, plastic, aluminum, vinyl, synthetic or vertical siding be permitted. All vents, roof caps, and flashing extending above the roof line must be painted to match the roof color and vents extending through the exterior walls must be painted to match the exterior walls. With the exception of decks and exterior doors, which may be stained, all exterior wood surfaces shall be painted. The size, color and

application of exterior materials, including mortar, are subject to approval by the Committee.

- (3) Windows and Doors. No bright finished or bright plated metal exterior door, screen door, window, window screen, louver, or other closure may be used. However, a factory painted or an anodized finish may be used, the color of which must be approved by the Committee.
- (4) Roofing Material. Roofing material and color are subject to Committee approval.
- (5) Mailboxes. Mailboxes will be constructed in accordance with plans available from the Committee.
- (6) Air Conditioners. Air conditioning units visible from any street or, in the case of golf course lots, from any part of the golf course, shall be screened by approved materials or planting of a density and height to effectively conceal the unit. In no case will a window air conditioning unit be visible from any street or from the golf course.
- (7) Fencing. All fencing must be of brick, stone, wrought iron, or other material approved for exterior construction. The use of chain link or other like metal fencing will not be permitted except where installed behind a wood

fence and, provided, that said chain link or metal fencing is black, charcoal, dark brown or some other color, as approved by the Committee. In no case will any fence, wall or other obstruction to vision be constructed on any portion of any lot nearer than forty (40) feet to the Golf Course Property. No fencing, of any type, shall be installed prior to the receipt of written Committee approval as to both materials and location.

- (8) Screened Porches and Screen Material. All screened porches and screens must have a dark color or anodized finish screen. Bright color silver finish screens are not permitted.
- (9) Site Location. Residences shall be erected in such a manner that the front thereof shall face in the direction of the road serving the lot. In the case of corner lots or of residences constructed on two or more lots, the residence may face an appropriate direction for either lot subject, however, to approval of the Committee. All construction shall be subject to the minimum set back building lines as indicated on the plat of the Subdivision. No building, except for townhouses, condominiums, golf cottages or patio homes, where permitted,

shall be constructed nearer than ten (10) feet to any side lot line.

For the purpose of this covenant, neither Committee approved fences, driveways, or sidewalks nor eaves, steps or other minor projections extending beyond the foundation, shall be considered as part of the building, provided, however, that this provision shall not be construed to permit any portion of a building on a lot to encroach on another lot. Ordinarily all residences should be constructed as nearly as possible in a location equidistant between the side lot lines to the extent practicable considering the house plan, the garage location, the site plan, and the lot topography. In the event the Committee shall decide, in it's sole and absolute discretion, that strict enforcement of the set back lines and distances or other provisions contained in this paragraph or on the recorded plat of the subdivision, would work unnecessary hardship in any specific case, then the Committee shall have the right to waive such requirements contained herein by providing written notification of such waiver to the lot owner.

(10) Garages. Garage doors will not face any street. Recognizing, however, that there may

be cases where this requirement creates unnecessary hardship, the Committee, by unanimous consent, may waive this requirement provided that:

- (a) The dwelling constructed exceeds the minimum size specified by a factor of not less than twenty percent (20%); and
- (b) The frontmost portion of the garage lies to the rear of a line drawn from one side of the lot to the other side of the lot through the center of the dwelling; and
- (c) The garage has a separate entry door for the passage of pedestrian traffic.

In any case where the Committee grants approval for garage doors to face any street, pursuant to the above requirements, the garage doors must remain in a closed position at all times except when entering or exiting the garage. This requirement shall have no application to townhouses, patio homes, or to homes constructed in areas that permit garage entry from the rear of the lot.

- (11) Plumbing Fixtures. All plumbing fixtures shall be designated as "water saving" fixtures.

All decisions of the Architectural Committee shall be final unless overridden by a vote of two-thirds of the members of the Board and no owner or any



other party shall have recourse against the Architectural Committee or the Board for its refusal to approve any such plans and specifications or plot plan. In the event the Architectural Committee shall fail to approve or disapprove any plans or specifications within thirty (30) days after submission, then such plans or specifications will be deemed to have been approved and the Owner may proceed with his proposed improvements, alterations, repairs, excavation or other work.

- D. Tree Removal. Healthy trees measuring four (4) inches or more in diameter at a point two feet above ground level may not be removed without the written approval of the Committee unless located within twenty (20) feet of a building or the approved site for a building or pool or within the path of a driveway or walkway.
- E. Utilities Serving the Premises. All utilities serving any buildings located on any lot must be located underground. No provision hereof shall be deemed to prohibit the erection of temporary above ground utilities incident to the construction of buildings or structures approved by the Architectural Committee. Certain easements have or will be dedicated pursuant to this document and with subdivisions plats now or hereinafter on file with the Marshall County Probate Judge. In addition to

such easements, an easement ten feet in width is granted along all lot boundaries, except for townhouse lots, golf cottages, condominiums and patio home lots, being five feet on either side of each such boundary, for the purpose of providing surface drainage or subsurface trainage, for placing utility cables, transformers, conduit, water pipe, sewer pipe, or any other reasonably necessary utility device.

**F. Construction Activities.**

(1) Construction Hours. Construction activities will not be permitted:

- (a) During hours of darkness;
- (b) After 12:00 o'clock noon on Saturdays;
- (c) On Sundays; or
- (d) On holidays designated by the Property Owners Association.

The Association may, however, enact reasonable rules to permit emergency repairs during these periods.

(2) Best Management Practices. All Contractors and Owners must exercise "Best Management Practices" as that term is defined by the Alabama Department of Environmental Management (ADEM) or as may be otherwise required by the Committee. In all cases, it will be necessary to install silt screen material around the

perimeter of all construction sites to the extent necessary to prevent loose material from washing off of the construction lot.

- (3) Construction Vehicles. During construction of any improvement, all vehicles involved, including those delivering supplies, must enter the building lot on the driveway only as approved by the Committee and must be parked on the building plot where the construction is underway so as not to unnecessarily block the road, damage trees, paving, curb, gutter or other improvement. Any damage caused to curb, gutter or any other improvements during any construction on a lot shall be repaired promptly at the expense of the owner of said lot, in accordance with the requirements of subparagraph H. below.
- (4) Construction Debris. During construction of any building, all building debris, stumps, trees, etc. must be removed currently from each lot as often as necessary to keep the building and lot attractive. In no case will debris be dumped in any part of the Subdivision unless prior written approval is obtained from the Committee, which approval will not ordinarily be granted.

- (5) Construction Sanitary Practices. All construction sites shall provide reasonable access to an enclosed portable bathroom as specified by the Association.
- (6) Construction Vehicle Inspection. All construction vehicles shall be subject to search or inspection by persons designated by the Association. Such search shall not be forced but the operator of any vehicle who fails or refuses to permit such search or inspection shall not be permitted to reenter any Cherokee Ridge premises except with the unanimous consent of the Board.
- (7) No Contractor shall be permitted to enter the Cherokee Ridge premises, for the purpose of engaging in any construction activities, until such time as said Contractor has signed a statement certifying that he has read these covenants, understands them, and, on behalf of himself, his agents, employees and subcontractors, agrees to be bound by and responsible for compliance with said covenants.
- (8) The Committee reserves the right, in the event any Contractor who, in the sole discretion of the Committee, has indicated a pattern of ignoring the rules, regulations, covenants and/or restrictions of this Declaration, of the

Association or of the Committee to bar entry of said Contractor to any point on the Cherokee Ridge premises. Any act or omission on the part of any employee or sub-contractor of the Contractor, shall be deemed to be the act or omission of the Contractor. The Committee shall maintain a list of Contractors who have been denied entry to the premises which list shall be available to any Owner.

- H. Driveways. All driveway surface material must be approved by the Committee and all driveways must be surfaced within sixty (60) days of initial occupancy of any dwelling. The owner of a lot will repair any damage to concrete curb and gutter resulting from construction or opening of a driveway within sixty (60) days from the date the damage was inflicted. Such repair will be performed in a good and workmanlike manner and shall utilize, as nearly as possible, the same materials utilized in the original construction of the curb and gutter. Any drainpipe installed under any driveway shall be finished by completing construction of abutments on both ends of such drainpipe, in concrete or in such other material as may be approved by the Committee. In no case will a driveway, road or easement be permitted for the purpose of providing access to any property not a part of the Subdivision.

- I. Landscaping and Lawn Maintenance. Landscaping work must be completed within sixty (60) days of initial occupancy of any dwelling unless a delay is granted by the Committee due to compelling circumstances. Each Owner of a Lot within the Properties shall properly maintain his yard and keep his property free of trash or other unsightly materials. Landscaping of any Lot shall be subject to the requirement of, and approval by, the Architectural Committee as herein provided. No Owner of a Golf Course Lot shall undertake any landscaping program or remove any trees of a diameter of 4" or more from the portion of his Lot within thirty-five (35) feet of the Golf Course without the prior written approval of the Architectural Committee.
- J. Garbage Containers. All garbage containers shall be of a dark color except in cases where the garbage containers are placed in wood enclosures of a design and construction matching the house or unless sunken garbage containers are used. In no event shall such containers be maintained so as to be Visible from Neighboring Property except to make the same available for collection, and such containers shall be placed in an appropriate place for pickup only on scheduled pickup days and shall be removed to a nonvisible storage area reasonably soon after such pickup. All owners, or occupants, of dwellings

shall be required to utilize the services of the garbage disposal company serving Cherokee Ridge.

- K. Signs. One sign and/or one real estate sign, of a design and size approved by the Committee, designating lot, block and/or street address and realtor, may be placed on each lot. Otherwise, signs are prohibited.
- L. Miscellaneous Vehicles. Boats, trailers, campers, motor homes, and like vehicles and all unlicensed vehicles must be parked so that they are not visible from any street, from any other lot, or from the golf course. Committee approved wooden fencing of a Committee approved design must be used to completely screen any such vehicle except in cases where such vehicle is completely enclosed in a Committee approved garage or other approved structure. No vehicle, except for non-commercial, licensed, passenger vehicles having a gross weight of less than 10,000 pounds, displaying no commercial signage, may be permanently stored or regularly parked in any unenclosed or open location. All vehicles regularly parked on a property must have an approved, permanent surfaced, parking space.
- M. Easements. Easements for the installation and maintenance of utilities and drainage facilities are hereby expressly reserved as shown on the recorded

plat of the subdivision. Neither a completed building nor any construction process may restrict access to, or make encroachment upon these easements, except for a driveway the location of which has received the unanimous approval of the Committee.

- N. All outside antennas, ham radio antennas and satellite dishes, receivers or transmitters are prohibited except for an antenna or satellite receiver operated by the Property Owners Association for the benefit of all residents of the subdivision.
- O. Mailboxes. Mailboxes will be constructed in accordance with plans available from the Committee.
- P. Play Equipment and Tree Houses. Although play equipment may be installed in common areas at the discretion of the Association, such equipment will not be permitted to be installed on any lot unless such equipment is of wood construction. No tree house shall be constructed on any lot. Basketball goals shall be painted or finished to match the color of the house or to blend with the landscape.
- Q. Offensive Activities. No trade or business and no noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.



- R. Mobile Homes. Mobile homes and trailers are prohibited. No structure of a temporary character, tent, garage, barn or any other outbuilding shall be used at any time as a residence either temporarily or permanently. No temporary structure of any kind, occupied or unoccupied, shall be permitted upon any lot during construction on said lot without the prior written approval of the Committee.
- S. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except for dogs, cats or other household pets, provided that they are not kept, bred or maintained for any commercial purposes, are not permitted to run at large, and do not unreasonably interfere with the enjoyment, by an adjacent owner, of the use of his property. Provided further that, in no case, will any vicious animal, such as a pit bull dog, be permitted to be raised, bred or kept on any lot.
- T. Clothes Lines. Outdoor clothes lines are prohibited, except as specifically approved by the Committee, in locations not visible from any road or from the golf course.
- U. Oil, Minerals, Mining. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or

in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

- V. Business Activities. No trade or business activity may be operated or carried on on any Lot except for normal home occupation type activities which do not attract members of the public for the conduct of that trade or business.
- W. Commercial/Moving Vehicles or Activities. No commercial vehicles shall be permitted to enter the Cherokee Ridge premises on Saturday afternoons, on Sundays or on holidays designated by the Committee. Further, no moving activities shall occur on these days. For purposes of this paragraph, a vehicle bearing an unobtrusive realtor sign shall not be deemed to be a commercial vehicle. Emergency vehicles, police, fire or other public safety vehicles, and public utility vehicles or private maintenance vehicles undertaking emergency maintenance will not be prohibited.
- X. Repair of Buildings. No building or structure within the Properties shall be permitted to fall into disrepair, and each such building and structure shall at all times be kept in good condition and repair and adequately painted or otherwise finished.
- Y. Club Membership. While it is deemed desirable that all Owners be members of the Club, there is no

requirement that ownership of any Lot is contingent upon Club membership. Further, ownership of any Lot does not entitle any Owner to membership in the Club or to use of any Club facilities which include certain rights to the use of the swimming pool, the tennis courts and the golf course as specified in the Lease. Membership in the Club is controlled exclusively by the Charter and By-Laws of the Cherokee Ridge Country Club, Inc.

- Z. Declarant's Exemption. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by Declarant or its duly authorized agents, of structures, improvements or signs necessary or convenient to the development, sale, operation and other disposition of the Lots or of the Undeveloped Tract or any portion thereof. Declarant intends, in fact, to construct a real estate sales office, albeit of residential design, which will be used by Declarant, its successor or assign, for commercial purposes, provided, however, that the Declarant may dedicate and subject the property upon which said sales office is located, to residential use, subject to all covenants contained herein.

All improvements under construction at the time of the filing for record of this Declaration have been informally

reviewed by the Declarant with the objective of complying with the requirements herein. Some of the requirements contained herein, however, have been added subsequent to commencement of said construction and, potentially, it is possible that there are deviations from the requirements of this document. Therefore, all improvements under construction at the time this Declaration is filed for record shall be conclusively deemed to meet with all requirements contained herein. The affected Lots are Lots numbered 1, 6, 9, 31, 32, 39, 61, 63, 64, 81, 88, 91, and 101.

Section 2. PERMITTED USES AND RESTRICTIONS - COMMON AREAS. The permitted uses and restrictions of the Common Areas shall be as follows:

A. Maintenance by the Association. The Association may, at any time, as to any Common Area, conveyed, leased, or transferred to it, or otherwise placed under its jurisdiction, in the discretion of the Board, without any approval of the Owners being required, the cost of which shall be borne by the Owners as hereinafter provided for in Article V:

- (1) Reconstruct, repair or refinish any improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area), including all fences, walls or other structures, facilities or enclosures, if any,

which are or may be constructed upon and around the perimeter of the Properties;

- (2) Construct, reconstruct, repair, replace or refinish any road improvement or surface upon any portion of such area used as a road, street, walk, driveway, or parking area;
- (3) Replace injured and diseased trees or other cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;
- (4) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof; and
- (5) Do all such other acts which the Board deems necessary to preserve and protect the Properties and the beauty thereof, in accordance with the general purposes specified herein.

The Board shall be the sole judge as to the appropriate maintenance of all grounds and improvements within the Common Area.

- B. Provision of Services. The Board shall have the right to provide services, the cost of which shall be paid out of the charges provided for in Article V, and adopt rules, regulations, procedures and policies with respect to:

- (1) Garbage and trash collection and removal;
- (2) Motor vehicle operation;
- (3) Parking of motor vehicles on street, roads or parking lots in Common areas;
- (4) Maintenance and furnishing of guard or security guard services;
- (5) Fire protection, fire prevention and extinguishment of fires;
- (6) The locking or securing of gates or points of access and the issuance and distribution of keys or other devices to operate locks or gates;
- (7) The stocking, fertilizing, and use of streams, lakes or waterways in the Common Area, including access to lakes and the use of common area surrounding lakes. No Owner shall have riparian rights with respect to any stream, lake, or waterway whether abutting any such Owner's Lot or not; and
- (8) Such other matters which involve use of Common Areas.

C. Damage or Destruction of Common Area by Owners or Others. In the event any Common Area or any improvements or structures hereinabove mentioned are wrongfully or negligently damaged or destroyed by an Owner or by any of his guests, tenants, licensees,

agents or members of his family, such Owner does hereby authorize the Association to repair said damaged area, and the Association shall so repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association, in the discretion of the Association. The amount necessary for such repairs shall be paid by said Owner, upon demand, to the Association and the Association may enforce collection of same in the same manner as provided elsewhere in this Declaration for collection and enforcement of assessments.

- D. Easements to the Association. The Association shall have a right and permanent easement to enter upon any and all Lots for the purposes of such maintenance and repair hereinabove mentioned. Additionally, the Association shall have the right to govern the use of all fence easements and Greenway Easements, as set forth in the Subdivision Map; provided that no such use shall be adverse to the interests of abutting Owners; provided, further, that Greenway Easements may not be used for ingress and egress or for any other purpose that is inconsistent with use of said easement for viewing the golf course from points off of the golf course.

Section 3. CLUB PROPERTY. The Club Property shall be used for such purposes as may be determined by the Declarant, subject to the terms of the Lease, with such facilities as may be desirable in connection therewith. These facilities may include a clubhouse, golf course, tennis courts, swimming pools, stables, trails, sports fields, lakes, golf and tennis shops, grill, lounge, and dining facilities, and related and similar facilities. The Club, if permitted by the Lease, may sublease to any third party any portion of the Club Property for purposes hereinabove stated.

Section 4. SANITATION COVENANTS. At the time of the filing of this Declaration, the Declarant has not received final approval necessary for installation of a sanitary sewer system. Pending approval, if any is received, for installation of a sewer system, construction of any improvement on any lot shall require installation of an approved individual sanitary disposal system. Declarant intends to diligently pursue regulatory approval for installation of a sewer system to serve Cherokee Ridge. Should Declarant be successful in obtaining approval for installation of a sanitary sewer system, every Lot Owner shall be required to tie on to said system at the expense of the Owner. Provided, however, that any Owner who has constructed, or caused to be constructed, an individual sanitary disposal system to serve his premises, shall not be required to pay the first \$1,000 of any required tap-on fee. In the event that Declarant is unsuccessful in obtaining



approval for a sanitary sewer system or, in the event Declarant discontinues pursuit of approval for such a system, Declarant may amend this Declaration to eliminate any lot or rearrange the boundaries of any unsold Lot, rearrange (with the consent of the owner) the boundaries of any sold Lot, or waive or change any covenants or conditions with respect to any Lot or Lots, rights-of-way, and greenway easements if any such action is required in order to obtain a certificate or letter of approval from the State and/or County Health Departments indicating approval of the individual sanitary disposal system of any Lot or Lots. In the event that this Declaration shall be amended as set forth herein, the Declarant shall cause such amendatory restrictive covenants to be filed of record.

Section 5. CONTIGUOUS LOTS. In the event that an Owner acquires contiguous lots and wishes to treat such contiguous Lots as a single Lot for purposes of use and improvement, then such Owner shall be permitted to make improvements to such contiguous Lots as though such Lots constituted a single Lot and, after the consummation of such improvements, as approved in advance by the Architectural Committee, such Lots shall be deemed to be a single Lot for all purposes of this Declaration except for purpose of Article V hereof regarding payment of annual and special charges.

Section 6. VARIANCES AND AMENDMENTS OF DECLARATION. The restrictive covenants set forth herein may be waived by the Architectural Committee with respect to any given Lot for

the benefit of such Lot, provided that no restrictive covenant shall be waived unless the Architectural Committee shall set forth in writing its unanimous determination that such waiver is consistent with the objectives of this Declaration and is not detrimental to any Lot or to any property owned by the Club or the Association. Additionally, this Declaration and/or the minimum building lines set forth on the Subdivision Map may be amended by filing of record an agreement between the Declarant and all of the members of the Architectural Committee setting forth the amended portion of the Subdivision plat and the amendments to the restrictive covenants. The foregoing provision for variances and amendments is intended to provide flexibility in the development of the Properties consistent with the best interests of both the Declarant and the Owners.

Notwithstanding the above provisions, Article V of this Declaration may only be amended as provided in Article V or in accordance with the provisions of Section 3 of Article VII hereof.

ARTICLE V

COVENANTS FOR MAINTENANCE CHARGES

Section 1. CONSTRUCTION AND MAINTENANCE OBLIGATION OF THE DECLARANT.

- A. The Declarant hereby covenants and agrees to provide for the initial construction of:

(1) All roads serving all Lots in the Subdivision Map and including any roads located on the Properties, affording access to any road in the Subdivision Map. Roads shall be paved and shall be constructed in accordance with Standard specifications, Alabama Highway Department, 1989 edition.

(2) A swimming pool and pool house.

(3) Two regulation tennis courts which will be fenced and will have a finished surface.

(4) A clubhouse having approximately 8,000 square feet of heated floor space.

(5) An 18 hole regulation golf course.

(6) A sanitary sewage disposal system, if approved by regulatory authority, and any required additions to any sewer treatment facility to the extent that funds are unavailable in the Sewer Construction Fund hereinbelow provided for in paragraph C. of Section 3. of this Article.

Certain utilities are being provided by various public, semi-public or franchised corporations or utilities including city water provided by the Arab Water Works Board, electric power provided by the Arab Electric Cooperative, telephone service provided by Brindlee Mountain Telephone Company and cable television service provided by the Association

through facilities leased from Brindlee Mountain Telephone Company. Further, the Marshall County Gas District has publicly announced that it will install natural gas facilities to serve the Properties. The Declarant has no control over the Gas District, however, and natural gas may or may not be available.

Ownership of items 2, 3, 4 and 5, above, shall remain in the Declarant, subject to the terms of the Lease. The right to the use of these facilities DOES NOT accompany the purchase of a Lot but requires membership in the Club.

B. Maintenance of the aforesaid roads, any approved utilities, and of the Common Areas shall be the responsibility of the Association.

C. Maintenance for the tennis courts, the swimming pool and pool house, the club house, and the golf course is not the responsibility of the Association and shall be performed according to the requirements of the Lease.

**Section 2. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF CHARGES - OWNERS.**

A. Each Owner, by acceptance of a deed for any of the Properties, whether Improved or Undeveloped, is deemed to covenant and agree to pay to the Association:

- (1) Annual charges;
- (2) Special charges as herein provided.

The annual and special charges together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such charge is made. Each such charge, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the charge became due. The personal obligation for delinquent charges shall not pass to his successors in title unless expressly assumed by them.

- B. Purpose of Charges. The charges levied by the Association shall be used exclusively for the improvement and maintenance of the Common Area, specifically including the roads, and for the provision, maintenance, restoration and/or repair of certain services or utilities or the procuring of certain services or utilities to the Owners, which may include but will not be limited to security, garbage collection, a sanitary sewer system, a cable television system, fire protection and for additional similar services which may be approved by the Association or otherwise under this Declaration

or any amendment thereto. Notwithstanding the above restriction on use of funds, the said funds may, to the extent of the excess of accumulated surplus over the total amount of regular charges for the preceding year, be used for capital expenditures to benefit the Common Area and fulfill the purposes of the Association.

- C. Special Charges for Capital Improvements. In addition to the annual charges, the Association may levy, in any given year, a special charge applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such charge shall have the assent of two-thirds (2/3) of the votes of the Members (voting in person or by proxy) at a meeting duly called for that purpose; provided, further that no such special charge shall during any year exceed an amount equal to ten (10) times the monthly Limitation Amount or Adjusted Limitation Amount, whichever shall be applicable (as defined under paragraph G. hereof).

D. Notice and Quorum for any Action Authorized under paragraph C. Written notice of any meeting called for the purpose of taking any action authorized under paragraph C. shall be sent to all Members, at the last address provided to the Association by such member, not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

E. Uniform Rate of Charges. Annual and special charges must be fixed at a uniform rate for all Lots, including Lots owned by the Declarant (excluding Lots which are part of the Undeveloped Tract and which have not been subdivided), and may be collected on a monthly, quarterly, or annual basis. Each Lot, whether or not improved, shall bear its pro rata part of the Annual Charges and for the Special Charges

and shall be entitled to no reduction because all or some of the services for which the assessment is made are not being utilized by the Owner of such Lot.

- F. Date of Commencement of Annual Charges: Due Dates. The annual maintenance charges provided for herein shall commence as to all Lots on October 1, 1992. The Board shall fix the amount of the annual charge against each Lot at least thirty (30) days in advance of each annual charge period. Written notice of the annual charge shall be sent to every Owner subject thereto. The due dates shall be October 1, 1992 and on each consecutive October 1st thereafter. The delinquent date shall be November 1 in each year. The Association shall, upon demand of a party in interest, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the charges on a specified Lot have been paid.
- G. Limitation on Annual Charge. During the period from the date hereof through September 30, 1996, the Annual Charge in any calendar year shall not exceed the Limitation Amount. The term "Limitation Amount" shall mean \$30 per month (\$360 per year) for each Lot owned by such Owner. For years ending after September 30,



1996, the Annual Charge shall not exceed the Adjusted Limitation Amount. For purposes of this provision, the term "Adjusted Limitation Amount" shall mean the Limitation Amount adjusted as of October 1, 1996, and every subsequent October 1st as follows:

- (1) The Limitation Amount shall be divided by the index number for July 1991, as shown by the Consumer Price Index for all Urban Consumers (CPI-U)--U.S. City Average for All Items (with a standard reference base period of 1982-84 = 100) published by the Bureau of Labor Statistics of the U.S. Department of Labor, and then multiplying that amount by the index number for the month of July preceding January 1 of the year for which the Adjusted Limitation Amount is being determined. (The July 1991 index was 136.2)
- (2) In the event that the base period for the Index (i.e., 1982-84 = 100) shall be changed and a proper computation is no longer possible or should the Index be discontinued, comparable statistics on the purchasing power of the U.S. Dollar shall be substituted for the foregoing formula.

(3) The Limitation Amount may not be increased except by a vote of the Members on the same terms and conditions as required to approve a special charge for capital improvements as provided by paragraph C., above. Further, as provided in said paragraph C., above, and paragraph J., below, the Declarant shall be entitled to one vote for each Lot owned by the Declarant but shall not be entitled to any vote thereon on the basis of ownership by it of any Lot located in the Undeveloped Tract and which has not been subdivided.

H. Effect of Nonpayment of Charges: Remedies of the Association. Each Owner is and shall be deemed to covenant and agree to pay to the Association the charges provided for herein, and agrees to the enforcement of the charges in the manner herein specified. In the event the Association employs an attorney or attorneys for collection of any charge, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, or for any other purpose in connection with the breach of this Declaration, each Owner agrees to pay reasonable attorney's fees and costs thereby incurred in addition to

any other amounts due or any other relief or remedy obtained against said Owner. All charges, unless a longer time is otherwise specified, shall be due ten (10) days after the date of said charge. In the event of a default in payment of any such charge when due, in which case the charge shall be deemed delinquent, and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation in any manner provided by law or without any limitation of the foregoing, by either or both of the following procedures:

- (1) Enforcement by Suit. The Board may cause a suit at law to be commenced in the name of the Association against an Owner to enforce each such charge obligation. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the maximum legal rate per annum from the date of delinquency, court costs, and reasonable attorney's fees in such amount as the Court may adjudge against the delinquent Owner.
- (2) Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on every Lot to secure payment to the Association of any and all charges levied

against any and all Owners, together with interest thereon at the maximum legal rate and any and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. At any time within ninety days after the occurrence of any default in the payment of any such charge, the Association, or any authorized representative may, but shall not be required to, make a written demand for payment to the defaulting Owner, on behalf of the Association. Said demand shall state the date and amount of said delinquency. Each default shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien. If such delinquency is not paid within ten days after delivery of such demand, or, even without such a written demand being made, the Association may elect to file such a claim of lien on behalf of the Association against the property of the defaulting Owner. Such a claim of lien shall be executed and acknowledged by any officer of the

Association, and shall contain substantially the following information:

- (a) The name of the delinquent Owner;
- (b) The legal description and street address of property against which claim of lien is made;
- (c) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and reasonable attorney's fees (with any proper offset allowed);
- (d) That the claim of lien is made by the Association pursuant to this Declaration; and
- (e) That a lien is claimed against said property in an amount equal to the amount stated.

Upon recordation of a duly executed original or copy of such a claim of lien, and mailing a copy thereof to said Owner, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the property against which such was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of the claim of lien thereof, except

only tax liens for real property taxes, charges on any property in favor of any municipal or other governmental assessing unit, and the liens which are specifically described in paragraph I., below. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a realty mortgage or trust deed as set forth by the laws of the State of Alabama, as the same may be changed or amended. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other Owners. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage, and convey any property. Whether such foreclosure is by action in court or by foreclosure pursuant to Alabama law, reasonable attorney's fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner and also hereby expressly waives the defense of the Statute of Limitations applicable to the bringing of any suit or action thereon. Each Owner further waives, as to the lien created

herein, demand, presentment, protest, notice of protest and all rights of exemption under the Constitution and laws of the State of Alabama, as to personal property.

- I. Subordination of the Lien to Mortgages. The lien of the charges provided for herein shall be subordinate to the lien of any first mortgage and shall be subordinate to the lien of any second mortgage provided that said second mortgage is in favor of a State or a Federally licensed financial institution. Sale or transfer of any property shall not affect the charge lien. However, the sale or transfer of any property pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such charge as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such property from liability for any charges thereafter becoming due or from the lien thereof.

Section 3. CONSTRUCTION AND MAINTENANCE OBLIGATION OF THE ASSOCIATION - UTILITIES AND UTILITY CHARGES. The Association will provide sanitary sewer system service (if approved as hereinbefore provided) and maintenance and cable television service (CATV) and maintenance and will charge therefor certain Utility Charges. The sewer system will be owned by the association and the CATV system hardware and

distribution lines will be leased from Cherokee Ridge Corporation.

- A. Sanitary Sewer System. The Association may make such rules and regulations and establish such fees as it shall deem appropriate for tie on or tapping fees for connection of improvements and such rates as it shall deem appropriate for usage of the system. It shall be conclusively presumed that system usage is equal to water usage as measured on the water meter serving the dwelling located on any Lot or any improvement located on any Club property. Rates shall be uniform and shall be designed to recover the cost of maintaining, restoring, and/or replacing any part or portion of said system, provided, however, that rates and fees will not exceed rates and fees charged by the Arab Sewer Board, its successor or assigns, for usage or for tie on (provided, however, that in no case will tie on fees be less than \$1,500), except with the approval of a majority of the votes of all Owners upon the recommendation of the Board or except where required to comply with the rules, regulations, requirements or orders of any regulating governmental authority or court of competent jurisdiction.
- B. CATV System. The Association may make such rules and regulations and establish such fees as it shall



deem appropriate for use of the CATV system.

Provided, however, that the rate for basic service shall be, pursuant to the requirements of the system lease, a sum of not less than \$24 per month for basic service, which sum may be adjusted, by the Association, as provided for hereinabove in Article V, Section 2., paragraph G.

- C. Maintenance of the Sewer System and CATV System shall be the responsibility of the Association. It is understood that the Declarant may subdivide property in the Undeveloped Tract and thereby create a requirement to increase the capacity of the sewer system treatment facility, if any. The Association will charge a tie on fee, for the required connection of any improvement to said sewer system, which fee will be not less than \$1,500, which will be separate and apart from annual charges, utility charges or special charges otherwise provided for herein and which will be set aside in a separate fund, being the Sewer Construction Fund, to be used for the purpose of expanding the capacity of the said sewer treatment facility, for maintaining the sewer system, or, upon the request of the Declarant, for the purpose of constructing collector lines in newly subdivided areas. The Sewer Construction Fund may be used for other purposes only with the prior written approval of the Declarant.

- D. Each Owner, by acceptance of a deed for any of the Properties is deemed to covenant and agree to pay to the Association all Utility charges assessed in accordance with this document and the rules and regulations of the Association, for utilities provided by the Association, although such charges shall not be a lien upon the land of any Owner. Collection of delinquent charges may be enforced by both termination of the utility for which the charge is delinquent and by any other legal remedy available to the Association.
- E. Utility charges shall be fixed at uniform rates based on the quantity or usage of each Owner and Owners who are not utilizing such utility services shall not be subject to Utility Charges. Nothing contained herein shall be construed to prevent the application of the requirement that all dwellings be tied to the sewer system, if and when that system is installed and available.
- F. Fire protection for the Properties is provided by the Brindlee Mountain Fire Protection Authority which is funded, in substantial part, by voluntary contributions of persons residing in the area, which contribution is added to the water bill, by the Arab Water Works, for property owners which agree to the contribution. Every lot owner, by acceptance of a deed, agrees that the Arab Water Works shall add to

the water bill of each owner (not to exceed one contribution per lot in cases where a lot has more than one meter) a sum equal to the then currently requested voluntary contribution. Provided, however, that the amount of such contribution will not exceed the amount paid by other property owners in the area; provided, further, that such amount will not exceed the sum of \$ 5 per lot per month unless the same is approved by the owners of 75% of all lots as provided in Article VII, Section 3, paragraph A. Each owner further agrees that water service to such owner's lot may be terminated in the event such owner fails to pay the said contribution. The current contribution is \$1.50 per month.

ARTICLE VI

ARCHITECTURAL COMMITTEE

Section 1. ORGANIZATION, POWER OF APPOINTMENT AND REMOVAL. There shall be an Architectural Committee organized as follows:

- A. Committee Composition. The Architectural Committee shall consist of six members, being a Chairman and five additional members. None of such members shall be required to be an architect or to meet any other particular qualifications for membership. A member need not be a member

of the Board or an officer of the Association.

B. Quorum and Meetings of Members. The Committee shall meet upon the call of the Chairman or of any three members. At any meeting, three members, one of which may be the Chairman, shall constitute a quorum.

C. Initial Members. The following persons are hereby designated as the initial members of the Architectural Committee:

Chairman - Sid McDonald  
Member - Jane McDonald  
Member - Scotty Hawk  
Member - Tom Mullis  
Member - Sue Anderson  
Member - Sally Masters

D. Terms of Office. Unless the initial members of the Architectural Committee have resigned or been removed, their terms of office shall be for a term of three years, expiring September 30, 1995, and until the appointment of their respective successors. Thereafter the term of each Architectural Committee member appointed shall be for a period of three years and until the appointment of his successor. Any new member appointed to replace a member who has

resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired may be reappointed.

E. Appointment and Removal. The right to appoint and remove all members of the Architectural Committee at any time, shall be and is hereby vested solely in the Board, provided, however, that no member may be removed from the Architectural Committee by the Board except by the vote or written consent of three-fifths (3/5) of all of the members of the Board. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the recordation of a declaration identifying each new member appointed to the Committee and each member replaced or removed therefrom. Nothing contained herein shall prevent the nomination of potential Committee members by any member having a vote in the Association.

F. Resignations. Any member of the Architectural Committee may at any time resign from the Committee by giving written notice thereof to Declarant or to the Board,

whichever then has the right to appoint  
Committee members.

- G. Vacancies. Vacancies on the Architectural  
Committee, however caused, shall be filled  
by the Declarant or the Board, whichever  
then has the power to appoint Committee  
members. A vacancy or vacancies on the  
Architectural Committee shall be deemed to  
exist in case of death, resignation or  
removal of any member.

Section 2. DUTIES. It shall be the duty of the  
Architectural Committee to consider and act upon any and all  
proposals or plans submitted to it pursuant to the terms  
hereof, to adopt Architectural Committee Rules, to perform  
other duties delegated to it by the Board, and to carry out  
all other duties imposed upon it by this Declaration.

Section 3. MEETINGS AND COMPENSATION. The  
Architectural Committee shall meet from time to time (not  
more often than once each month except in extraordinary  
circumstances) as necessary to perform its duties hereunder.  
Subject to the provisions of Paragraph B of Section 1 above,  
the vote or written consent of any three members, at a  
meeting, shall constitute the act of the Committee unless the  
unanimous decision of the Committee is required by any other  
provision of this Declaration. For purposes of this  
Article, the term "unanimous" means any three members  
provided that one of them is the Chairman. The Committee

shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. No member of the Architectural Committee who is a member of the Association shall receive from the Association any compensation for services, provided that the Board may pay reasonable compensation to any member of the Architectural Committee who is not a Member of the Association. All members shall be entitled to reimbursement from the Association for all reasonable expenses incurred by them in the performance of any Architectural Committee functions.

Section 4. ARCHITECTURAL COMMITTEE RULES. The Architectural Committee may, but shall not be required to, from time to time and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "Architectural Committee Rules."

Section 5. WAIVER. The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specifications or matter subsequently submitted for approval.

Section 6. LIABILITY. Neither the Architectural Committee nor any member thereof shall be liable to the Association, the Club, any Owner, or to any other party, for

any damage, loss or prejudice suffered or claimed on account of:

- A. The approval or disapproval of any plans, drawings, or specifications, whether or not defective;
- B. The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
- C. The development of any property; or
- D. The execution and filing of any estoppel certificate, whether or not the facts therein are correct.

Without in any way limiting the generality of any of the foregoing provisions of this Section, the Architectural Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association, the Club or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Committee.

#### ARTICLE VII

##### GENERAL PROVISIONS

Section 1. ENFORCEMENT. The Association, the Club, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the



Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

Section 3. AMENDMENT. The Covenants and Restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforced by the Association, the Club, or the Owner of any Lot subject to this Declaration, their respective legal representative, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically be extended for successive periods of ten (10) years.

A. Amendment by the Owners. In addition to the provisions for amendment set forth in Sections 4 and 6 of Article IV hereof, this Declaration may be amended during the first twenty (20) years by an instrument signed by the Club and by a number of Owners having ownership of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by the Club and a number of Owners having ownership of not less than seventy-five percent (75%) of the Lots. Any amendment must be filed for record in the Probate

Office of Marshall County, Alabama.

Notwithstanding the foregoing, so long as Declarant is the owner of any Lot or of any portion of the properties, no such amendment will be effective unless and until approved by the Declarant.

- B. Amendment by the Declarant. In addition to any other provisions for amendment of these Declarations, so long as the Declarant is the owner of any Lot or of any portion of the Properties, the Declarant may amend this Declaration by the filing of an instrument of record in the Probate Office of Marshall County, Alabama, without the approval of any Owner, the Club or the Association. Provided, however, that in the event such amendment would materially and adversely affect or alter the title to any Lot or the use and enjoyment of any Lot or Improvement located thereon, then and in that event, the affirmative consent of the Owners of fifty percent (50%) of the Lots (including one vote for each Lot owned by the Declarant) shall be required prior to said amendment becoming effective. Provided further, that should such amendment materially and adversely affect or alter the title of any mortgagee of any Lot or any portion of the Properties, then and in that

event, the consent of said mortgagee shall be required prior to said amendment becoming effective. Any mortgagee of any Lot or of any portion of the Properties, by accepting a mortgage on the same, agrees to be bound by the provisions of these Declarations and by any properly obtained and executed amendments to these Declarations, except for amendments which have not been signed by such mortgagee and which are specifically required by these Declarations to be signed by the mortgagee. Further, all Owners, Mortgagees and Declarant, by acceptance of a deed or a mortgage, on any Lot, agree that, if requested by Declarant, they will execute any instrument amending these declarations if such amendments are necessary to:

- (1) Comply with any provision of any law, regulation, ordinance, rule or decision of any governmental body, governmental agency or court;
- (2) Obtain title insurance from any reputable title insurance company in regard to any Lot or any portion of the Properties;
- (3) Comply with the reasonable requirements of any reputable institutional mortgagee in order to induce said mortgagee to grant a

loan secured by any Lot or any portion of the Properties; or

- (4) Comply with the reasonable requirement of any governmental agency or reputable private institutional mortgage insurance company in order to induce said agency or mortgage insurance company to insure the mortgage on any Lot or any portion of the Properties.

Section 4. VIOLATIONS AND NUISANCE. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and may be enjoined or abated, whether or not the relief sought is for negative or affirmative action, by Declarant, the Association, the Club, or any Owner or Owners of Lots, or by the respective agents, contractors or invitees of any . However, any other provision to the contrary notwithstanding, only Declarant, the Association, the Board, or the duly authorized agents of any of them may enforce by self-help any of the provisions of this Declaration. A violation of these restrictions and covenants, or any one of them, shall not affect the lien of any mortgage now of record, or which may hereafter may be placed on record upon said Lots or any part thereof.

Section 5. VIOLATION OF LAW. Any violation of any state, county, municipal, or local law, ordinance or regulation, pertaining to the ownership, occupation or use of the Properties is hereby declared to be a violation of this

Declaration and subject to any and all of the enforcement procedures set forth herein.

Section 6. REMEDIES CUMULATIVE. Each remedy provided by this Declaration is cumulative and not exclusive.

Section 7. DELIVERY OF NOTICES AND DOCUMENTS. Any written notice or other documents relating to or required by this Declaration may be delivered either personally or by mail. If by mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of same has been deposited in the United States mail, postage prepaid, addressed as follows: If to the Declarant, the Association, the Architectural Committee, or the Club, at Post Office Drawer E, Arab, Alabama, 35016; if to an Owner, to the address of any Lot owned, in whole or in part, by him or to any other address last furnished by an Owner to the Association. Provided, however, that any such address may be changed at any time by the party concerned by providing a written notice of change of address and delivering a copy thereof to the Association. Each Owner of a Lot shall file the correct mailing address of such Owner with the Association, and shall promptly notify the Association, in writing, of any subsequent change of address.

Section 8. THE DECLARATION. Deeds of conveyance of said property, or any part thereof, may contain the restrictions and covenants contained herein by reference to this document, but whether or not such reference is made in any or all of said deeds, by acceptance of a deed or by

acquiring any ownership interest in any of the real property included within this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, agrees to all of the provisions, restrictions, covenants, conditions, rules and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general scheme for the improvement and development of the real property covered thereby and hereby evidences his interest that all the restrictions, conditions, covenants, rules and regulations contained herein shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the various subsequent and future owners.

IN WITNESS WHEREOF, Cherokee Ridge Corporation, an Alabama Corporation, the owner of all of the property made the subject of this Declaration has caused its name to be signed and its corporate seal to be affixed this 20th day of April, 1992.

Corporate  
Seal

CHEROKEE RIDGE CORPORATION,  
an Alabama Corporation,

By: [Signature]  
Its President

Page 69

NOV 11 11:14 AM '91

STATE OF ALABAMA  
COUNTY OF MARSHALL

I, Brenda Garrard, a Notary Public in and for said County and State, do hereby certify that Sid McDonald, whose name as President of Cherokee Ridge Corporation, a corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation, on the day the same bears date.

Given under my hand and official seal this the 20th day of April, 1992.

Brenda Garrard  
NOTARY PUBLIC

EXHIBIT 1  
TO  
THE DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
CHEROKEE RIDGE SUBDIVISION  
(GOLF COURSE PROPERTY)

Commencing at the Northeast corner of the West 1/2 of the Northeast 1/4 of the Southwest 1/4 of Section 17, Township 7 South, Range 1 East, Marshall County, Alabama;

Thence South 1 degrees 19 minutes 07 seconds West, 50 feet to the point of beginning for the property herein described;

Thence from the point of beginning, South 1 degrees, 19 minutes 08 seconds West, 1172.72 feet to a point;

Thence South 74 degrees 14 minutes 51 seconds West, 836.99 feet to a point;

Thence South 39 degrees 49 minutes 53 seconds East, 228.23 feet to a point;

Thence South 1 degrees 37 minutes 30 seconds West, 170.76 feet to a point;

Thence South 0 degrees 27 minutes 40 seconds East, 660.04 feet to a point;

Thence North 75 degrees 16 minutes 11 seconds East, 1015.95 feet to a point;

Thence North 71 degrees 23 minutes 16 seconds East, 206.49 feet to a point;

Thence North 83 degrees 48 minutes 33 seconds East, 110.27 feet to a point;

Thence North 87 degrees 54 minutes 58 seconds East, 140.60 feet to a point;

Thence South 55 degrees 24 minutes 56 seconds East, 93.9 feet to a point;

Thence South 09 degrees 44 minutes 51 seconds East, 65.14 feet to a point;

Thence South 28 degrees 53 minutes 17 seconds East, 301.86 feet to a point;

Thence around a curve to the right with a Delta angle of 90 degrees and a radius of 75 feet and with a distance of 117.81 feet to a point;

Thence South 81 degrees 28 minutes 34 seconds West, 816.7 feet to a point;

Thence South 34 degrees 00 minutes 55 seconds West, 487.19 feet to a point;



Exhibit 1 (continued)

Thence South 50 degrees 18 minutes 45 seconds  
West, 693.61 feet to a point;  
Thence South 23 degrees 32 minutes 08 seconds  
West, 446.46 feet to a point;  
Thence North 88 degrees 46 minutes 39 seconds  
West, 1070.07 feet to a point;  
Thence North 0 degrees 25 minutes 56 seconds  
East, 380.44 feet to a point;  
Thence South 61 degrees 22 minutes 04 seconds  
West, 625.03 feet to a point;  
Thence South 88 degrees 50 minutes 17 seconds  
West, 1183.08 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 180 degrees and a radius of 120 feet and a  
distance of 376.99 feet to a point;  
Thence North 83 degrees 02 minutes 26 seconds  
East, 197.99 feet to a point;  
Thence North 02 degrees 59 minutes 28 seconds  
West, 127.41 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 90 degrees and a radius of 75 feet and a  
distance of 117.81 feet to a point;  
Thence North 84 degrees 21 minutes 17 seconds  
East, 1155.67 feet to a point;  
Thence South 61 degrees 17 minutes 10 seconds  
East, 236.52 feet to a point;  
Thence North 67 degrees 39 minutes 45 seconds  
East, 248.34 feet to a point;  
Thence North 50 degrees 45 minutes 30 seconds  
East, 188.76 feet to a point;  
Thence North 64 degrees 31 minutes 08 seconds  
East, 151.19 feet to a point;  
Thence North 85 degrees 01 minutes 11 seconds  
East, 174.99 feet to a point;  
Thence North 17 degrees 53 minutes 35 seconds  
East, 124.33 feet to a point;  
Thence North 11 degrees 53 minutes 11 seconds  
East, 787.49 feet to a point;  
Thence North 06 degrees 47 minutes 43 seconds  
East, 439.01 feet to a point;  
Thence South 86 degrees 18 minutes 41 seconds  
West, 241.24 feet to a point;  
Thence South 62 degrees 37 minutes 12 seconds  
West, 578.09 feet to a point;  
Thence North 79 degrees 10 minutes 45 seconds  
West, 734.02 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 180 degrees and a radius of 50 feet and a  
distance of 157.08 feet to a point;  
Thence North 89 degrees 52 minutes 34 seconds  
East, 734.02 feet to a point;

Exhibit 1 (continued)

Thence North 57 degrees 41 minutes 08 seconds  
East, 441.03 feet to a point;  
Thence North 07 degrees 51 minutes 58 seconds  
West, 212.79 feet to a point;  
Thence North 80 degrees 02 minutes 44 seconds  
East, 556.71 feet to a point;  
Thence North 01 degrees 54 minutes 18 seconds  
East, 129.63 feet to a point;  
Thence North 39 degrees 49 minutes 54 seconds  
West, 442.53 feet to a point;  
Thence North 5 degrees 04 minutes 00 seconds  
East, 35.42 feet to a point;  
Thence North 49 degrees 57 minutes 54 seconds  
East, 261.17 feet to a point;  
Thence South 84 degrees 56 minutes 00 seconds  
East, 35.29 feet to a point;  
Thence South 39 degrees 49 minutes 54 seconds  
East, 383.47 feet to a point;  
Thence North 50 degrees 17 minutes 32 seconds  
East, 12.50 feet to a point;  
Thence North 47 degrees 40 minutes 19 seconds  
East, 369.43 feet to a point;  
Thence North 76 degrees 14 minutes 11 seconds  
East, 432.96 feet to a point;

Thence North 01 degrees 19 minutes 07 seconds  
East, 501.86 feet to a point;  
Thence South 88 degrees 40 minutes 53 seconds  
East, 50 feet to the point of beginning containing  
109.36 acres more or less;

ALSO; Commencing at the Southwest corner of  
Fraction B of Fractional Section 19, Township 7  
South, Range 1 East, Marshall County, Alabama;

Thence North 19 degrees 21 minutes 17 seconds  
East, 1388.39 feet to the point of beginning for  
the property herein described;

Thence from the point of beginning, North 11  
degrees 56 minutes 32 seconds West, 339.41 feet to  
a point;

Thence North 0 degrees 16 minutes 33 seconds  
West, 204.85 feet to a point;

Thence around a curve to the right with a Delta  
angle of 107 degrees 52 minutes 23 seconds and a  
radius of 75 feet and a distance of 141.21 feet to  
a point;

Thence South 28 degrees 06 minutes 59 seconds  
East, 462.05 feet to a point;

Thence North 27 degrees 25 minutes 52 seconds  
East, 235.36 feet to a point;

Thence North 17 degrees 21 minutes 55 seconds  
East, 510.54 feet to a point;

Exhibit 1 (continued)

Thence North 68 degrees 22 minutes 42 seconds  
West, 260.59 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 90 degrees and a radius of 140 feet and a  
distance of 219.91 feet to a point;  
Thence North 21 degrees 37 minutes 18 seconds  
East, 555.50 feet to a point;  
Thence North 44 degrees 12 minutes 02 seconds  
East, 745.56 feet to a point;  
Thence North 64 degrees 33 minutes 14 seconds  
East, 148.88 feet to a point;  
Thence North 37 degrees 35 minutes 21 seconds  
East, 528.02 feet to a point;  
Thence North 89 degrees 01 minutes 29 seconds  
East, 707.08 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 180 degrees and a radius of 50 feet and a  
distance of 157.08 feet to a point;  
Thence South 73 degrees 52 minutes 19 seconds  
West, 322.97 feet to a point;  
Thence South 65 degrees 41 minutes 21 seconds  
West, 79.52 feet to a point;  
Thence South 72 degrees 22 minutes 02 seconds  
West, 255.19 feet to a point;  
Thence South 40 degrees 31 minutes 47 seconds  
West, 101.21 feet to a point;  
Thence South 30 degrees 57 minutes 38 seconds  
West, 331.57 feet to a point;  
Thence South 85 degrees 06 minutes 56 seconds  
East, 84.48 feet to a point;  
Thence South 59 degrees 17 minutes 13 seconds  
East, 161.47 feet to a point;  
Thence South 26 degrees 52 minutes 46 seconds  
West, 203.55 feet to a point;  
Thence North 73 degrees 21 minutes 12 seconds  
West, 533.89 feet to a point;  
Thence South 35 degrees 14 minutes 45 seconds  
West, 318.65 feet to a point;  
Thence South 30 degrees 22 minutes 32 seconds  
West, 216.10 feet to a point;  
Thence South 18 degrees 11 minutes 24 seconds  
West, 212.33 feet to a point;  
Thence South 22 degrees 33 minutes 38 seconds  
West, 181.10 feet to a point;  
Thence North 75 degrees 58 minutes 30 seconds  
East, 193.05 feet to a point;  
Thence North 75 degrees 58 minutes 13 seconds  
East, 777.99 feet to a point;  
Thence North 28 degrees 42 minutes 06 seconds  
East, 348.55 feet to a point;

Exhibit 1 (continued)

Thence North 28 degrees 41 minutes 28 seconds  
East, 520.00 feet to a point;  
Thence North 26 degrees 59 minutes 45 seconds  
East, 100 feet to a point;  
Thence North 32 degrees 02 minutes 40 seconds  
East, 100 feet to a point;  
Thence North 15 degrees 33 minutes 28 seconds  
East, 224.28 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 161 degrees 46 minutes 41 seconds and a  
radius of 123.65 feet and a distance of 349.13 feet  
to a point;  
Thence South 19 degrees 58 minutes 49 seconds  
West, 420.8 feet to a point;  
Thence South 37 degrees 02 minutes 29 seconds  
West, 767.53 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 150 degrees 42 minutes 07 seconds and a  
radius of 140 feet and a distance of 368.23 feet to  
a point;  
Thence South 75 degrees 58 minutes 13 seconds  
West, 767.74 feet to a point;  
Thence South 27 degrees 34 minutes 49 seconds  
West, 654.29 feet to a point;  
Thence South 44 degrees 57 minutes 47 seconds  
West, 467.87 feet to a point;  
Thence around a curve to the right with a Delta  
angle of 90 degrees and a radius of 140 feet  
and a distance of 219.91 feet to the point of  
beginning, containing 36.27 acres more or less;  
ALSO: Commencing at the Northeast corner of the  
Southeast 1/4 of Section 18, Township 7 South,  
Range 1 East, Marshall County, Alabama;  
Thence North 89 degrees 46 minutes 12 seconds  
West, 309.16 feet to the point of beginning for  
the property herein described;  
Thence from the point of beginning, South 42  
degrees 22 minutes 25 seconds East, 1587.07  
feet to a point;  
Thence around a curve to the right with a Delta  
angle of 180 degrees and a radius of 75 feet  
and a distance of 235.62 feet to a point;  
Thence North 51 degrees 43 minutes 59 seconds  
West, 730.24 feet to a point;  
Thence North 43 degrees 08 minutes 09 seconds  
West, 606.63 feet to a point;  
Thence South 45 degrees 57 minutes 41 seconds  
West, 218.79 feet to a point;  
Thence South 09 degrees 12 minutes 26 seconds  
East, 140.11 feet to a point;

Exhibit 1 (continued)

Thence around a curve to the right with a Delta angle of 106 degrees 49 minutes 22 seconds and a radius of 115 feet and a distance of 214.41 feet to a point;  
Thence South 43 degrees 39 minutes 09 seconds East, 554.45 feet to a point;  
Thence around a curve to the right with a Delta angle of 180 degrees and a radius of 140 feet and a distance of 439.82 feet to a point;  
Thence North 43 degrees 39 minutes 09 seconds West, 416.79 feet to a point;

Thence North 64 degrees 05 minutes 31 seconds West, 626.81 feet to a point;  
Thence around a curve to the right with a Delta angle of 180 degrees, and a radius of 75 feet, and a distance of 235.62 feet to a point;  
Thence South 75 degrees 16 minutes 07 seconds East, 508.33 feet to a point;  
Thence North 12 degrees 35 minutes 32 seconds East, 806.13 feet to a point;  
Thence South 89 degrees 46 minutes 12 seconds East, 262.82 feet to the point of beginning containing 20.28 acres more or less.

In aggregate 165.91 acres more or less.

All of the above described property being a portion of Section 17, 18, 19, 20, Township 7 South, Range 1 East, Marshall County, Alabama.

EXHIBIT 2

TO

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
CHEROKEE RIDGE SUBDIVISION

LEGAL DESCRIPTIONS OF PROPERTIES:

**Parcel One:**

The Northwest fourth of the Northwest fourth of Section Twenty (20) in Township Seven (7) south, Range One (1) East, containing forty (40) acres, more or less, lying in Marshall County, Alabama.

**Parcel Two:**

The Northwest fourth of the Southwest fourth of Section Seventeen (17); the East half of the Southeast fourth of Section Eighteen (18); Fraction "C", containing 43.43 acres; and Fraction "D", containing 47.81 acres, lying East of the Indian Boundary Line of Section Eighteen (18); Fraction "A", containing 50.62 acres, lying East of the Indian Boundary Line of Section Nineteen (19); the Northeast fourth of the Northeast fourth of Section Nineteen (19); the Northwest fourth of the Northeast fourth of Section Twenty (20), all in Township Seven (7) South, Range One (1) East of the Huntsville Meridian, Marshall County, Alabama, containing in the aggregate 341.86 acres, more or less.

LESS AND EXCEPT that portion of the above described property conveyed to Lonnie McMillan by deed recorded in book 475, page 468, as corrected in book 477 page 618 in the Probate Office of Marshall County, Alabama.

**Parcel Three:**

The Southwest fourth of the Southwest fourth of Section Seventeen (17) in Township Seven (7) South, Range One (1) East, containing forty (40) acres, more or less, lying and being in Marshall County, Alabama.

**Parcel Four:**

The West half of the Northeast fourth of the Southwest fourth of Section Seventeen (17), Township Seven (7) South, Range One (1) East, containing twenty (20) acres, more or less; AND ALSO, the Southwest fourth of the Southeast fourth, and the Southeast fourth of the Southwest fourth of Section Seventeen (17), Township Seven (7) South, Range One (1) East, containing eighty (80) acres, more or less; AND ALSO, the Northeast fourth of the Northwest fourth of Section Twenty

**EXHIBIT 2 (Continued)**

(20), Township Seven (7) South, Range One (1) East, containing forty (40) acres, more or less. Containing in the aggregate one hundred-forty (140) acres, more or less, in Marshall County, Alabama.

**Parcel Five:**

Two hundred fifty (250) feet evenly and lying southerly off of the North margin of the South half of the Northwest fourth of Section Twenty (20), Township Seven (7) South, Range One (1) East of the Huntsville Meridian, Marshall County, Alabama, containing 15.287 acres, more or less.

**Parcel Six:**

Fraction "B", containing 53.97 acres, lying East of the Indian Boundary Line in Section Nineteen (19); The North half of the Southeast fourth of the Northeast fourth in Section Nineteen (19); The Northwest half of the Southwest fourth of the Northeast fourth in Section Twenty (20); all Tracts lying in Township Seven (7) South, Range One (1) East of the Huntsville Meridian, Marshall County, Alabama.

LESS AND EXCEPT that portion of the described property conveyed to Lonnie McMillan by deed recorded in deed Book 475, Page 468, in the Probate Office of Marshall County, Alabama.

**Parcel Seven:**

All that land lying West of a diagonal line extending from the Northeast Corner to the Southwest Corner of the Southwest Quarter of Northeast Quarter of Section 20, Township 7 South, Range 1 East, containing twenty (20) acres, more or less; ALSO, all that land lying East of a diagonal line extending from the Northeast Corner of the Southwest Corner of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter of Section 20, Township 7 South, Range 1 East, containing five (5) acres, more or less.