

DECLARATION OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR  
PROVIDENCE PLANTATION

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR PROVIDENCE PLANTATION (hereinafter referred to as the "Declaration") is made this 17<sup>th</sup> day of September, 1988, by GDC DEVELOPMENT CORPORATION, formerly known as Dimension/Brooks (Georgia) Corporation, a Georgia corporation (hereinafter referred to as "Developer").

DEVELOPER'S STATEMENT OF BACKGROUND

1. By Warranty Deed from P. Carl Unger recorded in Deed Book 9922, page 256, Fulton County, Georgia records, Developer acquired ownership of 47.585 acres in Land Lots 924, 925, and 949 of the 2nd District, 2nd Section, Fulton County, Georgia (hereinafter referred to as the "Acreage Tract"). Developer intends to create within and upon the Acreage Tract a residential community known as PROVIDENCE PLANTATION.

2. Portions of the Acreage Tract are expected to be subdivided for various compatible residential uses as Developer determines to be appropriate and feasible, and in conjunction therewith, Developer will install streets, utilities, walls, fences, entranceways, signs, drainage facilities and landscaping facilities, and will create easements and setbacks and will construct certain other improvements to or upon the Acreage Tract, all pursuant to Developer's harmonious plan for the community of PROVIDENCE PLANTATION.

3. Developer has heretofore subdivided portions of the Acreage Tract into tracts designated Providence Plantation, Unit One, has filed plats therefor in the real estate records of Fulton County, Georgia, and, incidental thereto, has conveyed and dedicated to Fulton County, Georgia, the street rights-of-way and improvements thereon.

4. Developer believes that the owners of those portions of the Acreage Tract which are and remain subject to this Declaration shall benefit from the covenants, easements, restrictions, charges, liens and agreements established herein for the purpose of governing the development, use, enjoyment, occupancy and ownership of the Acreage Tract.

DECLARATION

NOW, THEREFORE, in consideration of the premises and of the benefits to be derived by Developer and accruing to the Acreage Tract and to the owners of property within PROVIDENCE PLANTATION, Developer does hereby declare that the Acreage Tract is hereby subject to this Declaration and henceforth shall be owned, held, transferred, sold, conveyed, occupied, used and mortgaged or otherwise encumbered subject to this Declaration and the Acreage Tract shall be subject to the covenants, restrictions, easements, agreements, charges and liens provided for in this Declaration. This Declaration shall be binding upon all persons claiming under and through Developer, its grantees and successors in title to any portion of the Acreage Tract, including the Builders, as that term is herein defined. Every grantee of any interest in any property now or hereafter made subject to this Declaration, by acceptance of a deed or other conveyance of such interest, whether or not (a) expressed in such conveyance, (b) signed by the grantee or (c) otherwise consented to in writing by such grantee, shall take such property subject to and be bound by this Declaration and be deemed to have accepted and assented to all of the terms, conditions and provisions set forth in this Declaration.

## Article One

### DEFINITIONS

When used in this Declaration, the following words shall have the following meanings:

(a) "Association" shall mean Providence Plantation Homeowners Association, Inc., a Georgia non-profit membership corporation which Developer shall cause to be incorporated for the purpose of succeeding to Developer's ownership of all Common Property and to Developer's administration and enforcement of this Declaration.

(b) "ACC" shall mean the Architectural Control Committee, the three members of which are initially Stephen H. Brooks, Ron Burton, and Howard Levy, but subsequently appointed by the Board of Directors of the Association only after all homes are constructed and conveyed to their respective purchasers.

(c) "Acreage Tract" shall mean the 47.585 acre tract of land located in Land Lots 924, 925 and 949 of the 2nd District, 2nd Section, Fulton County, Georgia, acquired by Developer from P. Carl Unger and being more particularly described on Exhibit "A", attached hereto and by reference made a part hereof.

(d) "Builder" shall mean any individual, corporation, partnership or other entity engaged principally in the business of constructing for sale to homeowners single family residential dwellings to whom the Developer sells or has sold one or more Lots for the purpose of constructing thereon a Dwelling Unit in accordance with this Declaration.

(e) "Common Property," if any, shall mean any portion of the Acreage Tract designated and identified as "Recreation Area", "Common Property" or "Amenities", together with any improvements now or hereafter located thereon, including but not limited to, any landscaping, entranceways, fencing, signs or other similar facilities intended by Developer to be devoted to the common use, benefit and enjoyment of the members of the Association as owners of Lots or Dwelling Units within PROVIDENCE PLANTATION, their families, guests, tenants and invitees. In addition, Developer may demonstrate its intent to constitute any other part of the Acreage Tract as Common Property by designating or describing any portion as Common Property in a deed or other instrument of conveyance to or other agreement with the Association or by identifying any portion of the Acreage Tract as Common Property on any plat of survey recorded in Fulton County, Georgia, or by such other means as clearly reflect the character of any such property to be Common Property. However, no recreational improvements of any type or nature are planned, proposed or implied for Providence Plantation.



(f) "Developer" shall mean GDC Development Corporation, together with any successor in interest to GDC Development Corporation who expressly assumes responsibility for continued development of the Acreage Tract as part of PROVIDENCE PLANTATION and assumes the rights and obligations of Developer under this Declaration.

(g) "Dwelling Unit" shall mean and refer to any property within the Acreage Tract on which construction of a structure designed for use as a single family dwelling has been completed.

(h) "Lot" shall mean and refer to any undeveloped plot of land subject to this Declaration and shown as a numbered parcel on any plat of survey recorded in the Office of the Clerk of the Superior Court of Fulton County, Georgia, as the same may be revised, modified or amended from time to time. It is the intent of this Declaration that subdivided property within the Acreage Tract shall, until such time as the construction of improvements are constructed thereon, be considered as a Lot, but once improvements are constructed thereon and a certificate of occupancy therefor has been issued, it shall lose its character as a Lot and become a Dwelling Unit.

(i) "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Lot or Dwelling Unit, including Developer, but excluding those persons having such interest merely as security for the performance of an obligation.

(j) "Person" shall mean and refer to an individual, corporate, partnership, association, trust or any other legal entity.

## Article Two

### ARCHITECTURAL CONTROL, RESTRICTIONS ON USE AND DEVELOPMENT

#### Section 1. Architectural Control Committee ("ACC").

(a) The ACC, as a committee appointed by the Board of Directors of the Association or by the Developer, shall have responsibility for approval of the matters described in this Article.

(b) As to any portion of the Acreage Tract or any Lot contained therein, no house, garage, carport, playhouse, fence, wall, swimming pool or other structure, improvement or dwelling, whether or not such structure, improvement or dwelling is intended for occupancy, shall be commenced, erected or maintained thereon, nor shall any exterior addition to any existing structure or change or alteration therein be commenced, nor shall any landscaping or site work be performed until complete final plans, drawings and specifications therefor showing the nature, kind, shape, height, materials, basic exterior finishes and colors, locations and floor plan

therefor, and showing front, side and rear elevations and grade thereof, and the name of the builder and/or landscaper, have been submitted to and approved by the ACC, its agents, successors or assigns, as to the square footage and size of any Dwelling Unit, exterior lighting, harmony of exterior design, general quality of materials and as to location in relation to surrounding structures and topography. The ACC may, in its sole discretion, waive this requirement. The ACC shall be entitled to retain possession of such plans, drawings and specifications if it so chooses.

(c) If the ACC fails to approve or disapprove such plans, drawings and specifications within thirty (30) days after receipt of written notice that such plans, drawings and specifications have been submitted to it and approval requested, the ACC shall be deemed to have approved said plans, drawings and specifications.

(d) Refusal or approval of plans, drawings, specifications, materials or location may be based upon any grounds, including purely aesthetic considerations, which, in the sole and uncontrolled discretion of the ACC or its agent, shall be deemed sufficient. Any decision of the ACC must be unanimous. A Builder or an Owner may appeal such a disapproved submission to the Board of Directors of the Association which, by a majority vote, may approve such submission and override the disapproval of the ACC, only after all homes have been constructed and conveyed to their respective purchasers.

(e) Notwithstanding anything contained herein to the contrary, no action of the ACC is intended to be, nor shall any action be construed to be, approval by the ACC of the adequacy, reasonableness, safety or fitness for intended use of the submitted plans, products or construction or satisfaction of zoning or any other regulatory requirements. Neither Developer nor any member of the ACC shall be liable in damages or in any other respect to anyone submitting plans and specifications for approval under this Article, or to any Owner, or any other person with an interest in the Lot or Dwelling Unit at issue or any other Lot or Dwelling Unit, by reason of mistake in judgment, negligence, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications.

(f) The ACC may, at any time and from time to time, delegate or assign, in whole or in part, the rights and authorities granted by this Section.

Section 2. Enforcement Rights and Remedies. Any construction or planting made or performed on the Acreage Tract without application having first been made and approval obtained or that is inconsistent with any approved landscaping layout, plans, drawings or specifications may be required to be restored to its former condition by and at the expense of the Owner of the property on which



such construction or planting was made or performed. Upon the failure or refusal of such Owner to perform the required restoration, the ACC or its authorized agents or employees may, after fourteen (14) days' notice to said Owner, enter upon the property (Lot or Dwelling Unit) and perform such restoration as the ACC may, in the exercise of its sole discretion, deem necessary or advisable. Such Owner shall be personally liable to the Association for all direct and indirect costs as may be incurred by the ACC in the performance of such restoration and the liability for such costs shall be enforceable by the Association on behalf of the ACC by any appropriate proceeding in law or in equity. The Owner's liability for such costs shall also be a permanent charge and lien upon the Lot or Dwelling Unit of such Owner, enforceable by the Association on behalf of the ACC by any appropriate proceeding in law or in equity.

### Section 3. Restrictions on Use.

(a) Residential Use. All Lots shall be restricted exclusively to single-family residential use. No Lot, or any portion thereof, shall at any time be used for any commercial, business or professional purpose; provided, however, that nothing herein shall be construed to prohibit or prevent Developer or any Builder from using any Lot owned by Developer or such Builder for the purpose of carrying on business related to the development, improvement and sale of Lots.

(b) Common Property. The Common Property, if any, shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from their respective Lots and for such other purposes as may be authorized by the Association.

(c) Nuisances.

(1) No unlawful, noxious or offensive activities shall be carried on in any Lot or upon the Common Property, nor shall anything be done therein or thereon which, in the judgment of the Association, constitutes a nuisance, causes embarrassment, discomfort, annoyance, unreasonable noise or disturbance to others or unreasonably interferes with other Owners' use of their Lots and/or the Common Property.

(2) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's or a Builder's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any of the foregoing. The Developer or the Association shall have the right, but not the obligation, to remove such debris or rubbish, and the reasonable cost of such removal shall be a lien on the Lot pursuant to the terms and conditions of Article Two, Section 2, hereof. No exterior

speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Acreage Tract or any portion thereof.

(3) No abandoned vehicles shall be parked on any streets within PROVIDENCE PLANTATION or in the front, rear or side yards of any Lot.

(4) The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt conditions, shall not be pursued or undertaken in the front yard of any Lot or in any driveway, garage or other place where such condition is visible or audible from any street or adjoining Lot.

(d) Resubdivision of Property. No Lot may be split, divided or subdivided for sale, resale, gift, transfer or otherwise.

(e) Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping.

(f) Landscaping. No construction or alteration of any Dwelling Unit shall take place without the prior written approval by the ACC of plans and specifications for the landscaping to accompany such construction or alteration.

(g) Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefor approved by the ACC. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot without the prior written consent of the ACC.

(h) Signs.

(1) No signs whatsoever (including, but not limited to, commercial and similar signs) shall, without the ACC's prior written approval of plans and specifications therefor, be installed, altered or maintained on any Lot, or on any portion



of a Dwelling Unit visible from the exterior thereof, except:

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

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

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC.

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

(i) Setbacks. In approving plans and specifications for any proposed Dwelling Unit, the ACC may establish setback requirements for the location of such Dwelling Unit which are more restrictive than those established by the recorded plats. No Dwelling Unit shall be erected or placed on any Lot unless its location is consistent with such setbacks or those setback lines set forth on those recorded plats. Nothing shall be erected, placed or altered on any Lot nearer to any street than said setback lines, except for retaining walls of masonry construction which do not rise above the finished grade elevation of the earth embankment so retained, reinforced or stabilized, unless the same has been approved by the ACC. The exposed portion of any such retaining wall shall be made of brick, natural stone or veneered with brick, natural stone or other material.

(j) Fences. No chain link fencing shall be permitted. No fence shall be located in front of the rear of the Dwelling Unit to which it is appurtenant as such Dwelling Unit fronts on the street abutting such Lot. The construction, material, design and location of all fencing shall require the prior approval of the ACC.

(k) Antennae. Radio, television and satellite dish antennae shall not be installed on the exterior of any Dwelling Unit or on any Lot without the prior written approval of the ACC. No antennae shall be installed or used for the purpose of transmitting electronic signals.

(l) Clotheslines. No outside clotheslines shall be placed on any Lot.

(m) Recreational Vehicles and Trailers. No mobile home, trailer, trailer house, aircraft, boat, recreational vehicle or similar vehicle shall be permitted on any street or any Lot, provided, however, that a visitor or a guest of an Owner may park a



recreational vehicle on a street or Lot for a period not to exceed forty-eight (48) hours. While nothing contained herein shall prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction, the use, appearance and maintenance of such a building or trailer must be specifically approved by the ACC prior to its being moved onto the construction site.

(n) Accessory Structures. A detached accessory structure may be placed on a Lot to be used for a playhouse, a swimming pool, a tool shed, a mailbox, a dog house or a garage. A garage may also be an attached accessory structure. Such accessory structures shall not exceed twenty (20) feet in height and shall conform in exterior design and quality to the Dwelling Unit on the same Lot. With the exception of a garage that is attached to a Dwelling Unit, an accessory structure placed on a Lot shall be located only behind the Dwelling Unit as such Dwelling Unit fronts on the street abutting such Lot. Such accessory structures shall also be located within such side and rear setback lines as may be required hereby or by applicable zoning law. All swimming pools shall be in-ground, and shall, together with accessories and appurtenances thereto, be visually screened from street, side yard and back yard view. The ACC shall have the right to approve or disapprove the plans and specifications for any accessory structure to be erected on any Lot, and construction of an accessory structure may not be commenced until complete final plans and specifications shall have been submitted to and approved by the ACC in accordance with the provisions of these covenants. Any accessory structure shall be constructed concurrently with or subsequent to the construction of the Dwelling Unit on the Lot on which such accessory structure is located.

(o) Improvement of Lots. All construction of Dwelling Units, accessory structures and all other improvements on any Lot shall be undertaken and completed in accordance with the following conditions:

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

(2) Concrete or concrete block or cinder block shall not be used as a building material for the exposed exterior surface visible from the street of any Dwelling Unit or accessory structure constructed or placed on any Lot. Siding materials shall be wood, or on certain traditional homes, beaded-edged hardboard as approved by the ACC. No aluminum or vinyl siding shall be permitted. Exposed concrete block, concrete, cinder blocks or other fabricated masonry block units visible from the street shall be veneered with brick or natural stone, stucco or other approved material over the entire surface exposed above finish grade to match the Dwelling Unit. All

stucco must be painted or permanently colored.

(3) Only one mailbox shall be located on any Lot, which mailbox shall be selected to be consistent with the quality and design of surrounding Dwelling Units and mailboxes and shall be placed and maintained to complement the Dwelling Unit to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States Postal Service, its successors and assigns. Mailboxes shall be of the larger size.

(4) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a Dwelling Unit or accessory structure on such Lot, nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction of the Dwelling Unit or accessory structure in which such materials or devices are to be used.

(5) No exposed above-ground tanks for the storage of fuel or water or any other substance and no tree houses shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the ACC. All such exterior energy-saving devices, machines, equipment and materials shall require the prior approval of the ACC.

(6) Adequate off-street parking shall be provided for each Lot.

(7) Containers for garbage and other refuse shall be underground or in screened sanitary enclosures; no incinerators for garbage, trash or other refuse shall be used, and a garbage disposal is required for each Dwelling Unit.

(8) All garages must have doors, must be capable of accommodating two automobiles, and each garage door must be coordinated with the Dwelling Unit to which it is appurtenant. Each Dwelling Unit shall have an enclosed garage and no carports shall be permitted.

(9) No window air conditioning unit may be located in any part of any Dwelling Unit or accessory structure which is visible from any street, all exterior compressor units shall be groundmounted and all outside air-conditioning units, compressors, meter boxes and similar items shall be screened by fencing or planting of a density and height to hide the unit effectively.

(10) Any screened porch which is a part of any Dwelling



Unit or accessory structure must have screens of a dark color. No screens with a bright colored, silver finish may be used.

(11) No plumbing vent or heating vent shall be placed on the street side of any roof of any Dwelling Unit or accessory structure, and any such vent shall be painted the same color as the roof on which it is placed.

(12) Any construction on a Lot shall be at the risk of the Builder or Owner of such Lot and the Builder or Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.

(13) The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of one-story Dwelling Units shall contain not less than 2,100 square feet. The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of all two-story or split-level Dwelling Units shall contain not less than 2,300 square feet. No Dwelling Unit shall be constructed exceeding three stories in height on any Lot. The ceiling height in all enclosed, heated living areas shall not be less than eight (8) feet.

(14) The ACC shall have the right to approve or disapprove the plans and specifications for the construction, design, location and installation of exterior recreational improvements, including, without limitation, basketball courts, basketball goals or stands, play equipment and tennis courts.

(15) The design, construction, location and installation of all decorative planting islands, vegetable gardens and rock gardens must receive prior approval of the ACC. The design, construction and installation of all sculptures, statuary, planters, birdbaths, birdhouses, fountains and other decorative embellishments which are visible from any street, side yard or back yard must receive prior written approval of the ACC.

(p) Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No more than two (2) domestic pets may be kept on any Lot. No structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said structure have first been approved by the ACC.

(q) Trees and Shrubs. No trees measuring twelve (12) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens on any Lot may be removed without the prior approval of the ACC unless located within ten (10) feet of the approved site for a Dwelling Unit or within the right of way of driveways or walkways. Excepted herefrom shall be damaged trees and trees which must be removed due to an emergency.

(r) Sight Distance at Intersection. No fence, wall, sign, hedge or shrub planted which obstructs sight lines at elevations between two (2) and six (6) feet above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the straight property lines and a line connecting them at points thirty (30) feet from the intersection of the straight line extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a straight property line with the edge of the driveway pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

(s) Occupancy. Before any Dwelling Unit may be occupied as a residence, it must have been completely finished on the exterior, all of the yard must have suitable ground cover, and the driveway shall have been paved.

Section 4. Zoning Regulations. Zoning restrictions applicable to property subject to this Declaration shall be observed. In the event of any conflict between any provision of such zoning restrictions and the restrictions of this Declaration, the more restrictive provision shall apply.

### Article Three

#### ASSOCIATION MEMBERSHIP AND VOTING

Section 1. Membership. Developer and every Owner of a Lot and Dwelling Unit shall be a member of the Association, provided that there shall be no more than one member for any Lot or Dwelling Unit, said membership to be as determined by a vote of the Owners of any jointly owned Lot or Dwelling Unit. Membership shall be automatic and shall be appurtenant to and may not be separated from ownership of any Lot of Dwelling Unit.

Section 2. Voting. The Association shall have two classes of voting membership, Class A and Class B. Class A members shall be all Owners other than the Developer, who shall be the Class B member. Each Class A member shall have one vote. The Class B member shall have the same number of votes as are cumulatively held by all Class A members plus one, provided that Class B membership



shall terminate on the first to occur of either (1) the Developer's voluntary termination of Class B membership, or (2) when the Developer no longer owns any property primarily for sale or development within the Acreage Tract.

Section 3. Bylaws and Articles. All matters concerning meetings of the members of the Association shall be as specified in the Articles or Bylaws of the Association, as amended from time to time, and by law.

#### Article Four

##### MAINTENANCE ASSESSMENTS FOR COMMON PROPERTY (IF ANY)

Section 1. Creation of Lien. Each Owner, by acceptance of a deed conveying ownership of a Lot or a Dwelling Unit, whether or not it shall be so expressed in such deed, is deemed to be subject to the covenants of and agrees to abide by the terms and requirements of this Declaration and assumes the obligation to pay to the Association annual and special assessments as provided for herein. Such annual and special assessments, together with interest thereon and costs of collection therefor, as hereinafter provided, shall be a charge and continuing lien on the Lot or Dwelling Unit against which each assessment is made, and shall also be the personal obligation of the person who is the Owner of such real property at the time when the assessments first become due and payable. If required to employ an attorney to collect any assessments, the Association shall be entitled to recover all costs of collection, including reasonable attorney's fees.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners and residents in PROVIDENCE PLANTATION, and in particular for the acquisition, improvement, repair, replacement, maintenance, use and operation of the Common Property, if any, and to pay for the services which the Association is authorized to provide, including, but not limited to, the payment of taxes and insurance, construction of repairs, replacement and additions to Common Property, if any, payment of the cost of labor, employees, agents, accountants, attorneys, equipment, material, management and supervision necessary to carry out its authorized functions (hereinafter referred to as the "Common Expenses").

Section 3. Annual Assessments. The Board of Directors of the Association shall fix for any calendar year the annual assessment for each Lot or Dwelling Unit at an amount it deems appropriate to fund the budget for the Association. Until January 1, 1992, the maximum annual assessment shall be no greater than TEN AND NO/100ths DOLLARS (\$10.00) per Lot or Dwelling Unit, but the Association, acting through its Board, may establish such assessment at a figure below such maximum amount.

Section 4. Due Date of Annual Assessments. The annual assessment shall be fixed on a calendar year basis, provided, however, that liability for payment of the initial annual assessment shall not commence until the first day of the month following the conveyance of the Common Property to the Association. Once assessments have commenced, each Owner shall make payment in full of the annual assessment attributable to his Lot or Dwelling Unit on a prorated basis on the first day of the month following purchase of the Lot or Dwelling Unit from a Builder. Thereafter, payment of subsequent annual assessments shall be due on the first day of each calendar year or on such other dates as from time to time may be established by the Association. The Association may provide for monthly, quarterly or semi-annual payment due dates for the annual assessment in lieu of an annual payment date, provided the Owners are given thirty (30) days prior notice of any change. Payment of the assessment shall be delinquent thirty (30) days after any due date or billing date. The due date of any special assessment shall be fixed in the resolution authorizing such assessment.

Section 5. Uniform Rate of Assessment and Share of Common Expenses. The amount of any annual or special assessment and share of Common Expenses shall be the same for all Lots and Dwelling Units, excluding Lots or Dwelling Units owned by the Developer which are exempt from assessment as hereinafter provided, and excluding Lots or Dwelling Units owned by Builders which shall be exempt from assessment until conveyed to an Owner and shall be payable by an Owner irrespective of whether or not such Owner actually uses all or any portion of the Common Property, facilities or services covered by any such assessments.

Section 6. Duties of the Board of Directors. The Board of Directors of the Association shall have such powers and duties as are prescribed in the Association's Articles and Bylaws, as amended from time to time, and by law, which shall include the following duties: to fix the amount and due date of all special, annual or other periodically payable assessments; to provide for interest to accrue on all unpaid assessments after the due date thereof at the rate of ten percent (10%) per annum or at such other rate as they deem appropriate; to provide for the charging of a late fee and the payment of costs of collection, including reasonable attorney's fees, incident to the collection of delinquent assessments and the enforcement and foreclosure of the Association's assessment lien and charge as provided for herein; to cause written notice of every assessment to be sent to the Owner subject thereto at least ten (10) days prior to the due date thereof; to cause to be furnished to any person legitimately interested, upon demand at any time, a statement in writing signed by the President, the Treasurer or other appropriate officer of the Association setting forth the amount of any unpaid assessments with respect to any Lot or Dwelling Unit subject to assessment by the Association or stating that all assessments with respect to the Lot or Dwelling Unit which is the subject of the statement have been paid, as the case may be.



Section 7. Subordination of Charges and Liens to Security Deeds. The lien and permanent charge of any assessment (together with any interest accruing thereon, late charges and costs of collection) pertaining to any Lot or Dwelling Unit is and shall be subordinate to the lien of any security deed placed on such Lot or Dwelling Unit by the Owner if, but only if, all such assessments having a due date on or prior to the date such security deed is filed for record have been paid. Such subordination shall not relieve the Owner of the encumbered property of his personal obligation to pay all assessments coming due at a time when he is the Owner; shall not relieve such property from the lien and permanent charge provided for herein; and no sale or transfer of such property to the security deed grantee or to any other person pursuant to foreclosure, or pursuant to any other proceeding in lieu of foreclosure, or pursuant to a sale under power, shall relieve any Owner of any personal obligation, or relieve the Lot or Dwelling Unit or the then and subsequent Owners from liability for any assessment coming due after such sale or transfer. Notwithstanding the foregoing, the Association may at any time, either before or after any security deeds are placed on such property, waive, relinquish or quitclaim, in whole or in part, the right of the Association to collect the assessments with respect to such property coming due during the period while such property is or may be held by a security deed grantee pursuant to such sale or transfer.

Section 8. Remedies of Association Upon Failure to Pay Assessments. If any assessments are not paid within ninety (90) days from the date due, the Association may bring an action at law against the delinquent Owner personally for payment of the assessment, interest and charges due hereunder, or, in the alternative, may file an action to foreclose the lien of the Association against the Lot or Dwelling Unit of such Owner in the same manner in which actions are commenced for the collection and foreclosure of mechanics and materialmen's liens against the owners of property as permitted by the laws of the State of Georgia.

Section 9. Exempt Property. Until conveyed to an Owner other than Developer or a Builder, each Lot or Dwelling Unit shall be exempt from the assessments, charges and liens created herein while owned by Developer or by a Builder. All Common Property, including any Lot or Dwelling Unit which may be designated for use as such by Developer, shall be exempt from the assessments, charges and liens created herein.

#### Article Five

#### RESERVATION AND CREATION OF EASEMENTS

In addition to easements created or reserved by Developer elsewhere in this Declaration, the following easements shall and do exist:

Section 1. Access. Developer reserves for itself and for the Association an easement for access, ingress and egress to and from and over any of the Acreage Tract as shown on any recorded plats of survey of PROVIDENCE PLANTATION to install, service, replace, maintain, repair and improve any Common Property or easements provided for herein or as shown on or established by such plats of survey. Mutual reciprocal easements for access are hereby reserved for the benefit of each Lot or Dwelling Unit across any other Lot or Dwelling Unit as may be necessary for the control, maintenance and repair of any utility, water and sanitary sewer and storm water lines, structures or facilities affecting or crossing any Lot or Dwelling Unit.

Section 2. Utilities and Drainage. Developer reserves for itself, the Association and Fulton County, or such other municipality or political subdivision as may have jurisdiction thereof and for such utility companies as may from time to time serve PROVIDENCE PLANTATION or the Acreage Tract, the right, title and privilege of a general easement, which shall be perpetual, alienable and assignable, to go in and on the Acreage Tract with men and equipment to construct, place, install, maintain and operate in, upon, across and through said premises, in a proper and workmanlike manner, electric, water, gas, telephone, sanitary and storm sewer drainage systems and other conveniences and utilities (such services hereinafter referred to collectively as "utility systems"), including trenching and installation of such conductors, wires, cables, conduits, transformers, concrete pads, pipes, sewers, water mains and other equipment, apparatus, appliances and structures necessary or convenient therefor, and including the right to cut any trees, bushes, shrubs or other vegetation, make any gradings of the soil, or take any other action reasonable and necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Said easement shall include, by way of illustration and not of limitation, an easement over the rear ten (10) feet of each Lot and an easement five (5) feet wide along each side Lot line, and an easement to cut or fill at a 3-in-1 slope along the boundary of all streets and roads in the Acreage Tract. Drainage flow shall not be obstructed or diverted from drainage swales and easements, storm sewers and/or utility easements as designated herein or as otherwise created. The easement hereby reserved shall include the right to enter upon the premises with men and equipment for the purpose of installing, inspecting, maintaining, repairing and replacing the various utility systems, and the right at all times to remove and keep clear any obstructions that may, in any way, adversely affect the proper maintenance and operation of the various utility systems. The easement hereby reserved shall also include the right to construct drainways for surface water whenever such action may appear to Developer to be necessary. These reservations, however, shall not be considered an obligation of Developer to provide or maintain any such utilities or services. The exercise of this easement for the construction and installation of any given utility shall not bar



the exercise of this easement for the construction and installation of other utilities.

Section 3. Common Property (if any). Every Owner shall have a non-exclusive right and easement for the use, benefit and enjoyment of the Common Property, which easement shall be appurtenant to ownership of a Lot or Dwelling Unit. The rights and easements created hereby are subject to the following:

(a) The right of the Association, as provided in its Articles and Bylaws, to suspend the easement rights of any Owner for any period during which any assessment remains unpaid;

(b) The right of the Association to dedicate or transfer all or any part of the Common Property to any public agency, municipality, political subdivision, authority or utility for such purposes and subject to such conditions as may be agreed to by Owners entitled to cast a majority of votes in the Association;

(c) The right of the Association, as provided in its Articles and Bylaws, to publish and enact reasonable rules and regulations governing or limiting use of the Common Property.

#### Article Six

##### AMENDMENTS TO DECLARATION

This Declaration can be amended at any time provided that a majority of the votes cast at a duly called meeting of the Association vote in favor of the proposed amendment. If any proposed amendment to this Declaration is approved by the members as set forth above, the President or Secretary of the Association shall execute an amendment to this Declaration which shall set forth the amendment, the effective date of the amendment (which in no event shall be less than thirty [30] days after the date of recording the amendment), the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes of members of the Association, the total number of votes required to constitute a quorum of a meeting of the Association, the number of votes required to adopt an amendment and the total number of votes cast against the amendment. Such amendment shall be recorded in the official real estate records for Fulton County, Georgia. The Developer may unilaterally amend this Declaration without the consent or approval of the Association, Builders or other Owners for a period of eighteen (18) months from the date of recording of this Declaration so long as such Developer amendment does not materially alter the obligations of Developer, any Builder, Owner or the Association hereunder, or increase the assessment liability of the Owners provided for in this Declaration.

## Article Seven

### GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the Acreage Tract, shall be and remain in effect, and shall inure to the benefit of and be enforceable by Developer, any Builder, the Association or the Owner of any Lot or Dwelling Unit subjected to this Declaration, their respective heirs, legal representatives, successors, successors-in-title and assigns for a period of twenty (20) years from the date this Declaration is recorded. After this twenty (20) year period, these covenants and restrictions shall be extended automatically for successive periods of ten (10) years each unless, prior to the expiration of any ten-year period thereafter, a written agreement is recorded in the real estate records of Fulton County, Georgia, by the terms of which these covenants and restrictions are changed, modified or extinguished in whole or in part, as may be described in such agreement, which agreement shall be executed by the Association after approval of such action by a majority of the votes cast at a duly called meeting of the Association.

Section 2. Notices. Any notice required to be sent to any Owner pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postpaid, regular mail, addressed to the Owner for whom it is intended at his last known place of residence, or to such other address as may be furnished to the Association, and such service shall be deemed sufficient. The date of service shall be the date of mailing.

Section 3. Enforcement. Enforcement of this Declaration shall be by any proceeding by law or in equity against any person violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, damages, or by any appropriate proceeding at law or in equity against the land to enforce any lien created by this Declaration, and failure by the Association or 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 4. Interpretation. In all cases, the covenants and restrictions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Developer or the Association, will best effect the general plan of development and maintenance for PROVIDENCE PLANTATION. The covenants and restrictions shall be liberally interpreted and, if necessary, shall be so extended or enlarged by implication as to make them fully effective.

Section 5. Delegation and Assignability. Developer shall at all times and from time to time have the right to delegate and assign to the Association any and all rights and functions herein



reserved to Developer. At such time as Developer conveys to the Association the Common Property, if any, owned by Developer, all rights and functions reserved to Developer under this Declaration which have not already been delegated and assigned to the Association shall be deemed automatically to have been delegated and assigned to the Association as of the date of such conveyance, so that thereafter the Board of Directors of the Association (or such person or committee to whom the Board may delegate any such right or function) shall have the power and authority to perform or exercise such rights and functions.

Section 6. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

IN WITNESS WHEREOF, Developer has caused this Declaration of Covenants, Conditions, Restrictions and Easements for PROVIDENCE PLANTATION to be executed under seal this \_\_\_\_ day of September, 1988.

GDC DEVELOPMENT CORPORATION f/k/a  
DIMENSION/BROOKS (GEORGIA) CORPORATION

By: [Signature] President  
Attest: [Signature] Asst. Secy.

[CORPORATE SEAL]

Signed, sealed and delivered  
in the presence of:

[Signature]  
Unofficial Witness

[Signature]  
Notary Public

Date of Notary Execution: Sept 14 1988

My Commission Expires: Notary Public, Fulton County, Georgia  
My Commission Expires Nov. 3, 1991

A1244-1.1

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 924, 925 and 949 of the 2nd District, 2nd Section, Fulton County, Georgia, being Unit One, Providence Plantation, as per plat recorded in Plat Book 151, page 85, Fulton County records which plat is incorporated herein and made a part hereof by reference.

LESS AND EXCEPT Lots 51 and 52, Unit One, Providence Plantation, as more particularly described on that certain plat recorded in Plat Book 151, page 85, Fulton County records, which is incorporated herein and made a part hereof by reference.

0901/D2/LD



ACKNOWLEDGMENT AND JOINDER BY BUILDER

The undersigned Builder is the owner of the following Lots located in PROVIDENCE PLANTATION:

by virtue of a conveyance from GDC DEVELOPMENT CORPORATION f/k/a Dimension/Brooks (Georgia) Corporation to \_\_\_\_\_

\_\_\_\_\_  
("Builder"), recorded in Deed Book \_\_\_\_\_, page \_\_\_\_\_, Fulton County, Georgia records. Builder executes this Acknowledgment and Joinder for the purpose of confirming and consenting to the Lots being subject to and bound by the terms of the Declaration of Covenants, Conditions, Restrictions and Easements for PROVIDENCE PLANTATION executed by GDC Development Corporation as Developer.

IN WITNESS WHEREOF, the Builder has caused the Acknowledgment and Joinder to be executed by its duly authorized officer or representative under seal for the purposes described herein as of this \_\_\_\_\_ day of September, 1988.

By: \_\_\_\_\_

Its: \_\_\_\_\_

[CORPORATE SEAL]

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]

ACKNOWLEDGMENT AND CONSENT BY LENDER

The undersigned Lender is the owner and holder of a Deed to Secure Debt (hereinafter referred to as the "Security Deed") made, executed and delivered by Dimension/Brooks (Georgia) Corporation [n/k/a GDC Development Corporation], as Grantor, to Georgia Federal Bank, FSB, as Grantee, dated January 15, 1986, recorded in Deed Book 9922, page 263, Fulton County, Georgia records. Lender executes this consent and approval for the limited purpose of approving the execution and recording of the Declaration of Covenants, Conditions, Restrictions and Easements for PROVIDENCE PLANTATION to which this Acknowledgment is attached, but the lien, encumbrance and effect of the Security Deed shall not be and is not hereby made subject and subordinate to the Declaration.

IN WITNESS WHEREOF, Georgia Federal Bank, FSB, has caused this consent to be executed and its seal affixed hereunto by its duly authorized officer for the purposes described hereinabove as of this \_\_\_\_\_ day of September, 1988.

GEORGIA FEDERAL BANK, FSB

By: \_\_\_\_\_

Its: \_\_\_\_\_

[BANK SEAL]

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

[NOTARIAL SEAL]

A1244-3.1