

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR GREENMONT

February 3, 1987

The official copy of this document is recorded in Georgia, Fulton
County, Clerk's Office Superior Court, Book 10603, page 297.

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR GREENMONT

THIS DECLARATION, made on the date hereinafter set forth by Benchmark Investment Companies, a Georgia Corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Land Lot 1274 of the 2nd District, 2nd Section, County of Fulton, State of Georgia, which is more particularly described in Exhibit "A" attached hereto and made a part hereof.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Greenmont Owners Association, Inc. a Georgia non-profit corporation, created to administer the properties and to serve and perform whatever functions may be deemed necessary in that regard for the common good and general welfare of the residents of Greenmont, together with any successors or assigns who may be charged with those duties and responsibilities.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Benchmark Investment Companies, its successors and assigns, if such successors or assigns shall acquire for the purpose of development and sale all or some portion of the undeveloped Properties from Benchmark Investment Companies, provided any such successor-in-title is expressly assigned all of Declarant's rights, privileges and options herein reserved to Declarant. Such an assignment may be included as a recital in a deed executed by Declarant which conveys any portion of the Properties or the Additional Property.

Section 7. "Additional Property" shall mean the additional property which may be added to the Properties and made subject to these covenants pursuant to Article VI, Section 4(b) hereof. A description of the Additional Property is set forth on Exhibit "B" attached hereto and made a part hereof.

ARTICLE II

PROPERTY RIGHTS

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

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

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

(c) easements over the Properties for the installation and maintenance of electric, telephone, cable television, water, gas, drainage, and sanitary sewer lines and facilities and the like are hereby reserved by Declarant, together with the right to grant and transfer the same during such time that Declarant is the Owner of any portion or portions of the properties.

(d) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. NO such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

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

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section I. Members. Every owner of a lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

Class A. Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1992

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section I. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each lot owned within the

Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, 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 assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

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

Section 3. Maximum Annual Assessments. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred dollars (\$100.00) per lot.

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

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 5%, by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

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

Section 5. Notice and Quorum for An Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members 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 of each class of membership 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.

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

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area by Declarant to the Associations. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

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

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

ARTICLE V ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Nothing in this article shall be construed to permit any review of the architectural design and/or building decisions made by the Declarant with respect to any Lot before its initial sale.

ARTICLE VI GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 anyone of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions hereof 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, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any such amendment shall become effective upon recordation.

Section 4. Annexation. (a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class members. (b) Additional land within the area described in Exhibit "B" attached hereto and made a part hereof may be annexed by the Declarant without the consent of members within four (4) years of the date of this instrument provided that FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them. Any structure erected on any portion of the Additional Property which may be added and made subject to this Declaration shall be substantially identical to and compatible with the structures on the Property in terms of quality of construction, principal materials to be used architectural style, and aesthetic qualities, as may be determined by Declarant in its sole judgment.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

ARTICLE VII

USE RESTRICTIONS

The following shall be restrictions on the use of the Properties and Recreational Properties which shall run with and bind the land, to-wit:

(A) No business activities shall be conducted on any portion of the Properties or any facility located thereon; provided, however, the foregoing restriction shall not apply to the business activities signs and billboards of the Declarant, its agents or assigns during the sale period. Notwithstanding, a Lot Owner may use a portion of his Lot to "do work at home", but may not run, operate, maintain, or control his business from his Lot.

(B) No noxious or offensive activity shall be carried on upon the Properties or any facility located thereon, nor shall anything be done thereupon which may become a nuisance to the neighbors, nor shall anything be done thereupon which could result in the cancellation of insurance on any portion of the Common Property or the amenities and facilities thereon.

(C) No boats, boat trailers, trucks of a capacity of one ton or more or unlicensed vehicles may be parked in streets, driveways or front yards for more than twenty-four hours.

(D) No temporary building, trailer, garage or building in the course of construction shall be used, temporarily or permanently, as a residence on any Lot.

(E) No sign of any kind other than those of the Declarant, a builder or their designated agent, shall be displayed to the public view on any lot except that one sign of not more than two (2) square feet advertising that Lot for sale or rent will be permitted.

(F) No trees, except during initial construction, shall be removed from any Lot. The Board of Directors in its discretion, may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wild life upon the Properties and Common Properties.

(G) Fences shall not be permitted to be erected forward of the rear foundation wall of the house. The planting of trees, shrubs, or any other type of plantings that would afford privacy may be used in lieu of constructing additional fencing, provided, however, that they are maintained in accordance with the provisions set forth elsewhere in this Declaration.

(H) No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that a reasonable number of dogs, cats or other household pets may be kept provided they are kept in accordance with the duly adopted Rules and Regulations of the Association; and provided further, they are not kept, bred or maintained for any commercial purpose.

(I) No lumber, materials, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on any Lot except building materials during the course of construction, maintenance, or repair by the Declarant of any approved structure. Trash, garbage or other waste shall not be kept except in sanitary containers and such shall not be permitted to remain in public view except on days of trash collection. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. If a central trash collection area is designated by the Association, then these areas will be under the control of the Association and all members will abide by the current regulations regarding the use of these trash enclosures.

(J) No water pipe, gas pipe, sewer pipe or drainage pipe shall be installed or maintained on any Lot above the surface of the ground. Easements have been reserved for sewers, drainage and utility installations and maintenance for such purposes and uses as are shown on the recorded plat for the Properties. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE VIII

EXTERIOR MAINTENANCE

In the event an owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. Any such action by the Association or its agents shall not be deemed a trespass but shall be fully authorized hereby.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein,
has hereunto set its hand and seal this 3rd day
of February, 1987.

BENCHMARK INVESTMENT COMPANIES