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AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF OAK GROVE ASSEMBLY HOMEOWNER'S ASSOCIATION

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (this "Declaration") is made and entered into this 11 day of May, 2007 by New Oak Grove Realty Partners, LLC, a Georgia limited liability company ("Declarant"). This Declaration amends, restates and supersedes the Prior Declaration (hereinafter defined) in its entirety and will serve as the Master Declaration.

WHEREAS the Founder and Titleholders (hereinafter referred to as the "Original Declarant") previously executed that certain Declaration of Covenants, Conditions and Restrictions, dated May 6, 2003, recorded in the Superior Court of Athens-Clarke County, Georgia Book 2403, page 397 *et seq.* (the "Prior Declaration");

WHEREAS on November 17, 2005, the Original Declarant assigned all of its rights and obligations under the Prior Declaration to the Declarant;

WHEREAS the Prior Declaration currently encumbers all that tract and parcel of land situate, lying and being in the 1347th District, G.M.D. of Athens-Clarke county, Georgia, on the southerly side of U.S. Highway 129 designated as Phase 1-A on that certain plat entitled "Survey for: Oak Grove, Phase 1-A" dated October 30, 2002 prepared by Paul & Evans Land Surveying, Inc., Gregory J. Evans, Registered Land Surveyor No. 2541, and recorded in Plat Book 31, page 71 in the Office of the Clerk of Superior Court of Athens-Clarke County and encumbers the land submitted pursuant to that certain Declaration of Annexation pursuant to the terms and conditions of the Original Declaration §1-102, dated May 5, 2004, recorded in the Superior Court of Athens-Clarke County, Georgia, Book 2647 pages 141-143 submitting Phase 1B and Lot 11, Block E to the Declaration and that certain Declaration of Annexation pursuant to the terms and conditions of the Original Declaration §1-102, dated January 19, 2005, recorded in the Superior Court of Athens-Clarke County, Georgia, Book 2804 pages 97-99 submitting Phase 2 and 2A; Blocks E,F & G to the Declaration (collectively, the "Property");

WHEREAS Declarant desires to amend and restate the Prior Declaration in its entirety to serve as the Master Declaration as herein defined;



WHEREAS in accordance with Article IX, Section 9-107 of the Prior Declaration, Declarant has the right to Amend the Declaration for a period of five (5) years from the date on which this Declaration is recorded in the Public Records;

WHEREAS the Declaration was recorded on May 6, 2003 and therefore Declarant has the right to amend the Declaration;

WHEREAS the Declarant owns additional real property described on Exhibit "A" attached hereto and incorporated herein which may also include property previously submitted to the Original Declaration (hereinafter called the "Additional Property");

WHEREAS the Declarant intends to develop the Additional Property and may include townhouse dwellings, condominium units, commercial facilities and other uses. Declarant may establish separate ownership associations for the different uses with separate covenants, conditions and restrictions as well as easements (hereinafter called the "Project"). To benefit all the owners of the Property in the neighborhood and maintain the integrity of the neighborhood, Declarant wishes to establish general restrictions applicable to all Owners. Declarant may impose additional restrictions on the various phases and uses as well;

WHEREAS the Original Declarant formed the Oak Grove Assembly Homeowner's Association, Inc. (hereinafter called the "Master Association"), which Master Association has joined in this Declaration and to which there has been and will be delegated and assigned certain powers and duties of operation, administration, maintenance and repair of the Property as a whole, and the collection and disbursement of the Operating Expenses (as those terms are hereinafter defined) all as more particularly set forth herein; and

NOW, THEREFORE, Declarant hereby declares that the Property, Additional Property and any Additional Property as may be added and subject to this Declarations and any fee simple, leasehold or other interest therein is and shall be owned, held, transferred, sold, conveyed, mortgaged, hypothecated, encumbered, leased, subleased, rented, used, occupied, developed, improved, and maintained subject to the terms, provisions, covenants, conditions, restrictions, reservations, easements, equitable servitudes, charges and liens (the "Restrictions") set forth in this Declaration. Said Restrictions are for the purpose of protecting the value and desirability of and which shall run with the real property submitted to this Declaration and which shall be binding on all parties having any right, title or interest in the Property and any portion of the Additional Property made subject hereto, their heirs, successors, successors in title, and assigns, and shall inure to the benefit of each owner thereof.



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ARTICLE 1 – DEFINITIONS

The terms in this Declaration and the attached exhibits shall generally be given their natural, commonly accepted definitions except as otherwise specified. The following terms when used in this Declaration, or an amendment or supplement hereto, unless otherwise specified herein or therein, shall have the following meanings:

Section 1.1. Additional Property: all that property described in Exhibit "A" attached hereto and any property as may be adjacent to or contiguous with the property which is subject to this Declaration and which may be added to the Oak Grove Neighborhood in accordance with the terms of this Declaration.

Section 1.2. Alley: any passageway for purpose of service access, ingress and egress to the Residential Units.

Section 1.3. Applicable Law: all local, state and federal ordinances, laws and regulations that apply to the particular subject matter.

Section 1.4. Approval: the affirmative vote, written consent, or any combination thereof, of persons entitled to cast the specified number or percentage of eligible votes, or of a specified person or entity.

Section 1.5. Architectural Control Committee: the committee appointed by the Master Board to oversee the development and enforcement of the architectural guidelines and to perform other functions described in the Declaration.

Section 1.6. Articles: the Articles of Incorporation of Oak Grove Assembly Homeowner's Association, Inc., filed with the Secretary of State for the State of Georgia, as they may be amended.

Section 1.7. Board of Directors or Board or Master Board: Shall mean and refer to the elected body of the Association having its normal meaning under the Georgia Non-Profit Corporation Act and Law.

Section 1.8. Bylaws: Shall mean and refer to those By-Laws of the Association which govern the administration and operation of the Association, as the same may be amended from time to time.

Section 1.9. Common Area or Common Areas: Shall mean or refer to all real and personal property now and hereafter owned or otherwise holds possessory or use rights in, deeded to or acquired by, in fee, from time to time by the Master Association for the common use and enjoyment of the Owners and the Occupants. The Common Area shall include, but not be limited to, the Roadways, streets, entrance ways, recreational areas, parks, fields, trails, cart paths, street lighting and signage located on property owned by the Association or made available for



the exclusive use and enjoyment of the Owners and that property identified and designated as Common Area on any recorded Plat or Plats of the Property or any part of it.

Section 1.10. Common Expenses: Shall mean and refer to the actual and estimated expenses of operating the Association and the Community, including any reasonable reserve, all as may be imposed hereunder and found to be necessary and appropriate by the Board, in its discretion, pursuant to this Declaration, the By-Laws and the Articles of Incorporation.

Section 1.11. Community: Shall mean and refer to that certain real property described in Exhibit "A" attached hereto and such additions thereto as may be made by Declarant by any Supplemental Declaration or amendment hereto which annexes to this Declaration all or any portion of the Additional Property.

Section 1.12. Community-Wide Standard: Shall mean the standard of conduct, maintenance or other activity generally prevailing in the Community as determined by the Declarant for so long as the Development Period continues and thereafter as determined by the Board.

Section 1.13. Cost Sharing Agreement: Any agreement, contract or covenant between the Association and an owner of other property adjacent to, in the vicinity of or within the Community for the allocation of expenses for amenities and/or services that benefit both the Association and the owner or operator of such property.

Section 1.14. County: Athens-Clarke County, Georgia.

Section 1.15. Days: Calendar days; provided, however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

Section 1.16. Declarant: New Oak Grove Realty Partners, LLC, a Georgia limited liability company, the owner of the Properties submitted hereto, together with any successor in title who comes to stand in the relation to the community as his predecessor. Notwithstanding the foregoing, the phrase "Owner" as referred to in this definition shall not include in its capacity as such any Mortgagee except for such Mortgagee who acquires said Declarant's entire interest with respect to the Properties and the Additional Property at the time of such acquisition pursuant to Foreclosure of a Mortgage encumbering said Declarant's interest in the Properties and the Additional Property and who then expressly assumes the position of Declarant.

Section 1.17. Declaration or Master Declaration: This Amended and Restated Declaration of Covenants Conditions and Restrictions as it may be amended and or supplemented from time to time as herein provided.

Section 1.18. Design Guidelines: The architectural and construction guidelines and application and review procedures applicable to all or any portion of the Community promulgated and administered pursuant to this Declaration.

Section 1.19. Design Review Board: Shall mean and refer to that certain Board/Committee as empowered in accordance with this Declaration.

Section 1.20. Development Period: The period of time during which the Declarant owns any property which is subject to this Declaration or has the unilateral right to subject Additional Property to this Declaration. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument in the Public Records.

Section 1.21. Good Standing: an Owner is considered in Good Standing when any and all assessments due and payable have been paid in full for a period of at least twelve (12) months or, if the Owner has been an Owner for less than twelve (12) months, the period of ownership.

Section 1.22. Governing Documents: the Declaration, the Articles of Incorporation, the Bylaws, the Design Guidelines, the Oak Grove Rules, all cost sharing agreements, the subdivision plats, any applicable Declaration of Annexation, and all additional covenants governing any portion of the Properties or any of the above, as each may be amended from time to time.

Section 1.23. Improvements: any grading or other site work on Lots, including but not limited to planting or removal of plants, trees and other landscaping materials; any structure or thing attached to, placed, constructed or installed on any Lot (other than inside enclosed structures), and any modifications to existing Improvements.

Section 1.24. Institutional Lender: a financial services institution regularly engaged in financing the purchase, construction, or improvement of real estate, or any guarantor, insurer, or assignee of loans made by such a lender, who has notified the Association of its mortgage interests in Oak Grove.

Section 1.25. Landscape Design Standards: The landscape guidelines, application and review procedures applicable to all or any portion of the Community promulgated and administered pursuant to this Declaration.

Section 1.26. Lot: Shall mean and refer to a platted portion of the Properties other than the Common Area, intended for independent use or ownership. Lots shall be shown on the plats of survey filed with this Declaration in the Public Records of the County, or amendments thereto, or may be further described in any amendment to this Declaration or Supplemental Declaration which may be made applicable to all or any portion of the Properties. The term "Lot" shall include within its meaning, but shall not be limited to, a numbered parcel identified on a plat of the Properties

recorded in the Public Records which is intended for independent ownership and shall, for all purposes, include the Residential Unit as may be located thereon..

Section 1.27. Majority: Those votes, Owners, members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

Section 1.28. Maintenance Areas: those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenant, contract or agreement. (See Section 10.6)

Section 1.29. Manager: A person or entity selected by the Board to handle day-to-day activities necessary for the continuation of the Community affairs.

Section 1.30. Member: Shall mean and refer to a person or entity entitled to membership in the Association as provided herein.

Section 1.31. Master Association: Oak Grove Assembly Homeowner's Association Inc., a Georgia nonprofit corporation, its successors or assigns, established to govern the ownership and maintenance of Oak Grove and the enforcement of the provisions of this Master Declaration.

Section 1.32. Neighborhood Plan: The Zoning ordinance for the Planned Development designation for Oak Grove enacted by the Unified Government of Athens-Clarke County, Georgia, as it maybe amended, which provides for the planned development known as Oak Grove and sets forth a plan for the development of Oak Grove.

Section 1.33. Oak Grove: the Real Property described in the recitals above and such additional Real Property as is made a part of Oak Grove by filing of an Additional or Supplemental Declaration in accordance with this Declaration.

Section 1.34. Oak Grove Assembly Homeowner's Association, Inc.: the non-profit, non-stock Georgia corporation in which each Owner has a membership interest whose duties include those routinely carried out by a Homeowner's Association in Georgia.

Section 1.35. Oak Grove Guild: those persons identified from time to time by the Declarant who are engaged in the business of constructing homes for resale and who apply and are admitted to the Oak Grove Guild by the Declarant, making them eligible to purchase property and build homes in Oak Grove for resale as long as they remain participants in good standing in the Oak Grove Guild.

Section 1.36. Oak Grove Rules: the body of rules regulating use, conduct, occupancy, and other matters within Oak Grove as they may be modified, repealed and supplemented by the Board of Directors of the Association pursuant to this Declaration and By-Laws.



Section 1.37. Occupant: a person who resides in the Residential Unit: said person need not be an Owner.

Section 1.38. Owner: the record owner, whether one or more persons or entities, of fee simple title to any Lot, Parcel or other portion of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.39. Parcel: Shall mean and refer to designated subdivisions of Property subject to this Declaration and comprised of one or more Lots. In the absence of a specific designation of separate Parcel status, all property within a Phase shall be considered as part of the same Parcel; provided, however, the Declarant may designate so long as the Declarant owns a Lot by certification recorded in the Public Records that such Property shall constitute a separate Parcel or Parcels and provided, further, a Parcel may include more than one Phase if so designated by Declarant. A Parcel may be smaller or larger or coterminous with any and all Phases. So long as it has the right to subject Additional Property to this Declaration, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to re-designate Parcel boundaries.

Section 1.40. Parcel Assessments: Shall mean and refer to Assessments for Common Expenses provided for herein or by any Supplemental Declaration or amendments hereto or thereto which are used for the purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners within a specific Parcel, including but not limited to, the maintenance of Property within a given Parcel.

Section 1.41. Parcel Association: A condominium, townhome, property or other owners' association, if any, having jurisdiction over any Parcel or Neighborhood concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Parcel Associations.

Section 1.42. Phase: Shall mean and refer to the increments of Property subjected to this Declaration and subsequent Phases described in any amendments or Supplemental Declarations annexing all or any portion of the Properties hereto, each such described Property being a separate Phase.

Section 1.43. Properties: Shall mean and refer to the real property described on Exhibit "B" attached hereto including the Common Area and shall further refer to such Additional Property or part thereof when and if such is annexed by amendment or Supplemental Declaration to this Declaration.

Section 1.44. Public Records: the Clerk of Superior Court of Athens-Clarke County, Georgia, or such other place as may be designated by Applicable Law as the official place for filing of legal instruments related to Real Property.



Section 1.45. Real Property: land and any improvements thereon.

Section 1.46. Residential Unit: Shall mean and refer to any portion of the Properties intended for use and occupancy as a residence or accommodation by a single household and shall, unless otherwise specified, include within its meaning by way of illustration and not limitation, single-family detached homes. For purpose of this Declaration, a Residential Unit shall come into existence when substantially complete.

Section 1.47. Roadway: any paved surface within the Community intended for vehicular traffic including all roads and streets so long as they are located inside the Community. Roadways shall not include Alleys.

Section 1.48. Subdivision Plats: Shall mean and refer to the Plats recorded by Declarant in the Public Records which depict the Lot within the Community or any Phase of the Properties.

Section 1.49. Supplemental Declaration: Shall mean and refer to a Declaration of Covenants, Conditions and Restrictions which, from and after date of recording of this Declaration, may be executed by Declarant or approved, in writing, by Declarant which, by its terms, provides for restrictions on the use of Property or respective Phase or Parcel in a specified manner, as set forth therein, and filed with the Clerk of the Superior court in Athens-Clarke County. By way of example and not limitation, a Supplemental Declaration may establish such additional covenants, restrictions and easements and complimentary provisions applicable to that Real Property as the Declarant deems appropriate.

ARTICLE 2 – PROPERTY

Section 2.1 Additional Property. Declarant reserves the option, right and privilege (but not the obligation), to be exercised in its sole discretion, without the consent of any Owner or Owners, to submit to and bring within the coverage of this Declaration and the jurisdiction of the Master Association any Additional Property. Such additions shall be made by filing a Supplemental Declaration in the Public Records. Each such Supplemental Declaration shall extend the scope of this Declaration and the jurisdiction of the Master Association to include such Additional Property and thereby subject such Additional Property to assessment for their just share of the Master Association's expenses. Such Supplemental Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character of the additional property and as such are not inconsistent with the provisions of this Declaration. Nothing contained herein, however, shall be construed to obligate Declarant to bring any Additional Property within the coverage of this Declaration.

Section 2.2. Additional Declarations. In addition to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration, Declarant reserves the right, at its election without the consent of any Owner or Owners, to

subject any Phase, section or portion of the Property owned by Declarant to additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens, by recording an additional declaration (hereinafter "Additional Declaration") in the Public Records covering only such Phase, section or portion of the Property. Such an Additional Declaration may or may not provide for the establishment of an Association to govern the ownership and/or maintenance of the Property affected by and the enforcement of the provisions of such Additional Declaration. Whether or not an Association is formed pursuant to such Additional Declaration, the Master Association shall have the right and authority to enforce all controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens imposed by such Additional Declaration and any amendments thereto, whether or not such right and authority is expressly provided for in such Additional Declaration. Nothing herein shall obligate the Master Association to create Additional Declarations.

Section 2.3. Merger or Consolidation. Upon any merger or consolidation of an Association with another Association, the properties, rights and obligations of the Association may be transferred to another surviving or consolidated Association or, alternatively, the properties, rights and obligations of another Association may be added to the property, rights and obligations of such Association as the surviving corporation pursuant to a merger. The surviving or consolidated Association shall be considered an Association and shall administer the terms and provisions of this Declaration (to the extent they relate to the Phase(s) or section(s) of the Property over which such Association has jurisdiction) and the applicable Additional Declarations affecting the portions of the Property in the jurisdiction of such Association, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall effectuate a revocation, change or addition to the terms and provisions of this Declaration or any Additional Declaration pertaining to the Property or any portion thereof except as specifically provided in this Declaration.

Section 2.4. Changes to this Declaration or Additional or Supplementary Declarations Requiring Declarant's Consent. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, Declarant may unilaterally modify, change and or amend the Declaration, and the prior written consent of Declarant shall be required for any parties that wish to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplementary Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

Section 2.5. Subdivision Plat.

(a) Declarant reserves the right to record, modify, amend, revoke, revise and add to, at any time and from time to time, Subdivision Plat(s) setting forth such information as Declarant may deem necessary with regard to the Properties, including, without limitation, the locations and dimensions of the Lots, Common Area, Additional Property, roads, utility systems, drainage systems, utility easements, drainage easements, access easements, and set-back line restrictions.

(b) Until the time a Lot within a respective Parcel or Phase is transferred by the Declarant to another (other than an affiliate of Declarant, or a holder of a First Mortgage), no Owner of any Lot or Residential Unit shall have any rights whatsoever to the continuation of any covenants, or

restrictions on such Parcel or Phase as contained herein or as may be imposed, expressly or impliedly, by recordation of any Subdivision Plat or as might otherwise be implied or expressed. In furtherance thereof, until the time a Lot within a respective Parcel or Phase is transferred by the Declarant as aforementioned, the Declarant may revoke or cancel any Subdivision Plat or other instrument which might be deemed, either expressly or impliedly, to impose any covenants, conditions, or restrictions or may take whatever steps it deems necessary or desirable to avoid the implication of such existing.

Section 2.6. Property Rights. Each Lot shall, for all purposes, constitute real property which may be owned in fee simple and which, subject to this Declaration or any Supplemental Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner shall be entitled to the exclusive ownership and possession of his Lot, subject to this Declaration,. If any chutes, flues, ducts, conduits, wires, pipes, plumbing, or any other apparatus or facilities for the furnishing of utilities or other services to a Lot is conveyed therewith and lies partially within and partially outside of the designated boundaries of the Lot in question, any portions thereof which serve only such Lot shall be deemed to be a part of such Lot and any portions thereof which serve more than one Lot or any portion of the Common Area, shall be deemed to be part of the Common Area. The ownership of each Lot shall include, and there shall pass with the title to each such Lot as an appurtenance thereto, whether or not separately described, all rights of a Member in the Association and all of the right and interest of use in and to the Common Area as set forth herein.

ARTICLE 3 – MEMBERSHIP AND VOTING RIGHTS IN THE MASTER ASSOCIATION

Section 3.1. Membership in the Master Association.

(a) Subject to this Declaration, every person who is the record owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall have a membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of any such Lot, and such ownership of a Lot which is subject to this Declaration shall be the sole qualification for such membership. In the event that fee title to such a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee, notwithstanding any failure of the transferor to endorse to his transferee any certificates or other evidences of such membership. The foregoing is not intended to include persons who had an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership.

(b) Every Association is automatically a Master Association Member. Additionally, for so long as Declarant owns any part of the Property, Declarant shall be a Master Association Member. In addition, with respect to Lots not subject to the jurisdiction of an Association, all Owners of such Lots shall be Master Association Members. The Master Bylaws shall control with respect to the determination of the proper exercise of voting rights with respect to portions of the Property owned by two (2) or more undivided interests.

Section 3.2. Multiple Owners. No Owner, whether one or more persons, shall have more than

one (1) membership per Lot owned; provided, however, multiple use rights for multiple Owners shall exist subject to the right of the Board to regulate and limit use by multiple Owners. Each Owner, by acceptance of a deed or other conveyance for a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the submission from time to time of the Additional Property or any portion or portions thereof to the terms of this Declaration as provided herein.

Section 3.3. Classes of Voting Master Association Members. The Master Association shall have two (2) classes of voting membership, "Class I" and "Class II":

Class I. Class I Master Association Members shall be all Master Association Members with the exception of Declarant. Class I Master Association Members shall be entitled to one (1) vote for each Residential Unit located on the Lot owned by such Master Association Member, or, in the case of an Association Member, one (1) vote for each Residential Unit located on the Phase, section or portion of the Property within the jurisdiction of such Association Member.

Class II. The Class II Master Association Member shall be the Declarant. The Class II Master Association Member shall be entitled to ten (10) votes for each Residential Unit located on the property in the Project owned by Declarant. Notwithstanding anything contained herein to the contrary, the Class II Master Association Membership shall cease and be converted to a Class I Master Association Membership on the earliest to occur of:

- (a) the date on which Declarant no longer owns any part of the Property;
- (b) the date Declarant shall elect, in its sole discretion, that its Class II membership cease and be converted to Class I membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Master Board); or
- (c) December 31, 2017.

The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class I Master Association Member.

Section 3.4. Appointment of Board. Until termination of the Class "II" vote, the Class "II" Member shall appoint all members of the Board of Directors, the number of which shall be determined in the sole discretion of the Class "II" Member. Upon the Turnover Date, the Board of Directors shall consist of seven (7) members, each of whom shall be an Owner within the Community. Unless otherwise provided therein, the following provisions of this section shall not apply in respect to directors appointed by the Class "II" Member.

Section 3.5. Exercise of Voting Rights. In any situation where a Member is entitled to exercise a vote for a Lot and there is more than one (1) Owner of the Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and notify the secretary of the Association in writing prior to the vote being taken. Absent notice to the secretary, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. If an Owner of any is not in



Good Standing with the Association, said Owner's voting rights are suspended until such time as the Owner is deemed in Good Standing in the sole opinion of the Board.

Section 3.6. Declarant Control. Notwithstanding any other provision to the contrary within this Declaration, the Articles of Incorporation or the By-Laws for the Association, Declarant hereby retains the authority and right to appoint and remove any member or members of the Board of Directors of the Association and any officer or officers of the Association until such time as the Class II membership terminates. Every grantee of any interest in the Properties, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this section. Upon the Turnover Date, such right to appoint Board members and officers shall pass to the Members, including Declarant, if Declarant then owns one or more Lots, and a special meeting of the Association shall be called within one hundred twenty (120) days thereafter. At such special meeting, the Members shall elect a new Board which shall undertake the responsibilities of the Board, and Declarant shall deliver all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts, executed by or on behalf of the Association during such period in which Declarant has in its possession.

Section 3.7. Voting, Quorum and Notice Requirement for the Master Association. The notice requirement for all actions to be taken by the Master Association Members at meetings of the Master Association shall be as set forth in the Master Bylaws. Except as may be otherwise provided in this Declaration or in the Master Bylaws, the presence in person or by proxy of more than one third ($1/3^{\text{rd}}$) of the total votes existing in the Master Association shall constitute a quorum at all meetings of the Master Association. In the event a quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half ($1/2$) of the quorum required at the first meeting. In the event a quorum is not present at the first subsequent meeting, another meeting may be called, subject to the same notice requirement, and the required quorum at such second subsequent meeting shall be one-fifth ($1/5$) of the quorum required at the original meeting.

Section 3.8. Membership in an Association. Wherever an Association shall have been established with respect to any Phase or section of the Property in connection with an Additional Declaration, each and every Owner of a Lot, Parcel or Residential Unit within such Phase or section of the Property shall automatically become and be a Member of such Association.

Section 3.9. Classes of Members: Voting Quorum and Notice Requirements. The designation of classes of Members of an Association and provisions regarding voting, quorum and notice requirements and other applicable terms relating to membership in an Association shall be included in the Additional Declaration for the portion of the Property over which such Association has jurisdiction and/or in the Articles of Incorporation and/ or Bylaws of such particular Association.

ARTICLE 4 – MASTER ASSOCIATION ASSESSMENTS

Section 4.1. Creation of Obligation for Assessments.

(a) Each Owner of any Lot or Parcel other than Declarant, by acceptance of a deed or other

conveyance document creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree to pay to the Master Association:

- (i) Annual Assessments or charges (including Master Annual Assessments), such assessments to be fixed, established and collected from time to time as herein provided;
- (ii) Special Assessments for capital improvements and other purposes, such assessments to be fixed, established and collected from time to time as herein provided; and
- (iii) Special Individual Assessments levied against individual Owners, as may be fixed, established and collected from time to time as herein provided.

(b) There are hereby created Master Annual Assessments for Common Expenses as may from time to time be authorized by the Board of Directors. Master Annual Assessments shall be levied against such respective Lot and shall be used to pay expenses determined by the Board to be for the benefit of the Association, its Members, and the Properties as a whole, including, but not limited to, maintenance and insurance of the Common Area, and expenses otherwise incurred by the Association in accordance with its rights, powers, and privileges for the purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of the Properties, and maintaining the Properties and improvements therein. The Annual Assessment levied against and payable by a Lot shall be equal to the Master Annual Assessment which is levied against and payable by each such other Lot.

(c) Common Expenses" may include, but shall not be necessarily be limited to, the following:

- (i) any management fees and expenses of administration, including management, legal and accounting fees;
- (ii) utility charges for any utilities serving the Common Areas and charges for other common services;
- (iii) the cost of any master or blanket policies of insurance purchased for the benefit of all Owners and the Association as required by this Declaration, and such other insurance coverage as the Board of Directors determines to be in the best interest of the Association and the Owners;
- (iv) the expense of maintenance, operation and repair of the Common Areas as well as any maintenance upon the Lots which is the responsibility of the Association hereunder;
- (v) charges for trash collection and any utilities provided to the Lots and not separately metered;
- (vi) such other charges as may be determined from time to time by the Board of Directors of the Association to be Common Expenses, including, without limitation, taxes and governmental charges such as sanitary taxes not separately assessed against each Lot, other than ad valorem real property taxes assessed against such Lot; and
- (vii) the establishment and maintenance of a reasonable reserve fund or funds for maintenance, repair and replacement of those Common Areas that must be replaced on a periodic basis and of a reserve to cover operating contingencies or deficiencies arising from unpaid assessments or liens, emergency expenditures and other matters, as may be authorized from time to time by the Board of Directors.

(d) The assessments described in (a)(1), (a) (2) and (a) (3) of this Section (the "Assessments"), together with simple interest at the rate of eighteen percent (18%) per annum thereon or the

highest rate permitted by law, whichever is less, late charges, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each Lot, regardless of conveyance thereof, against which each such Assessment is made and shall also be the personal obligation of the Owner, at the time when the Assessment fell due.

(e) The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien for assessments shall be required; provided, however, the Association may record a memorandum of lien in the Public Records to evidence its claim of lien.

(f) The Association's lien shall be prior and superior to all other liens except the lien for ad valorem taxes on the Lot, the lien of any First Mortgage covering the Lot, the lien of any Mortgage recorded prior to the recording of the Declaration and the lien of any secondary purchase money Mortgage covering the Lot, provided neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot.

(g) If an Owner of any is not in Good Standing with the Association, said Owner's voting rights and rights of use and enjoyment of the Common Areas are suspended until such time as the Owner is deemed in Good Standing in the sole opinion of the Board.

(h) Notwithstanding anything to the contrary contained in the foregoing or elsewhere in this Declaration, Declarant shall be exempt from all Assessments relating to any Lot or Parcel owned by Declarant.

Section 4.2. Purpose of Master Association Assessments. The assessments levied by the Master Association shall be used for the purposes of the carrying out of the rights and powers of the Master Association pursuant to the terms and provisions hereof and promoting the enjoyment and welfare of the Project.

Section 4.3. Payment of Master Annual Assessments; Due Dates. Each Owner of a Lot shall pay to the Master Association the annual assessments levied by the Master Association as set forth by the Master Association. If an Owner of any is not in Good Standing with the Association, said Owner's voting rights and rights of use and enjoyment of the Common Areas are suspended until such time as the Owner is deemed in Good Standing in the sole opinion of the Board.

Section 4.4. Amount of Master Annual Assessments.

(a) The Board shall annually prepare a budget (the "Annual Budget") covering the estimated costs of operating the Master Association during the coming year including without limitation the Common Expenses and reserves. In determining the total funds to be generated through the levy of Annual Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years, any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year, and any income expected to be generated from any Cost Sharing Agreements.

(b) The Master Annual Assessment to be levied on any Lot or Parcel for a fiscal year shall be levied based upon the number of Residential Units on such Lot or Parcel. All Residential Units shall be assessed at uniform rates. The Master Annual Assessment to be levied against each Residential Unit for a calendar year shall be in an amount as set by the Master Board in its sole discretion.

(c) It shall be the duty of the Master Board at least forty-five (45) days prior to the commencement of a fiscal year to prepare a budget covering the estimated costs of operating the Association and the Properties during the coming year. The Board shall cause a copy of the budget and the Master Association Assessments to be levied therefrom to be (i) available to all Members at a central location on the Properties or (ii) to be mailed to each Member, at least thirty (30) days prior to the date at which such budget will become effective. The budget and assessment established therefrom shall become and be effective unless objected to in a written statement of disapproval executed by at least a majority of the total Association eligible vote and delivered to the Board or Manager no later than seven (7) days prior to the effective date of the proposed budget.

(d) Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget and assessments to be levied or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein or by the procedure herein described repeated as need be, the budget and assessments in effect for the current year shall continue for the succeeding year. Despite anything else contained herein, the amount of the budgeted assessment in any particular year may be increased by the Board of Directors of the Association in a succeeding year without membership consideration or without being subject to membership disapproval so long as the proposed assessment, in total, does not exceed the current "Computed Assessment." The current "Computed Assessment" amount shall be determined as follows: Take the difference between the consumer price index, as established by the Consumer Price Index for Urban Wage Earners and Clerical Workers, Atlanta, Georgia, all Items, ("Index"), for June of the year under consideration and the consumer price index as established by the Index for June of the year in which this Declaration is recorded and divide such difference by the consumer price index as established by the Index for June of the year in which this Declaration is recorded. Thereafter, the resulting quotient is to be multiplied by one hundred. This resulting quotient expressed as a percentage, multiplied by the assessment existing in June of the year in which this Declaration is recorded is the amount by which the assessment in existence may be increased without membership consideration or availability for disapproval, such increased amount being the Computed Assessment.

Section 4.5. Special Assessments. In addition to the Annual Assessments described above, the Master Board, without a vote of the Master Association Members, may levy in any assessment year or years a special assessment or assessments ("Special Assessments") for the purpose of defraying, in whole or in part, any costs incurred by the Master Association which are not paid for out of funds on hand in the Master Association or out of the Annual Assessments collected by the Master Association. (Such costs may include, but shall not be limited to, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon or within the Common Area or Maintenance Areas, including fixtures and personal property related thereto, and the Roadways serving the Community.) Special Assessments shall be allocated equally

among all Lots. Notwithstanding the above, all fees and costs incurred by the Master Association in exploring or waging a complaint or suit against Declarant must be paid for out of a Special Assessment and, for this purpose only, such a Special Assessment must be approved by a vote of the Master Association Members entitled to cast no less than two-thirds (2/3) of all votes entitled to be cast by the Master Association Members. The due date of any Special Assessment levied pursuant to this Section shall be fixed in the Master Board resolution authorizing such Special Assessment. Upon the establishment of a Special Assessment, the Master Board shall send written notice of the amount and due date of such Special Assessment to each Owner, at least thirty (30) days prior to the date such Special Assessment is due.

Section 4.6. Special Individual Assessments. The Master Board may levy Special Assessments against individual Owners ("Special Individual Assessments")

(a) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas and Maintenance Areas, including the Roadways, occasioned by the act(s) of Owner(s) or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests and not the result of ordinary wear and tear or

(b) for payment of fines, penalties or other charges imposed against an individual or separate Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated hereunder, including, without limitation, penalties assessed by the Architectural Control Committee pursuant to the Architectural and Landscape Design Standards, reimbursement to the Architectural Control Committee for any amounts it expends on an Owner's behalf pursuant to the Architectural and Landscape Design Standards, and reimbursement to the Master Association for all expenses incurred in connection with the enforcement of the provisions of the declaration.

Section 4.7. Omission of Master Association. The omission of the Board, before the expiration of any year, to fix the Annual Assessments hereunder for that or the next year, shall not be deemed to waive or modify in any respect any of the provisions of this Declaration, or to release any Owner from the obligation to pay the assessment due from such Owner for that or any subsequent year, and the Annual Assessments fixed for the preceding year shall continue until new Annual Assessments are fixed.

Section 4.8. Collection Agent. At the option of the Master Board, a representative of the Master Association, or any third party agent of the Master Board, as designated by the Master Board, may act as collection agent for any and all Assessments (whether Master Annual Assessments, Special Assessments or Special Individual Assessments) imposed by the Master Association against the Owners.

Section 4.9. Owner's Personal Obligation for Payment of Assessments.

(a) The Assessments provided for herein shall be the personal and individual debt of the Owner(s) (as of the due date of the applicable Assessment payment) to which such Assessments relate. The Owner(s) and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, any First



Section 4.12. Certificate Regarding Assessments. The Master Association, or any third party agent of the Master Board, shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Master Association, or signed by an authorized representative of such third party agent, setting forth whether the assessments on a specified Lot or Parcel have been paid. A properly executed certificate of the Master Association or such third party agent as to the status of assessments on a Lot or Parcel is binding upon the Master Association as of the date of its issuance.

ARTICLE 5 – THE MASTER BOARD

Section 5.1. Members of the Master Board. So long as Declarant owns any portion of the Property, the members of the Master Board shall be appointed by Declarant. The number of members of the Master Board shall be as set forth in the Master Bylaws. So long as Declarant owns any portion of the Property, Declarant may remove directors with or without cause and appoint new directors to replace those removed, in Declarant's sole discretion. At such time as Declarant owns no portion of the Property, then the members of the Master Board shall thereafter be elected by a vote of the Master Association Members in accordance with the Master Bylaws. Notwithstanding the foregoing, Declarant may choose, in its sole discretion, to relinquish its right to appoint, remove and replace the members of the Board prior to the time that it owns no portion of the Property, whereupon the Master Association Members shall thereafter elect the members of the Master in accordance with the Bylaws.

Section 5.2. Duties of the Master Board. The Board, for the mutual benefit of the Master Association Members and the Owners, shall have the following specific duties:

- (a) To maintain or cause to be maintained the Common Areas and Maintenance Areas, including, but not limited to, planting, mowing, pruning, fertilizing, preservation and replacement of the landscaping and the upkeep and maintenance of sidewalks, pathways, trails and other improvements in the Common Areas and Maintenance Areas, and the upkeep and maintenance of associated improvements, including irrigation systems.
- (b) To own and maintain or cause to be maintained the Roadways;
- (c) To maintain or cause to be maintained swales and medians of the Roadways;
- (d) To maintain or cause to be maintained any sidewalks, pathways and trails in the Project;
- (e) To make available to each Master Association Member, upon written request by such Master Association Member, within ninety (90) days after the end of each year, an annual report of the Master Association and, upon resolution adopted by the Master Board or upon the written request of the Master Association Members holding at least three-fourths (3/4th) of the eligible votes of the Master Association at such time, to have such report audited (at the expense of the Master Association) by an independent certified public accountant, which audited report shall be made available to each Master Association Member, upon written request by such Master Association Member, within thirty (30) days after completion;
- (f) To pay for the cost of electricity for the street lights and irrigation to be located in the Project and the electricity serving any of the Common Areas and Maintenance Areas;



- (g) To cause to be kept a complete record of all its acts and corporate affairs;
- (h) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (i) As more fully provided in this Declaration:
 - (i) To fix the amount of the Annual Assessments;
 - (ii) To send written notice of the Annual Assessments to each Owner;
- (j) To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. (A reasonable charge may be made by the Master Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);
- (k) To procure and maintain adequate liability insurance covering the Master Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Master Association;
- (l) Subject to Declarant's right to appoint the Architectural Control Committee, to appoint the Architectural Control Committee; and
- (m) To approve the rubbish removal service companies to be used and paid for by the Owners of the Lots and Parcels in the Property;

Section 5.3. Powers of the Master Board. The Master Board, for the mutual benefit of the Master Association Members and the Owners, shall have the following specific powers and rights (without limitation of other powers and rights such Master Board may have):

- (a) To enter into agreements with the appropriate governmental authorities to enable the Master Association to improve and maintain the Common Areas and Maintenance Areas or portions thereof;
- (b) To make reasonable rules and regulations for the use and operation of the Common Areas and Maintenance Areas, and to amend them from time to time;
- (c) To enter into agreements or contracts with insurance companies with respect to insurance coverage relating to the Common Areas and Maintenance Areas and/or the Master Association;
- (d) To enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Areas, Maintenance Areas and/or the Master Association;
- (e) Subject to the affirmative vote of no less than a majority of all votes present, in person or by proxy, at a duly held meeting of the Master Association Members at which a quorum is present, all in accordance with the Master Bylaws, to borrow funds to pay costs of operation of the Master Association, which borrowings may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Master Association assets, if the Master Association Members see fit; provided, however, until such time as Declarant no longer owns any portion of



the Property, the Master Board may not mortgage any portion of the Common Area without the prior written approval of Declarant;

(f) To enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Master Association.

(g) To sue or defend in any court of law in behalf of the Master Association;

(h) To levy assessments in accordance with the provisions of this Declaration;

(i) To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property of the Master Association and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;

(j) To exercise for the Master Association all powers, duties and authority vested in or delegated by this Declaration, the Master Bylaws, or the Master Articles to the Master Association and not reserved to the Master Association Members or Declarant by other provisions of this Declaration, the Master Bylaws or the Master Articles;

(k) To declare the office of a member of the Master Board to be vacant in the event such member shall be absent, without the consent of the Master Board, from three (3) consecutive regular meetings of the Master Board;

(l) To employ a manager or firm to manage the affairs and property of the Master Association, to employ independent contractors or such other employees as the Master Board may deem necessary, and to prescribe their duties and to set their compensation;

(m) To enter into agreements or contracts with builders regarding the construction of Improvements on Lots located in the Community.

(n) To retain the services of legal and accounting firms;

(o) As more fully provided in this Declaration, to foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(p) To cause all officers or employees having fiscal responsibilities to be bonded, as the Master Board may deem appropriate; and

(q) To the extent permitted hereby, to enforce the provisions of this Declaration and any Additional or Supplementary Declaration and any rules made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions or rules pursuant to the provisions of this Declaration;

(r) To contract with any third party or any Master Association Member (including, without limitation, Declarant) for performance, on behalf of the Master Association, of services which the Master Association is otherwise required to perform pursuant to the terms hereof, upon such

terms and conditions and for such consideration as the Master Board may deem proper, advisable and in the best interests of the Master Association;

(s) To employ or retain the services of professional architects or other persons to serve on or advise the Architectural Control Committee and/or the Architectural Changes Committee;

(t) To grant all necessary easements and rights-of-way over and across the Common Areas when in its sole discretion it deems such an action to be necessary and appropriate, including, but not limited to, easements for the installation and maintenance of electrical, telephone, cablevision, water, sewerage and other utilities and drainage facilities, provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not grant such an easement or right-of-way without the prior written approval of Declarant;

(u) To convey fee simple title to all or any part of the Common Area when in its sole discretion it deems such an action to be necessary and appropriate; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not convey any portion of the Common Area without the prior written approval of Declarant;

(v) To contract with any third party, including any other property owners association, for the sharing of costs of maintaining Maintenance Areas;

(w) To take any and all other actions, and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its obligations hereunder or for the operational protection of the Master Association;

(x) To suspend an Owner's right to vote pursuant to this Declaration;

(y) To suspend any person's right to use any recreational facilities within the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot; and

(z) The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or estop the Association from enforcing any other covenant, restriction or rule.

Notwithstanding anything contained herein to the contrary, none of the above-described rights and powers of the Master Board shall be obligatory on the part of the Master Board, and the failure or refusal by the Master Board to implement any such rights and powers shall not constitute a breach or default by the Master Board of any duties or obligations arising hereunder or otherwise owing to the Master Association Members.

Section 5.4. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege.

Section 5.5. Indemnification. Neither Declarant, nor any Master Association Member, nor the Master Board, nor the Master Association, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Master Association or for a tort of another Master Association Member, whether or not such other Master Association Member was acting on behalf of the Master Association or otherwise. Neither Declarant, nor the Master Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Master Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Master Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Master Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Master Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

Section 5.6. Reserve Funds. The Master Board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and not net income to the Master Association. The aggregate deposits in such reserve funds shall not exceed an amount as may be reasonably determined by the Master Board to be necessary.

Section 5.7. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide any security system or measure, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

Section 5.8. Power to Assess. The Association shall have the right and power, as more particularly set forth in this Declaration, to fix, levy, collect, and enforce payment by any lawful means, all charges and assessments pursuant to the terms of this Declaration, to pay all expenses in connection therewith, and all office and other expenses incident to the conduct and affairs of the business of the Association.

Section 5.9. Board Right to Act. To the extent not otherwise required by the provisions of the Official Code of Georgia relating to Non-Profit Corporations, this Declaration, the By-Laws, or

the Articles of Incorporation, the powers granted to the Association by this Declaration or the Articles of Incorporation or By-Laws of the Association shall be exercised by the Board of Directors, acting through the Officers of the Association, without any further consent or action on the part of the Members.

ARTICLE 6 – PROPERTY RIGHTS IN THE COMMON AREA

Section 6.1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area subject to any restrictions, limitations, or provisions contained in this Declaration. Such right and easement may be exercised by the Owner and the members of their respective family and their respective tenants, licensees and invitees, subject to such reasonable regulations and procedures as may be adopted by the Board. An Owner may assign to any tenant thereof all rights of access to and use of the Common Area so that such tenant, and its respective licensees and invitees shall be entitled to access to and use and enjoyment of the Common Area on the same basis as the assignor and his family and guests. Notwithstanding the foregoing, if an Owner of any is not in Good Standing with the Association, said Owner's rights of use and enjoyment of the Common Areas are suspended until such time as the Owner is deemed in Good Standing in the sole opinion of the Board. The aforementioned right and easement of enjoyment shall be appurtenant to and shall pass with the title to every Lot subject to the following easements, reservations, rights and provisions, which are expressly reserved hereby:

- (a) the right of the Association to suspend an Owner's voting rights, if any, and right to use the facilities as may be located on the Common Area for any period during which:
 - (i) any Association assessment against said Owner's property remains unpaid and
 - (ii) for any infraction of the Rules and Regulations for the duration of the infraction and for an additional period thereafter not to exceed thirty (30) days;
- (b) the right of the Association to borrow money:
 - (i) for the purpose of improving the Common Area, or any portion thereof,
 - (ii) for acquiring additional Common Area,
 - (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Area, or
 - (iv) for providing the services authorized herein, and, subject to the provisions herein, to give as security for the payment of any such loan a Mortgage; provided, however, that the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, licenses, easements and privileges herein reserved or established for the benefit of Declarant, any Owner or the holder of any Mortgage, irrespective of when such Mortgage was executed or given. Notwithstanding the above, or any other provision of this Declaration to the contrary, during the Development Period, the Association shall not, without the consent of Declarant, borrow money or pledge, mortgage or hypothecate all or any portion of the Common Area;
- (c) the right of the Association to grant and accept easements as provided herein and to dedicate or transfer fee simple title to all or any portion of the Common Area to the County or to any other public agency or authority, public service district, public or private utility, or



other Person provided that any such transfer of the fee simple title must be approved by a Majority of those present in person or by proxy at a duly held meeting of the Association and by Declarant, during the Development Period; provided nothing herein shall require the County or any public agency or authority of the County to accept any such conveyance until the standards of such proposed grantee have been met and satisfied;

(d) the right of the Declarant or the Association, with the approval of Declarant, to dedicate, transfer, or grant permits, licenses, or easements in and to the Common Area for utilities, roads, and other purposes reasonably necessary or useful for the proper development, maintenance, or operation of the Properties, the Additional Property, and the Association;

Section 6.2 Owners' Easements for Ingress and Egress. Every Lot or portion of the Property shall be conveyed with (and each Owner is hereby conveyed) a perpetual, non-exclusive right to use any Roadway which may be constructed by Declarant and conveyed to the Master Association as part of the Common Area for the purpose of providing access to and from each Lot or other portion of the Property.

Section 6.3. Title to the Common Area.

(a) Declarant shall dedicate and convey (by deed without warranty) the fee simple title to the Common Area to the Master Association, free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default, restrictive covenants and utility easements, and any other encumbrances and mineral interests outstanding and of record. The conveyance of any portion of the Common Area shall occur on the date that a Plat or Plats is recorded showing such portion of the Common Area. Common Area may be conveyed by Declarant to the Master Association in whole or in part from time to time.

(b) Nothing contained herein shall prevent Declarant, by Additional Declaration or otherwise, to dedicate and convey to the Association certain common areas to be owned by, operated, separately maintained and improved, by that Association, and to be subject to easements of use and enjoyment restricted solely to the Members of that Association.

Section 6.4. Control of Common Areas. The Master Board shall have sole and exclusive control and authority over the usage of and guidelines with respect to the Common Areas. Provided, however, the Master Board, in its sole discretion, may by resolution or guideline permit an Association, the property under the jurisdiction of which shall include or be adjacent to a Common Area, to either (a) maintain or improve, in whole or in part, the Common Area or (b) promulgate regulations with respect to its Members' usage of the Common Area. Provided, however, any such authority delegated by the Master Association may be revoked, rescinded, or otherwise terminated at any time by the Master Association.

Section 6.5. No Partition. Except as is permitted in this Declaration, there shall be no partition of the Common Area or any part thereof, nor shall any person acquiring any interest in any of the Properties or any part thereof seek any such partition, judicial or otherwise, unless the affected area has been removed from the provisions of this Declaration. This section shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not



be subject to this Declaration.

Section 6.6. Interest Subject to Plan of Community. Every Owner of a Lot shall take title to such Lot and every Mortgagee and lienholder holding an interest therein shall take title or hold such security interest with respect thereto subject to this Declaration, as may be amended. Any provision of this Declaration to the contrary notwithstanding, the provisions set forth in this Declaration may not be abrogated, modified, rescinded, supplemented, or amended in whole or in part without the prior written consent of Declarant.

ARTICLE 7 – INSURANCE, REPAIR AND RESTORATION: CONDEMNATION

Section 7.1. Type and Kind. The Master Board shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) **Fire.** All improvements and all fixtures and personal property included in the Common Areas and Maintenance Areas and all personal property and supplies belonging to the Association shall be insured in an amount equal to the current replacement cost. Such coverage shall provide protection against loss or damage by fire or other hazards covered by a standard extended coverage endorsement, windstorm and water damage, vandalism and malicious damage and all perils covered by a standard "all risk" endorsement. In addition to the provisions and endorsements set forth in this Section the fire and casualty insurance described herein shall contain the following provisions:

(i) standard "Agreed Amount" and "Inflation Guard" endorsements; (ii) construction code endorsements if the Common Area becomes subject to a construction code provision which would require changes to undamaged portions of any building thereby imposing significant costs in the event of partial destruction of such building by an insured peril;

(ii) a waiver of subrogation by the insurer as to any claims against the Master Association, any officer, director, agent or employee of the Master Association, the Owners and their employees, agents, tenants and invitees; and

(iii) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Master Association or by any failure of the Master Association to comply with any warranty or condition regarding any portion of the Property over which the Master Association has no control.

The fire and casualty insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Master Association, the Owners or Mortgagees; (2) loss payments are contingent upon action by the carrier's directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

(b) **Public Liability.** The Master Board shall also be required to obtain and maintain, to the extent obtainable, public liability insurance and officer's and director's liability insurance in such limits as the Master Board may, from time to time, determine to be customary for projects similar in construction, location and use as the Project, covering each member of the Master

Board, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas and Maintenance Areas, or from service on the Master Board. The public liability policy shall have at least a One Million (\$1,000,000.00) Dollar each occurrence limit (combined single limit (C.S.L.) for bodily injury and property damage), Two Million (\$2,000,000.00) Dollar general aggregate, C.S.L., and Two Million (\$2,000,000.00) Dollar products/completed operations aggregate, C.S.L.

(c) **Fidelity Coverage.** The Master Board shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors (including without limitation any third party agent hired by the Master Board to perform duties of the Master Board) responsible for handling funds belonging to or administered by the Master Association. The fidelity insurance policy shall be written in an amount sufficient to provide protection which is in no event less than one and one-half (1 ½) times the Master Association's estimated annual operating expenses and reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) **Other.** Such other insurance coverages, including flood insurance and worker's compensation, as the Master Board shall determine from time to time desirable.

Section 7.2. Premium Expense. Premiums upon insurance policies purchased by the Master Board shall be paid by the Master Board and charged as a Common Expense.

Section 7.3. Special Endorsements. The Master Board shall make diligent efforts to secure insurance policies that will provide for the following:

- (a) recognition of any insurance trust agreement entered into by the Master Association;
- (b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Master Board without prior demand in writing that the Master Board cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, any Owner or any Mortgagee.

Section 7.4. General Guidelines.

(a) All insurance policies purchased by the Master Board shall be with a company or companies licensed to do business in the State of Georgia holding a rating of A-X1 or better in the Financial Category as established by A.M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating. All policies on the Common Area shall be for the benefit of the Association and the Owners and their Mortgagees, as their interests may appear.

(b) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

- (i) a waiver of subrogation by the insurer as to any claims against the Association's

Board of Directors, its Manager, the Owners and their respective tenants, servants, agents, and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, invalidated, or suspended on account of any one or more individual owners;

(iv) that no policy may be canceled, invalidated or suspended on account of any defect or of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or Mortgagee; and

(v) a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association and to any Mortgagee to which a Mortgagee endorsement has been issued.

(vi) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration.

(vii) all liability insurance policies shall contain cross-liability endorsements to cover liability of the Association to an individual Owner and shall also name the Declarant as an additional insured.

Section 7.5. Disbursement of Insurance Proceeds. Subject to any limitations imposed by any applicable financing documents, the Master Association shall use the net proceeds of casualty insurance covered by it to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Master Association remaining after satisfactory completion of repair and replacement shall be retained by the Master Association as part of the general reserve fund for repair and replacement of the Common Area and/or Maintenance Areas. Exclusive authority to adjust losses under policies in force on any portion of the Properties, including the Common Area, obtained by the Association shall be vested in the Association's Board of Directors; provided, however, that no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

Section 7.6. Insufficient Proceeds. If the insurance proceeds received by the Master Association are insufficient to reimburse, to repair and/or replace any damage or destruction to person or property, the Master Board shall, without the necessity of a vote of the Association's members, levy Specific Assessment against all Owners ultimately responsible for the payment of the policy premium in the same proportion as an Owner's assessment bears to the Association's budget. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

Section 7.7. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means

repairing or restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless at least seventy-five percent (75%) of the total vote of the Association and the Declarant shall decide within sixty (60) days after the casualty not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within said period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the Properties shall be restored to its natural state and maintained as an undeveloped portion of the Properties by its respective Owner or Owners in a neat and attractive condition.

Section 7.8. Owner's Personal Property. It shall be the responsibility of each Owner, at his own expense, to provide public liability, property damage, title, and other insurance with respect to his own Lot. The Association's Board of Directors may require all Owners to carry public liability and property damage insurance with respect to their respective Lots and to furnish copies of certificates thereof to the Association. The Master Association, the Associations or Declarant shall not be liable in any manner for the safekeeping or condition of any personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at the Common Areas. Further, the Master Association, the Associations or Declarant shall not be responsible or liable for any damage or loss to any personal property of any Owner, his family, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase of, at such Owner's sole cost and expense, any liability or other insurance for damage to or loss of such property.

Section 7.9. No Obligation to Insure Owners' Property. By virtue of taking title to a Lot within the Community, each Owner acknowledges that neither the Master Association nor Declarant has any obligation to provide any insurance for any portion of such Lot or any Residential Unit or other property located thereon. Further, Owner covenants and agrees with all other Owners and with the Association to carry "all risk" casualty insurance in the event the Association does not carry blanket all-risk casualty insurance on improvements on Lots. Each Owner, if any, further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of any structure located on a Lot, he or she shall proceed promptly to repair or reconstruct the damaged structure in a manner consistent with the aesthetic appearance and quality of the original construction and the community standards. In the event that any Residential Unit structure is totally destroyed or rendered uninhabitable or unusable and the Owner or owner thereof determines not to rebuild or reconstruct, then that Owner or owner shall clear that Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction. The obligation of an Owner hereunder specified shall not

be applicable to any Owner whose Lot is insured under a casualty insurance policy obtained by an association of owners on his behalf. In the event that any Residential Unit structure is totally destroyed or rendered uninhabitable or unusable and the Owner thereof determines to rebuild or reconstruct, then such Owner shall repair or rebuild such Lot to substantially the same condition as existed prior to such fire or other casualty and in accordance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building, and other governmental regulations. All such work of repair and construction, as identified herein, shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion within a reasonable time.

Section 7.10. Condemnation. Whenever all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for and on account of such taking shall be paid to the Master Association. The Master Association, acting through the Master Board, shall have the right to negotiate and litigate the issues with respect to the taking and compensation affecting the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, Parcel, or other portion of the Property, hereby appoints the Master Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. All compensation and damages paid to the Master Association on account of such a taking shall be used to restore the Common Area, provided such restoration is possible, with the excess, if any, to be retained by the Master Association and applied to future operating expenses by the Master Board, in its sole discretion. Nothing herein is to prevent Owners whose Lots or other property are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, Parcels or other property, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Common Area, Lots, Parcels or other property without such allocation, the award shall be divided between affected Owners and the Master Board, as their interests may appear, by the Master Board in its sole discretion.

ARTICLE 8 – USE RESTRICTIONS

Section 8.1. Residential Purposes Only.

(a) Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant shall have the right to use the Lots designated from time to time by Declarant for the purpose of construction and operation of construction offices and sales/marketing offices (and for related uses). No trade, business or business activity of any kind shall be conducted upon a Lot or any part thereof except by Declarant as described hereinabove or except with the written approval of the Master Board. Provided, however, the Master Board may permit a business or business activity to be conducted on a Lot so long as: (i) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (ii) the activity conforms to all zoning requirements for the Properties; (iii) the activity does not involve door-to-door solicitation of residents of the Properties; (iv) the activity does not increase traffic or include frequent deliveries within the Properties; and (v) the activity is



consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

(b) Subject to the rights of Declarant set out herein, no other business, trade, or similar activity shall be conducted upon a Lot without the prior written consent of the Board. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether:

- (i) such activity is engaged in full or part-time,
- (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

(c) Except those to be utilized by Declarant as described hereinabove, no structure shall be erected, placed, altered, used or permitted to remain on any Lot other than one (1) attached or detached single-family private Residential Unit and one (1) private garage for not less than two (2) vehicles, and only such accessory structures as are approved in advance in writing by the Architectural Control Committee pursuant to the Architectural and Landscape Guidelines. No Lot and no Improvements may be used for hotel or other transient residential purposes.

(d) The leasing of a Lot shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Properties or its use of any Lots which it owns within the Properties, including the operation of a timeshare or similar program. Each lease relating to any Lot or any Improvements thereon (or any part of either thereof) must be for a term of at least six (6) months, must be in writing, and must provide that the tenant is obligated to observe and perform all of the terms and provisions hereof applicable to such Lot and/or Improvements.

(e) No garage sale, moving sale, rummage sale, or similar activity shall be conducted upon a Lot without the prior written consent of the Board.

Section 8.2. HVAC Equipment. No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any Residential Unit on a Lot. Additionally, air conditioning and heating equipment and apparatus on each Lot shall be screened from view from Roadways.

Section 8.3. Fences and Walls. Fences and walls shall be subject to applicable requirements and limitations in the Architectural and Landscape Design Standards.

Section 8.4. Mailboxes. Declarant shall provide to each Lot Owner a standard mailbox for such Owner's use on such Owner's Lot. No other mailbox or newspaper box shall be erected or maintained on any Lot. All mailboxes shall be placed in the Alley.

Section 8.5. Animals. No animals, livestock or poultry shall be raised, bred or kept on any Lot, within any Residential Unit or on any portion of the Property except that dogs, cats or other household pets may be kept by the respective Owner(s) on their respective Lots and within their

respective Residential Unit, but not for any commercial purposes, provided that they do not create a nuisance (in the judgment of the Master Board) such as, but without limitation, by noise, odor, damage or destruction of property or refuse and do not endanger the health of or unreasonably disturb the Owner of any Lot within the Community. In the event a pet or pets become a nuisance in the opinion of the Declarant or the Board, they shall be removed from the Properties. The number of household pets kept or maintained outside the Residential Unit on a Lot shall not exceed three (3) in number, except for newborn offspring of such household pets which are all under nine (9) months in age. Dogs shall at all times, whenever they are inside or outside of a Residential Unit, be on a leash or otherwise confined in a manner acceptable to the Master Board. Animal control authorities shall be permitted to enter the Project, Property or Lot to patrol and remove pets and wild animals. All pets shall be registered, licensed and inoculated as required by law. No fenced dog enclosure or other structure for pets may be constructed or maintained on any Lot unless the same has been approved in writing by the Architectural Control Committee. All animals, as are permitted herein, shall be kept and maintained in accordance with the Rules and Regulations established by the Board.

Section 8.6. Waste.

(a) No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. During construction of Improvements on a Lot, all rubbish and debris shall be stored and disposed of in accordance with the rules and regulations established by the Architectural Control Committee.

(b) All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances on wetlands or marsh areas or in any drainage ditch or stream within the Properties, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff. No lumber, metals, bulk materials, refuse, trash or other similar materials shall be kept, stored, or allowed to accumulate outside the buildings on any Lot, except as may be permitted during any period of construction of improvements to a Lot.

(c) Each Owner shall maintain its Lot in a neat and orderly condition throughout construction of a residential dwelling or accessory structure and not allow trash and debris from its activities to be carried by the wind or otherwise scattered within the Properties. Storage of construction materials on the Lot shall be subject to such conditions, rules, and regulations as may be set forth in the Design Guidelines. Each owner shall keep roadways, easements, swales, and other portions of the properties clear of silt, construction materials and trash from its activities at all times. Trash and debris during construction shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Lots and shall not be buried or covered on the Lot. All Lots on which construction is in progress must be inspected by the Owners or their builders prior to each weekend, and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed. In addition, Owners shall remove trash and debris from the Lot upon reasonable notice by Declarant in preparation for special events.

Section 8.7. No Temporary Structures; Structure Materials. Subject to the Declarant's rights

reserved herein, and other than for temporary facilities as might be installed by Declarant or the Association for purposes of administration of the Properties, no residence, building or structure of a temporary nature, including without limitation a construction trailer, basement, tent, shack, garage, barn, or other outbuilding shall be erected, maintained, used or allowed to remain on any Lot at any time as a residence or for any other purpose, either temporarily or permanently. Further, no metal, fiberglass, plastic or canvas tent, barn, carport, garage, utility building, storage building or other metal, fiberglass, plastic or canvas structure shall be erected on any Lot or attached to any residence. However, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used for storage, or for construction or sales offices.

Section 8.8. Utilities. All utilities and utility connections shall be located underground including but not limited to electrical and telephone cables and wires. Transformers, electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Lots or, if approved by the Architectural Control Committee in writing, located elsewhere on the Lot provided they are adequately screened as required by the Architectural Control Committee in accordance with the provisions of this Declaration.

Section 8.9. Clotheslines, Garbage Cans, Woodpiles, etc. All garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, Residential Units, streets, Common Area, and Additional Property. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. Subject to Declarant's reserved rights, no Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage, or other rubbish shall not be kept on any Lot, except in sanitary containers constructed of metal, plastic, or masonry materials with sanitary covers or lids. All such sanitary containers shall be kept in a clean and sanitary condition. No Lot shall be used for the open storage of any materials whatsoever, which storage is visible from the street, except that new building materials used in the construction of improvements erected upon any Lot may be placed upon such Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure of the Lot. Exterior clotheslines are expressly prohibited on any Lot.

Section 8.10. Sediment Control.

(a) Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, in accordance with all applicable local, state, and federal regulations and to the extent deemed reasonably necessary by Declarant or the Architectural Control Committee, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

(b) Catch basins and drainage areas are for the purpose of natural flow of water only. No improvements, obstructions or debris shall be placed in these areas. No Owner or occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm

sewers, or storm drains.

(c) Each Owner shall be responsible for maintaining all drainage areas located on its Lot, and for controlling the natural and man-made water flow from its Lot. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Properties with excessive water flow from its Lot. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Lots. Neither the Association nor the Declarant bears any responsibility for remedial actions to any Lot.

(d) No Person shall alter the grading of any Lot without prior approval of the Architectural Control Committee. The Declarant hereby reserves for itself and the Association a perpetual easement cross the Properties for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent.

Section 8.11. Combination or Subdivision of Lots. Should the Owner of a Lot own an adjacent Lot (s) and desire that two (2) or more such Lots be considered as one Lot, then such Lots shall be considered as one Lot for the purposes of this Article upon the recordation in the Public Records of an instrument by such Owner expressing such intent (such instrument to refer specifically to this section in this Declaration and to identify the Lots to be considered as one Lot for purposes of this Article and a copy of such recorded instrument shall be promptly delivered by such Owner to the Architectural Control Committee); and in each such case, building envelopes, setback lines, and easements reserved in this Master Declaration shall be adjusted accordingly by the Architectural Control Committee. No Lot shall be subdivided by sale, lease or otherwise without the prior written consent of Declarant. However, Declarant reserves the right to change the size, boundaries or dimensions of any Lot owned by Declarant for any reason. Notwithstanding anything to the contrary contained herein, if two (2) or more such Lots shall be considered as one Lot pursuant to this Section, the Master Association (or its designated third party agent, if applicable) may charge Assessments to the Owner based upon the original number of Lots prior to their combination.

Section 8.12. Power Equipment. The use of motorized lawn mowers, lawn tractors, grass trimmers, garden tillers, chain saws and other motorized (including, but not limited to, electric and gasoline-powered engines) lawn and garden maintenance equipment shall be prohibited before 8:00 a.m. and after 8:00 p.m.

Section 8.13. Hoses, Pipes and Cables. Except for the temporary use of hoses and the like which are reasonably necessary in connection with normal lawn care, no hose, water pipe, sewerpipe, gas pipe, drainage pipe, television cable or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground, unless such installation is expressly approved by the Architectural Control Committee.

Section 8.14. Recreational and Other Equipment. No recreational equipment (including, but not limited to, basketball backboards and hoops, trampolines, swing sets, tree houses, children's climbing or play apparatus and other equipment associated with either adult or juvenile leisure or

recreation) shall be attached to the exterior of any Residential Unit or otherwise placed or kept on any Lot, except in accordance with the requirements as set forth in the Architectural and Landscape Guidelines.

Section 8.15. Lawn Furniture and Statues. No lawn furniture or decorative items, such as statuettes or renderings of animate or inanimate objects, shall be maintained in the front or side yards of any Lot unless shielded from view by landscaping, a fence or a wall approved in advance in writing by the Architectural Control Committee.

Section 8.16. Window Coverings. Bedding materials, plastic sheets, towels or other similar non-standard window treatments shall not be hung or placed in or on any window on any Residential Unit located on any Lot, except on a short-term, temporary basis.

Section 8.17. Restricted Activities in Common Areas. No cutting of vegetation, dumping, digging, tilling, destruction or other waste shall be committed on the Common Areas or Maintenance Areas. There shall be no obstruction of the Common Area or Maintenance Areas, nor shall anything be kept or stored in the Common Areas or Maintenance Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas or Maintenance Areas, without the prior written consent of the Master Association. Each Owner or Occupant shall be liable to the Master Association and/or Declarant for any damage to any Common Area and/or Maintenance Area caused by the negligence or willful misconduct of the Owner or Occupant or his family, tenants, guests, agents, employees, or invitees.

Section 8.18. Signs. No sign of any kind shall be displayed on any Lot or Parcel except for signs provided by Declarant or approved in writing by the Architectural Control Committee.

Section 8.19. Nuisances. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No noxious or offensive activity shall be carried on within any Lot or Parcel, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property within the Community. There shall not be maintained on any Lot or Parcel any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. The Properties shall not be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the Design Review Board, shall be located, installed or maintained upon the exterior of any Lot unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically. The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.



Section 8.20. Unsightly or Unkempt Conditions. 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 on any Lot or Parcel, other than in enclosed garages.

Section 8.21. Rules of the Master Board. All Owners and Occupants of any Lot, Parcel or other portion of the Property shall abide by all rules and regulations adopted by the Master Board from time to time. The Master Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner or Occupant determined by judicial action to have violated said rules and regulations shall be liable to the Master Association and/or Declarant for all damages and costs, including attorneys' fees.

Section 8.22. Vehicles and Parking. All vehicles shall be subject to such reasonable rules and regulation as the Board of Directors may adopt.

(a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any Roadway within the Property.

(b) Recreational vehicles belonging to Owners or occupants of the Lots shall be parked only in enclosed garages, in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee, or other hardsurfaced areas which are not visible from the street. "Visibility" shall be determined by the Design Review Board in its sole discretion. Guests of an Owner or occupant may park a motor or mobile home on the driveway serving the Owner's or occupant's Lot for a period not to exceed seven (7) Days each calendar year. The term "recreational vehicles", as used herein, shall include, without limitation, motor homes, mobile homes, boats, "jet skis" or other watercraft, trailers, other towed vehicles, farm equipment, motorcycles, minibikes, scooters, go-carts, golf carts, campers, buses, and camper trucks and vans. However, notwithstanding the above, the Association shall have the right, in its discretion, to prohibit any types of vehicles that it determines to be dangerous and/or offensive. Fees and costs for removal and storage under this provision shall be assessed against the Lot as a Specific Assessment. The Declarant and/or the Association may designate certain parking areas within the Properties for recreational vehicles subject to reasonable rules and fees, if any. No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home or "camper" vehicle may be maintained, stored or kept on any portion of the Property except in enclosed garages or in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee.

(c) Garage doors must be kept closed except when such doors or the garage are in use or within a reasonable time of ingress and egress. Vehicles must be parked inside garages except when reasonably impractical.

(d) All vehicles must be parked so as not to impede traffic or damage vegetation.

(e) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the Architectural Control Committee. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary

buildings onto Lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or Roadway) only in accordance with such rules as may be established by the Architectural Control Committee.

(f) Automobiles and non-commercial trucks and vans shall be parked only in the garages or in the driveways, if any, serving the Lots unless otherwise approved by the Design Review Board; provided however, the Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules. No automobile or noncommercial truck or van may be left upon any portion of the Properties, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Properties. No motorized vehicles shall be permitted on trails, paths, or unpaved Common Area except for public safety vehicles and as specifically authorized by the Board. For purpose of the foregoing, a non-commercial truck shall be deemed to be a truck upon which there is contained no commercial lettering, phone numbers, or business advertisement on the exterior thereof and which does not contain commercial license tags.

(g) Service and delivery vehicles may be parked in the Properties during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery within the Properties.

(h) Without prior written approval and authorization of the Board of Directors, no boats, boat trailers, campers, canoes, motorcycles, mopeds, all terrain vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, abandoned vehicles, vehicles which are either dismantled, partially dismantled, inoperative, discarded or one which does not have a valid license plate attached thereto, shall be stored, allowed to remain, or repeatedly parked on the Properties subject to this Declaration, except in any area, if any, designated by the Board of Directors. No vehicles shall be parked on the Common Area other than in authorized parking areas. No vehicles shall be parked or stored on blocks or other such devices on the Common Area or other portion of the Properties visible from the Common Area. No vehicles shall be parked so as to obstruct the fire lanes or roadways within the Properties. If permitted, boat trailers, boats, campers, motorcycles, mopeds, all terrain vehicles, vehicles primarily used for recreational or commercial purposes, travel trailers or inoperative automobiles are to be stored out of view from the streets and shall not be stored in any street right-of-way or on driveways. The Association is expressly authorized to remove, by towing or other methods, at the Owner's expense, any unlawful or prohibited vehicle in violation hereof.

(i) All vehicular traffic on the private streets and Roadways within the Properties shall be subject to the provisions of the laws of the State of Georgia and County concerning operation of motor vehicles on public streets. The Board is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including reasonable safety measures and speed limits including modifications of those in force on public streets, within the Properties. The Association shall be entitled to enforce same by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. In the event of a conflict between such provisions of the laws of the State of Georgia and County and such rules and regulations promulgated by the Association, the rules and regulations

of the Association shall control unless the laws of the State of Georgia or County are determined by the Board to be more restrictive. Only drivers licensed to operate motor vehicles by the State of Georgia or by any other state in the United States may operate any type of motor vehicle, including golf carts, mopeds, all terrain vehicles, motorcycles, motor driven bicycles within the Properties. All vehicles of any kind and nature which are operated on the streets of the Properties shall be operated in a careful, prudent, safe, and quiet manner with due consideration for the rights of all Owners within the Properties.

Section 8.23. Combustible Liquid. Storage of gasoline, propane, heating or other fuels is prohibited, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment and except as may be approved in writing by the Design Review Board. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 8.24. Guns. The discharge of firearms on the Properties is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board may impose fines, and exercise other means of enforcement as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop such discharge.

Section 8.25. Irrigation. Owners shall not install irrigation systems which draw upon ground or surface waters nor from any stream or other bodies of water within the Properties. However, the Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Common Areas.

Section 8.26. Streams. No streams which run across any Lot may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in this Declaration.

Section 8.27. Wetlands. Any areas designated on a recorded plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants recorded against such property and be approved by all appropriate regulatory bodies. Prior to any alteration of a Lot, the Owner shall determine if any portion thereof meets the requirements for designation as a regulatory wetland. Notwithstanding anything contained in this Section, the Declarant, the Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

Section 8.28. Solar Devices. No artificial or man-made device which is designated or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed, or maintained upon any portion of the Properties, including upon any Lot or Residential Unit unless approved by the Architectural Control Committee.

Section 8.29. Above-Ground Pools. Above-ground swimming pools shall be strictly prohibited from the Properties.



Section 8.30. Oil and Mining Operations. No oil drilling or development operation, water wells, soil refining, quarrying, or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, water, natural gas, or minerals shall be erected, maintained, or permitted upon any Lot.

Section 8.31. Governmental Requirements. Nothing herein contained shall be deemed to constitute waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of Improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to the Lot(s), Parcel(s) or other portion of the Property owned by such Owner.

ARTICLE 9 – ARCHITECTURAL AND LANDSCAPING CONTROL

Section 9.1. General. In order to preserve the natural setting and beauty of the Properties, to establish and preserve a harmonious and aesthetically pleasing design for the Properties, and to protect and promote the value of the Properties, the Lots, the Residential Units and the Common Area and all improvements, structures, landscaping and items located thereon, all Lots, Residential Units and all improvements, structures, landscaping and items located thereon shall be subject to the restrictions set forth in this Article. Every grantee of an interest in the Properties, by acceptance by a deed or other conveyance of such interest, agrees to be bound by the provisions of this Article. Notwithstanding anything contained in this Declaration to the contrary, no Improvements including, without limitation, site preparation on any Lot or Parcel, change in grade or slope of any Lot or Parcel, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot or Parcel, shall be commenced, erected or maintained on any portion of the Property, until;

(a) the Architectural Control Committee, appointed as hereinafter provided, has approved the plans and specifications therefor and the location of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Architectural and Landscape Guidelines;

(b) the fees set forth in or contemplated in this Article have been paid; and

(c) the contracts identified in this Article have been executed. In addition to any standards established pursuant to this Declaration, Declarant must establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. The provisions of this Article shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or Parcel or upon any of the Common Areas or Maintenance Areas. The Master Board may delegate to the Architectural Control Committee any powers or authority reserved or granted to the Master Board under this Article.

Section 9.2. Composition of Architectural Control Committee.

(a) So long as Declarant owns any Lot, Parcel or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot, Parcel or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Master Board.

(b) The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Master Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Project.

(c) Any member of the Design Review Board appointed by the Declarant may be removed with or without cause and without prior notice by the Declarant at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy. Any member of the Design Review Board appointed by the Board may be removed with or without cause and without prior notice by the Board at any time by written notice to such appointee and its successor or successors appointed to fill such vacancies shall serve at the pleasure of the Board. In the event of the death or resignation of any member of the Architectural Control Committee, the party or body then having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint a successor.

(d) Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any related or third party architects, landscape architects, urban designers, engineers, inspectors, attorneys and/or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee. The Board shall further have the right to delegate its rights and obligations, or any portion thereof, as pertains to the Lots in any individual Parcel to the respective Parcel Association governing such Parcel.

Section 9.3. Architectural and Landscape Guidelines.

(a) The Architectural Control Committee shall, from time to time, publish and promulgate written architectural standards, regulations, policies, procedures and guidelines (the "Architectural and Landscape Design Guidelines") governing the construction, location, landscaping, material and design of improvements, structures, the contents of submission of plans and specifications, and other information as may be required in order to evidence compliance with and obtain approval pursuant to this Article. The Architectural and Landscape Design Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements. The Architectural and Design Guidelines shall also set out, among other things, the procedures for submission, review and approval of

plans and specifications, to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee. The Architectural and Landscape Design Guidelines shall not be binding upon the Architectural Control Committee, and may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval.

(b) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or constructing or installing Improvements on the property.

Section 9.4. Definition of "Improvements".

(a) The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot or Parcel, including, but not limited to, the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes, etc.), storage sheds or areas, roofed structures, sidewalks, driveways, mailboxes, parking areas, decks, patios, courtyards, fences, "invisible" pet fencing, pet "runs," lines and similar tethers or enclosures, walls, irrigation equipment, apparatus and systems, landscaping (including cutting of trees), hedges, mass plantings, poles, ponds, lakes, changes in grade or slope, site preparation, swimming pools, hot tubs, jacuzzis, greenhouses, awnings, walls, steps, stoops, yard equipment, fences, exterior lights, garages, landscaping, hardscaping, lawns, guests or servants quarters, tennis courts, tree houses, basketball goals, skateboard ramps, and other sports or play apparatus, signs, exterior illumination, and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

(b) In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the Master Board shall have the right, in its sole discretion, to prohibit or restrict these items within the Properties. Each owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the Master Board. The Master Board may, but is not required to, adopt specific guidelines as part of the Design Guidelines or rules and regulations which address the following items.

(i) **Signs.** No sign of any kind shall be erected by an Owner or occupant within any portion of the Properties, including Common Area or , without the prior written consent of the Master Board, except (1) such signs as may be required by legal proceedings; and (2) not more than one (1) professional security sign of such size deemed reasonable by the Master Board in its sole discretion. The Declarant and the Master Board reserve the right to adopt additional restrictions with respect to the size, content, color, lettering, design and placement of any approved signs. All signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the

marketing and development of the Properties.

(ii) **Tree Removal.** No trees that are more than six (6) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the Master Board, provided, however, any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a sidewalk, a residence, or a driveway, or any diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons may be removed without the written consent of the Master Board. The Master Board may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed.

(iii) **Lighting.** Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Lot; (2) one (1) approved decorative post light; (3) pathway lighting; (4) street lights in conformity with an established street lighting program for the Properties; (5) seasonal decorative lights during the usual and common season; or (6) front house illumination of model homes.

(iv) **Accessory Structures.** With the approval of the Master Board, detached accessory structures may be placed on a Lot to be used for a playhouse, swimming pool, tennis court, tool shed, dog house, garage or other approved use. A garage may also be an attached accessory structure. Such accessory structures shall conform in exterior design and quality to the dwelling on the Lot. With the exception of a garage that is attached to a dwelling and except as may be provided otherwise by the Master Board, an accessory structure placed on a Lot shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot or in a location approved by the Master Board. All accessory structures shall be located within side and rear setback lines as may be required by the Master Board or by applicable zoning law.

(v) **Garages.** All garages must have doors and each garage door must be coordinated in design and color with the Residential Unit to which it is appurtenant. Each Owner shall provide in respect to each of such Owner's Residential Units parking of at least two (2) automobiles within garages. The garage shall be constructed at the same time that the Residential Unit is constructed and occupancy of the Residential Unit shall not be authorized until the garage is complete.

(vi) **Utility Lines.** Overhead utility lines, including lines for cable television, are not permitted except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(vii) **Minimum Dwelling Size.** Each Residential Unit located on any Lot shall have established in the Design Guidelines a minimum square footage of enclosed, heated and cooled living space. Upon written request of an Owner, the Master Board may waive the square footage requirement if, in the Master Board's sole discretion, the resulting appearance of such Residential Unit will preserve and conform to the overall appearance, scheme, design, value and quality within the Properties.

(viii) **Sight Distance at Intersections.** All property located at street intersections or



driveways shall be landscaped and improved so as to permit safe sight across such areas. No fence, wall, hedge or shrub shall be placed or permitted to remain where it would cause a traffic or sight problem. The Design Guidelines may include additional sight line limitations.

(ix) **Air Conditioning Facilities.** No window or wall type air conditioners shall be permitted to be used, erected, placed, or maintained on or in any Residential Unit, building, improvement or structure within the Properties.

(x) **Utility Location.** The Owners shall ascertain the location of utility service lines and keep the area over the route, if underground, of said service drops free of excavations and clear of structures, trees and other obstructions; it being understood that the lighting and power company may install, maintain, repair, replace and remove said underground service drops, if any, and open the ground for any such purpose or purposes; and no payment will be due or made by any utility for such use or activity.

(xi) **Walls, Fences, and Hedges.** No walls or fences shall be erected or maintained on any Lot nearer to the street front than the front building line as set forth and as may be shown on the Subdivision Plat unless approved, in writing, by the Master Board. All fences and walls shall be approved by the Master Board pursuant to standards adopted by it prior to installation. All walls and fences on any Lot must be no higher than as might be approved and must be of a material the same as the house (i.e. brick, stone or stucco) or as otherwise approved by the Master Board. No fence may be installed which will impede the natural flow of water across the Lot. All fences must be approved by the Master Board. Ownership of any wall, fence, or hedge erected as a protective screening on a Lot shall pass with title to the Lot. Each Owner shall be responsible for maintaining any wall, fence or hedge as may exist on his or her Lot.

(xii) **Parking.** Each Lot shall have provided thereon adequate off street parking as determined by the Master Board.

(xiii) **Mailboxes.** Only one (1) mailbox may be located on each Lot, which mailbox shall be consistent with the Design Standards. Each mailbox shall be located and thereafter maintained in a location approved by the Master Board consistent with the requirements, if any, of the United States Postal Service, its successors and assigns.

(xiv) **Driveway Construction.** No driveway shall be placed on any Lot nor be connected to any street or road within the Properties until the location and materials on the Lot and street access of such driveway are approved by the Master Board. In the event there are any concrete curbs in the Properties and such curves are chipped, cracked and/or broken on the street front side as a result of driveway installation or otherwise such shall be repaired or replaced at the expense of the Owner of the Residential Unit prior to occupancy of the Residential Unit on said Lot.

Section 9.5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration and any

Additional Declarations are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Community and to help preserve values of properties in the Project. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owner's property in the Project and to Declarant, and to the values of their respective properties in the Project, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Master Association shall have the specific right (but not the obligation) to enforce and/ or to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Control Committee, the Master Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Master Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Architectural and Landscape Design Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Master Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in violation of this Article. In addition, the Master Association may, but has no obligation to, cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessment against the Lot, Parcel or portion of the Property upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Architectural and Landscape Guidelines, the Master Association shall be entitled to recover court costs, attorneys' fees and expenses incurred by the Master Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot, Parcel or other portion of the Property upon which such Improvement was commenced or constructed.

(c) Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his or her Residential Unit or to paint the interior of his or her Residential Unit any color desired, so long as the same is not visible from outside the Residential Unit.

Section 9.6. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements hereof and of the Architectural and Landscape Guidelines or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Architectural and Landscape Design Guidelines, of all items that were to have been submitted to the Architectural Control Committee, and provided the Architectural Control Committee shall again fail to approve or disapprove of such plans specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to the Architectural Control Committee



following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming plans and specifications and other submittals, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration or any Additional Declaration, and EXCEPT FURTHER, that the Architectural Control Committee shall not be deemed to have waived any of the requirements set forth in this Article. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 9.7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner.

Section 9.8. Fees Required by the Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each person submitting plans and specifications for Improvements to Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant, or to any designee of the Architectural Control Committee or Declarants as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Architectural and Landscape Guidelines.

Section 9.9. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Architectural and Landscape Design Guidelines.

Section 9.10. Separate Committee for Changes to Existing Improvements.

(a) The Master Board shall have the right, power and authority, in its sole discretion, to appoint a committee separate and apart from the Architectural Control Committee to review plans and

specifications for any and all renovations, changes and additions to existing Improvements located on a Lot, Parcel or other portion of the Property (herein, the "Architectural Changes Committee").

(b) Should the Master Board appoint such an Architectural Changes Committee, then the Architectural Control Committee shall relinquish to the Architectural Changes Committee its authority to review plans and specifications for any such changes to existing Improvements, and the Architectural Changes Committee shall be solely responsible for review and approval of the same. Review and recommendation by the Architectural Changes Committee shall be based upon the terms of this Declaration and the Design Guidelines. The composition of the Architectural Changes Committee shall be determined by the Master Board in its sole discretion and the procedure for submission, review and approval of plans and specifications to and by the Architectural Changes Committee shall be set forth in the Architectural and Landscape Design Guidelines. Notwithstanding the foregoing, nothing herein shall be deemed to obligate the Master Board to appoint an Architectural Changes Committee, and until an Architectural Changes Committee is appointed, the Architectural Control Committee shall be responsible for reviewing and approving or disapproving all plans and specifications for renovations, changes and additions to existing Improvements.

(c) The results of any and all review by the Architectural Changes Committee shall be submitted to the Master Board with a recommendation, in writing, by the Architectural Changes Committee for approval, approval as noted with comments, or disapproval. The recommendation of the Architectural Changes Committee shall not be binding until adopted by the Master Board, who may accept, accept with comment or reject such recommendation. If any recommendation of the Architectural Changes Committee is rejected by the Master Board, the Master Board may substitute its own response to any such proposed modification, addition or alteration, which shall then be binding.

Section 9.11. Limitation of Liability. No member of the Architectural Control Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article. Neither the Architectural Control Committee, nor the Architectural Changes Committee (if applicable), nor the members thereof, nor the Master Association, nor any other Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee or the Architectural Changes Committee (if applicable) shall not be deemed or construed as a representation or warranty of the Architectural Control Committee or the Architectural Changes Committee (as the case may be), Declarant, or any officer, director, member, employee, agent or affiliate of any of them, (i) that improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any

responsibility or liability therefor is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Master Association, any Association, the Architectural Control Committee, the Architectural Changes Committee (if applicable), the Master Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 9.12. Miscellaneous. Members of the Architectural Control Committee and, if applicable, the Architectural Changes Committee, in the sole discretion of the party or body appointing such members (i.e. either Declarant or the Master Board, as the case may be) may be compensated for their services. The Master Association shall reimburse members of the Architectural Control Committee and the Architectural Changes Committee (if applicable) for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee and the Architectural Changes Committee (if applicable), including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Master Association; provided, however, nothing herein shall be deemed to negate the Master Association's right to an award of court costs, attorneys' fees and expenses in accordance with this side.

ARTICLE 10 – EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted or reserved herein, hereby reserves unto itself, its successors and assigns, and grants to the Master Association and any other persons or entities hereinafter set forth, the following non-exclusive easements on, upon, over, across, through and under the Property. In addition, Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Master Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Project including, but not limited to, easements in favor of Declarant, the Master Association, the Associations, any designees of the foregoing, the Owners, and all their family members, guests, invitees and lessees and to various governmental and quasi-governmental authorities and agencies and private concerns for the purposes and uses hereinafter specified.

Section 10.1. Easements and Cross-Easements on Common Areas. Declarant, for itself, its designees and the Master Association, reserves the following easement and right in respect to the Properties which reservation is in addition to the other easements reserved in this Declaration:

Declarant hereby reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, surveillance services, governmental and

quasi-governmental purposes, sewer, water, gas, drainage, irrigation, lake maintenance, storm water management, lighting, television transmissions garbage and waste removal, emergency services, and the like as it deems to be in the best interests of, and necessary and proper for, the Project or any portion thereof.

Section 10.2. Use of Common Areas.

(a) Declarant declares that the Common Areas are subject to a perpetual nonexclusive easement in favor of Declarant, the Master Association and their designees, the Associations, the Owners and all their family members, guests, invitees and lessees, licensees, and appropriate governmental and quasi-governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as the same are reasonably intended in accordance with the terms of this Declaration and any Additional Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such area is subject to this easement.

(b) With the prior written approval of the Board of Directors, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Area for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Areas as provided herein shall assume all risks associated with the use of the Common Area and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

(c) Owners of Lots, as well as their families, tenants, guests, invitees, and pets shall refrain from any actions which deter from the enjoyment by other Owners of areas within the Properties designated as Common Area. Prohibited activities shall include without limitation, maintenance of dogs or other pets under conditions which interfere with the use of the specified areas by other Owners, playing of loud radios or musical instruments, holding of large gatherings without advance approval of the Board, and use of portable outdoor grills, cooking facilities, tents or other temporary structures, stages, vending machines or facilities, except for events approved in advance by the Board. The Board may promulgate other rules and restrictions for the use of these areas.

Section 10.3. Right-of-Way Over Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Master Association, the Associations, their agents, employees, lessees, invitees, designees, successors and assigns, and to each Owner of a Lot or Parcel, their family members, guests, invitees, successors and assigns, and to each Occupant of a Lot or Parcel, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Roadways for the purpose of providing access, ingress and egress to and from, through and between the Property.

Section 10.4. Right of the Master Association and Declarant to Enter Upon the Common Areas and Maintenance Areas. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Master Association and all agents, employees or other designees of Declarant or the Master Association an easement for ingress, egress and access to enter upon or over the Common Areas and Maintenance Areas for the purposes of inspecting any construction, proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Master Association, as appropriate. Such easement includes an easement in favor of the Master Association and Declarant to enter upon the Common Areas and Maintenance Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter re-designated or as Declarant otherwise determines them to be reasonably suited. Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Master Association or Declarant to maintain, repair, or construct Improvements which an Owner or Association is required to maintain, construct or repair.

Section 10.5. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Master Association, the Associations, the Owners, their successors and assigns, and to the Occupants of Lots or Parcels, easements for encroachments, to the extent necessary, in the event any portion of the Improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Master Association, the Associations, the Owners and all their designees.

Section 10.6. Maintenance Areas. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Master Association, its successors and assigns, the following nonexclusive perpetual easements over certain areas of the Property as hereinafter described for the purposes hereinafter described:

(a) Easements for the purposes of landscaping and maintaining entry ways and erecting and maintaining entrance monument(s) for the Community, over, across and under those portions of the Property shown and designated as "Entry Easement" on the Plats (herein referred to as the "Entrance Monument Easements"). Declarant and/or the Master Association shall have the right to landscape and maintain the areas of the Property so designated as entry ways to the Community, to erect and maintain entrance monument(s) thereon bearing the name of the Community, and to erect and maintain lighting for such monument(s), plantings, landscaping, irrigation systems and other improvements typically used for entry ways.

(b) Easements for the installation, maintenance, repair and removal of landscaping and landscaping amenities, including signage, monuments and irrigation systems, over, across and under those portions of the Property shown and designated as "Landscape Easements" on the Plats (herein referred to as "Landscape Easements").

(c) Easements for the installation, maintenance, repair and removal of Roadways, street lights, sidewalks, pathways and trails, over, across and under those portions of the Property shown and

designated as "Roadway Easements," "Sidewalk Easements," "Pathway Easements" and "Trail Easements," as appropriate, on the Plat (herein referred to as the "Roadway Easements," "Sidewalk Easements," "Pathway Easements" and "Trail Easements" as appropriate).

All of the above-described areas and items shall herein be referred to as the "Maintenance Areas." The Master Association shall maintain the Maintenance Areas to a consistent standard of maintenance typical of a firm-class development.

Section 10.7. Utility and Drainage Easements. The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on the Plats, including, but not limited to, those certain easements shown and designated on the Plats as:

- (a) "Utility Easement";
- (b) "Public Storm Drainage Easement";
- (c) "Sanitary Sewer Easement"; and
- (d) "Sanitary Sewer Right-of-Way."

Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Master Association, its successors and assigns.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Master Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along: (a) a 10-foot strip of land adjacent to the front, side and rear boundary lines of all Lots within the Property, and (b) all Landscape Easements, for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, gas, telephone service, cable service, water, irrigation, sanitary sewer and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements,

Section 10.8. Irrigation Easements. Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Master Association, its successors and assigns, non-exclusive perpetual easements over, across and under those portions of the Property shown and designated as "Irrigation Easement" on the Plats for the installation, maintenance, repair and removal of irrigation systems to service the landscaping to be installed and maintained in the Landscape Easement areas (herein referred to as the "Irrigation Easements"). Within the Irrigation Easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, repair and maintenance of irrigation systems. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 10.9. Declarant's Right to Assign Easements; Maintenance of Easement Areas.

Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Master Association, an Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Notwithstanding the above, the Master Association, an Association and/or Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas on any Lot or Parcel.

Section 10.10. Easement Reserved for the Master Association, the Associations and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Master Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article as well as the maintenance and repair rights described in Article below and for the carrying out by Declarant or the Master Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Master Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Master Association or their employees or agents shall be repaired by Declarant or the Master Association, as the case may be, at the expense of Declarant or the Master Association, as the case may be.

Section 10.11. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Master Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Project, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Master Association Members or Owners. After such time as the members of the Master Board are no longer appointed by Declarant, the Master Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Project and the preservation and enhancement of Declarant's interest therein.

Section 10.12. No Merger of Easements. The easements hereby established shall not be terminated by merger or otherwise except upon execution and recordation of an instrument specifically terminating any such easement.

Section 10.13. Easement for Additional Property. There is hereby reserved to Declarant, its successors, assigns and successors-in-title to the Additional Property and all parts thereof for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Properties, a perpetual, alienable and transferable right and easement for

(a) pedestrian and vehicular ingress, egress and parking, across, within, and on all roads, sidewalks, trails and parking facilities, from time to time located within the Common Area;

(b) the installation, maintenance, repair, replacement, connection and use of security systems and utility facilities and distribution lines, including, without limitation, drainage systems, storm sewers, and electrical, gas, telephone, water, sewer and master television antennas and/or cable system lines, and

(c) drainage and discharge of surface water onto and across the Properties, provided that such drainage and discharge shall not unreasonably interfere with the use and enjoyment of the Lots, the Properties or any improvements from time to time located thereon.

Section 10.14. Easement for Law Enforcement and Fire Protection. Declarant hereby grants to the County or such other governmental authority or agency as shall from time to time have jurisdiction over the Properties with respect to law enforcement and fire protection, the perpetual, alienable and transferable right and easement upon, over and across all of the Common Area for purposes of performing such duties and activities related to law enforcement and fire protection in these Properties as shall be required or appropriate from time to time by such governmental authorities under applicable law.

Section 10.15. Easement for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, nonexclusive reciprocal, appurtenant easement over the Common Area for the purpose of conducting educational, cultural, entertainment, or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of its Lot to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

ARTICLE 11 – MAINTENANCE

Section 11.1 Association's Responsibility.

(a) The Association shall maintain and keep in good condition, order and repair the Common Area, which shall include, but need not be limited to:

(i) Common Area and the facilities located therein;

(ii) all landscaping and other flora and all structures and improvements, including but not limited to any gates, gate house, entry features, fencing, private streets, parking areas, sidewalks, streetlights, parks, trails, pool and cabana, tennis courts and recreational vehicle storage area situated upon the Common Area;

(iii) all furnishings, equipment and other personal property of the Association;



(iv) any landscaping and other flora, buffers, entry features, fencing, streetlights, structures and improvements within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board; and

(v) such additional portions of any property included within the Common Area as may be dictated by the Governing Documents, or any contract or agreement for maintenance thereof entered into by the Association.

(b) The Association may, as a Common Expense, maintain other property and improvements which it does not own, including without limitation property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable.

(c) The Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the Class "T" votes in the Association, and the Declarant during the Development Period, agree in writing to discontinue such operation.

(d) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to one (1) or more Owner(s) or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary to desirable. Except as provided above, the Common Area shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of the Declarant.

(e) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a Common Expense to be allocated among all Lots as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the Owner(s) of, or other Persons responsible for, certain portions of the Common Area pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof.

(f) The Association shall not be liable for any injury or damage to any personal property (a) caused by the elements, (b) resulting from any rain or other surface water which may leak or flow from any portion of the Common Area or (c) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility for the maintenance of which is that of the Association becoming out of repair. Nor shall the Association be liable to any Owner for any loss or damage, by theft or otherwise, of any property of such Owner or its respective guests, invitees, successors or assigns which may be stored in or upon any portion of the Common Area or any portion of the Properties. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the

Association to take some action or to perform such function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or governmental authority, the obligation to pay each such assessment being a separate and independent covenant on the part of each Owner.

Section 11.2. Owner's Responsibility. Except for those portions, if any, of a Lot or Parcel which the Master Association or an Association may elect to maintain or repair hereunder or under any applicable Additional Declaration, the Owner of any Lot or Parcel shall have the duty and responsibility, at such Owner's sole Cost and expense, to keep the Lot(s) or Parcel(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Additional Declaration, in accordance with the provisions of the Architectural and Landscape Guidelines, and in a well-maintained, safe, clean and attractive condition at all times. Such maintenance, as to unimproved and improved Lots or Parcels, shall include, but shall not be limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Keeping land, including any lawns and shrub beds, well maintained and free of trash, uncut grass and weeds;
- (c) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property; and
- (d) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improved Lots or Parcels, shall include, but shall not be limited to, the following:

- (e) Tree and shrub pruning;
- (f) Watering by means of a lawn sprinkler system and/or hand watering as needed;
- (g) Keeping exterior lighting and mechanical facilities in working order;
- (h) Keeping lawn and garden areas alive;
- (i) Removing and replacing any dead plant material;
- (j) Maintenance of natural areas and landscaping in accordance with the Architectural and Landscape Guidelines;
- (k) Keeping parking areas and driveways in good repair;
- (l) Repainting of Improvements; and

(m) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot or Parcel on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Architectural Control Committee and otherwise in accordance with the terms and provisions of this Declaration and of each Additional Declaration applicable thereto) or remove such damaged Improvements and restore the Lot or Parcel to its condition existing prior to the construction of such Improvements.

Notwithstanding anything contained herein to the contrary, the above-described maintenance responsibilities as to any Lot or Parcel shall commence only upon a Plat showing such Lot or Parcel being recorded in the Public Records and upon the conveyance of such Lot or Parcel by Declarant.

Section 11.3. Enforcement. If an Owner of any Lot or Parcel has failed in any of the duties or responsibilities of such Owner as set forth in this Article, then the Master Board and Declarant, jointly and severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, postage prepaid, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner as described in this Article. Provided, however, this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Master Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the Property), acting through its authorized agent or agents, jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any Person. The Owner of the Lot or Parcel on which such work is performed shall be liable for the cost of such works together with interest on the amounts expended by the Master Association or Declarant in performing such work computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Master Association or Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder, and such Owner shall reimburse the Master Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse the Master Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses, then, without limitation of any other rights of the Master Association or Declarant, the Master Association may impose a Special Individual Assessment against such Owner. Declarant has the right to assign to the Master Association the rights of Declarant under this Article 11.

Section 11.4. Standard of Performance. All maintenance shall be performed in a manner consistent with the community-wide standards and all Governing Documents. Maintenance responsibilities shall include the responsibility for repair and replacement as necessary. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising



out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Section 11.5. Cost Sharing Agreements. Adjacent to or in the vicinity of the Properties, there may be neighboring property which are not subject to this Declaration (hereinafter "Adjacent Properties") at the time of initial recordation of this Declaration in the Public Records. The owners of the Adjacent Properties may not be Members of the Association and if they are not they shall not be entitled to vote, nor shall they be subject to assessment under this Declaration. The Association may enter into agreements with the owners or operators of portions of the Adjacent Properties which:

(a) obligate the owners or operators of the Adjacent Properties to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of the Area of Common Responsibility, if any, which are used by or benefit jointly the owners of the Adjacent Properties and the Owners within the Properties,

(b) permit use of any recreational and other facilities located on the Adjacent Properties by the Owners within the Properties, and/or

(c) obligate the Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of the Adjacent Properties, if any, which are used by or benefit jointly the owners of the Adjacent Properties and the Owners within the Properties. The owners of the Adjacent Properties shall be subject to assessment by the Association only in accordance with the provisions of such agreement(s) unless all or any portion of such property is annexed to this Declaration by the Declarant. The owners of the Adjacent Properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein, or in a Cost Sharing Agreement or declaration of easements.

Section 11.6. Maintenance of Parcel Common Property. Each Parcel Association shall maintain its respective common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, its governing documents, the Community Wide Standards and all applicable covenants. The Association may, but is not obligated to, assume maintenance responsibility for property within any Parcel, either by agreement with the Parcel Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard or is otherwise in violation of the Governing Documents. All costs associated with maintenance pursuant to this paragraph shall be assessed against the Owners within such Parcel and shall constitute a lien against the respective Lots owned by the Owners within such Parcel. The provision of services in accordance with this Section for one Parcel shall not obligate the Association to provide services for any other Parcel.

ARTICLE 12 – RIGHTS OF MORTGAGEES

Section 12.1 Rights of Mortgagees. The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgages in the Community. To the extent applicable, necessary, or proper, the provisions of this Article apply to both this Declaration and to the By-Laws of the Association. Where indicated, these provisions apply only to "eligible holders," as hereinafter



defined.

Any Mortgagee, at such Mortgagee's written request given to the Master Association, shall have the following rights, to wit:

- (a) To be furnished at least one (1) copy of the annual financial statement of the Master Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;
- (b) To be given notice by the Master Association of the call of any meeting of the Master Association Members, and to designate a representative to attend all such meetings;
- (c) To be given prompt written notice of any delinquency in the payment of assessments or charges owed by an Owner of a Lot, Parcel and/or Residential Unit subject to the Mortgage of such Mortgagee, where such delinquency has continued for a period of sixty (60) days, or notice of any other default under this Declaration, the Master Bylaws or any rules and regulations promulgated by the Master Association by any Owner owning a Lot, Parcel or Residential Unit encumbered by a Mortgage held by the Mortgagee;
- (d) To be given prompt written notice of any casualty loss or loss by eminent domain or other taking of the Common Areas or any Lot, Parcel or Residential Unit encumbered by a Mortgage held by the Mortgagee;
- (e) To be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Master Association;
- (f) To be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and
- (g) To be given prompt written notice of any proposed action which would require the consent of a specified percentage of votes of the Master Association Members.
- (h) To be given prompt written notice of any proposed termination of the development;
- (i) To be given prompt written notice of any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot or Residential Unit on which there is a first mortgage held, insured, or guaranteed by such eligible holder;
- (j) To be given prompt written notice of any delinquency in the payment of assessments or charges owed by an Owner of a Lot or Residential Unit subject to the mortgage of such eligible holder, insurer, or guarantor, where such delinquency has continued for a period of sixty (60) days; or
- (k) To be given prompt written notice of any lapse, cancellation, or material modification of any insurance policy maintained by the Association;

Whenever any Mortgagee desires the provisions of this Section to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Master Association by certified mail, return receipt requested, addressed to the Master Association and sent to its then current address, identifying the property in the Project upon which any such Mortgagee holds any Mortgage or identifying any property in the Project owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it and which notice shall designate the place to which notices are to be given by the Master Association to such Mortgagee.

Section 12.2. Books and Records. Any Mortgagee will have the right to examine the books and records of the Master Association during reasonable business hours.

Section 12.3. Payments of Taxes and Insurance Premiums. First Mortgagees may, jointly or individually, pay taxes or other charges which are in default and which may or have become a charge or lien against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area. First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 12.4. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or any other party priority over any rights of the First Mortgagee in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

Section 12.5. Notice of Default. Notwithstanding anything contained herein which might otherwise be construed to the contrary, a First Mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by an Owner of a Lot or Residential Unit in which such Mortgagee has an interest of any obligation under this Declaration, the By-Laws, or the Articles of Incorporation which is not cured within sixty (60) days.

ARTICLE 13 – MISCELLANEOUS PROVISIONS

Section 13.1. Duration. This Declaration and the controls, covenants, restrictions and standards set forth herein shall run with and bind the Property and any Owner, and shall inure to the benefit of every Owner of a Lot in the Property and every Owner of any other portion of the Property, including Declarant, and their respective heirs, successors, and assigns, for a term of twenty (20) years beginning on the date this Declaration is recorded in the Public Records. At the end of such twenty (20) year period, the easements, covenants, conditions and restrictions set forth herein shall automatically be extended for successive period(s) of twenty (20) additional years, unless prior to the expiration of a respective period, by two-thirds (2/3rds) vote of the Master Association Members, there shall be adopted a resolution to terminate these covenants and restrictions. Owners may vote in person or by proxy at a meeting duly called for such purpose at which a quorum is present, written notice of which shall have been given to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth the purpose of such meeting. Pursuant to O.C.G.A. § 44-5-60(d), to terminate these covenants and restrictions, said two-thirds (2/3rds) of the Master Association Members shall execute a

document containing a legal description of the Property, a list of the names of all Owners of the Property, and a description of which covenants and restrictions shall be terminated, which may be incorporated by reference to another recorded document. By signing such document, each such Person shall verify that he or she is an Owner of Property affected by the covenant or restriction. Such document shall be recorded in the Public Records no sooner than but within two (2) years prior to the expiration of the initial twenty (20) year period or any subsequent twenty (20) year period. The Clerk of the Superior Court of Athens Clarke County, Georgia shall index the document under the name of each record Owner appearing in the document. The foregoing shall not limit the right of Declarant to amend and/or supersede, in whole or in part, the terms and provisions hereof.

Section 13.2. Amendment. Subject to the limitations hereinafter contained, this Declaration shall be amended only by the agreement of Owners of Lots to which two-thirds (2/3rds) of the votes in the Master Association pertain; provided that, during any such time as there shall exist an unexpired option to add any additional property to the Master Association or during any such time as the Declarant has the right to control the Master Association under this Declaration, Declarant may unilaterally amend this declaration. The Amendment shall become effective when an instrument executed by the Master Association Members voting for such amendment or modification is filed of record in the Public Records; provided, however, such an amendment or modification, in lieu of being executed by the Master Association Members voting for such amendment or modification, may contain a certification of the Secretary of the Master Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Master Association Members, as provided in this Declaration unless agreed upon by all Owners of Lots and the Mortgagees of all Lots, no amendment to this Declaration shall change the boundaries of any Lot, the number of votes in the Master Association pertaining thereto, or the liability for common expenses pertaining thereto. The approval of any proposed amendment by a Mortgagee shall be deemed implied and consented to if the Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after the Mortgagee receives notice of the proposed amendment sent by certified mail, return receipt requested.

Section 13.3. Enforcement. The Master Association, an Association, Declarant or any Owner shall have the right, but not the obligation, on its own behalf or on behalf of others, to enforce the provisions of this Declaration or any Additional Declaration. Enforcement of the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens for which provision is made in this Declaration shall be by a proceeding at law or in equity (or otherwise, as provided in this Declaration) against any person or persons violating or attempting to violate any such control, covenant, condition, restriction, easement, development guideline, charge or lien, either to restrain such violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Master Association, an Association, Declarant or any Owner to enforce any such control, covenant, condition, restriction, easement, development guideline, charge or lien shall in no event be deemed a waiver of the right to do so thereafter or of any other or future violation of any thereof. The prevailing party in any motion at law or in equity instituted by the Master Association or other Association to enforce or interpret the limitations, restrictions, conditions or covenants herein shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorneys' fees.


PARKER & ASSOCIATES
PROPERTY MANAGEMENT

Section 13.4. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that the remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 13.5. Notice. Except as otherwise set forth herein expressly, whenever written notice to an Owner, Master Association Member or Member (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner, Master Association Member or Member appearing on the records of Declarant, the Master Association or the Association of which such Owner is a Member. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. Declarant's address as of the date of recording of this Declaration is 2170 Satellite Blvd. Suite 375 Duluth, Georgia 30097.

Section 13.6. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 13.7. No Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby by non-use of such Owner's Lot(s) or other property located within the Project or the Common Area.

Section 13.8. Delegation of Powers; Duties and Authority of the Master Board. In addition to any references contained in any specific sections of this Declaration to the delegation by the Master Board of its powers, duties and authority hereunder, the Master Board generally shall have the right to delegate any of its powers, duties and authority hereunder to any related or third party agent, as the Master Board, in its sole discretion, deems reasonable, necessary, or desirable.

Section 13.9. Incorporation by Reference. All dedications, limitations, restrictions, and reservations shown on any recorded Subdivision Plat of the Community as recorded by the Declarant or any recorded plat of a Phase as recorded by Declarant are incorporated herein and made a part hereof as if fully set forth herein and shall be construed as being adopted in each and every contract, deed, or conveyance executed or to be executed by or on behalf of Declarant and, thereafter, each successive Owner, conveying any of the Properties, whether specifically referred to therein or not.

Section 13.10. Interpretation. In all cases, the provisions set forth and provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Class II member, if such membership exists, or directors of the Association if the Class II member is terminated, will best affect the intent of the general plan of the Properties. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The effective date of



this Declaration shall be the date of its filing for record in the Public Records.

Section 13.11. Captions. ~~The captions of each Article and section hereof as to the contents of each Article and section are inserted only for convenience and are in no way to be constructed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.~~ **PARKER & ASSOCIATES** ~~AN AFFILIATE OF~~ **AN AFFILIATE OF**

Section 13.12. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 13.13. Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successors, but that the estates of the Declarant and individual Lot Owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

Section 13.14. Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted in this Declaration.

Section 13.15. Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations, and the Association may but shall not be required to, enforce such additional covenants, conditions, and provisions; provided however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and use restrictions and rules of the Association shall prevail. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

Section 13.16. Compliance. Every Owner and occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in this Declaration.



Section 13.17. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to a Lot shall give the Board at least seven (7) Days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title. The transferor shall continue to be jointly and severally responsible with the transferee and for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Section 13.18. Variances and Waiver of Restrictions. So long as permitted by Georgia law and so long as Declarant owns any Lot or interest in property subjected to this Declaration, Declarant may waive or otherwise allow and authorize variances from the terms and restrictions hereof or the terms and restrictions of any Supplemental Declaration as might hereafter be relevant to the Property or any part thereof.

Section 13.19. Amendment.

(a) **By Declarant.** Until termination of the Class "II" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant, during the Development Period, may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Department of Veteran Affairs, the Federal Housing Administration, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing. In addition, during the Development Period, Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) **By the Board.** The Board shall be authorized to amend this Declaration without the consent of the Members (i) for the purpose of submitting the Properties to the Georgia Property Owners' Association Act, O.C.G.A. §44-3-220, et seq. (1994) and conforming this Declaration to any mandatory provisions thereof, and (ii) to correct scriveners' errors and other mistakes of fact, provided that amendments under this provision have no material adverse effect on the rights of the Owners. During the Development Period, any such amendment shall require the written consent of the Declarant.

(c) **By Members.** Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "I" votes in the Association, including sixty-seven percent (67%) of the Class "I" votes held by Members other than the Declarant, and, during the Development Period, the written consent of the Declarant. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.




PARKER & ASSOCIATES
P R O P I E R T Y M A N A G E M E N T

(d) **Validity and Effective Date.** Any amendment to the Declaration shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "II" Member without the written consent of the Declarant, the Class "II" Member, or the assignee of such right or privilege. If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

ARTICLE 14 – ANNEXATION AND WITHDRAWAL OF PROPERTY

Section 14.1. Annexation Without Approval of Class "I" Membership. As the owner thereof, or if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option (but not the obligation), from time to time at any time until twenty (20) years from the date this Declaration is recorded in the Public Records, subject to the provisions of this Declaration and the jurisdiction of the Association, pursuant to the terms and conditions contained within this Declaration, all or any portion of the Additional Property, whether in fee simple or leasehold, by filing in the Public Records, an amendment or Supplemental Declaration annexing all or any portion of such property. Such amendments to this Declaration or Supplemental Declaration shall not require the vote of Members. Any such annexation shall be effective upon the filing for record of any such amendment or Supplemental Declaration, unless otherwise provided therein. Such amendment or Supplemental Declaration may specify such specific use restrictions and other covenants, conditions, and restrictions to be applicable to the annexed property as Declarant may, in its own discretion, determine. Declarant shall have the unilateral right to transfer to one or more other persons the right, privilege, and option to annex the Additional Property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least that part of said Additional Property to which such right, privilege, and option is assigned; and provided, further, such assignment shall not remove or alter Declarant's further right, option and privilege to annex.

Section 14.2. Annexation With Approval of Class "I" Membership. Subject to the written consent of the owner thereof, upon the written consent or affirmative vote of a majority of the "Class I" members present or represented by proxy at a meeting duly called for such purpose, and of the Declarant, the Association may annex real property other than the Additional Property, and following the expiration of the right in this Article, the Additional Property, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Public Records, an amendment, or Supplemental Declaration in respect to the property being annexed. Any such amendment or Supplemental Declaration shall be signed by the President and the Secretary of the Association, and any such annexation shall be effective upon filing, unless otherwise provided therein. The time within which and the manner in which notice of any such meeting of the "Class I" members of the Association, called for the purpose of determining whether Additional Property pursuant to this section shall be annexed, and the quorum required for the transaction of business at any such meeting, shall be as specified in the By-Laws of the Association for regular or special meetings, as the case may be.



Section 14.3. Withdrawal of Property. So long as Declarant has a right to expand the Community, Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the real property from the coverage of this Declaration. Such amendment shall not require the consent of any person other than the Owner(s) of the property to be withdrawn, if not the Declarant.

Section 14.4. No Restrictions. The Additional Property, by initial recordation of this Declaration, is not restricted by the terms of such Declaration, in any manner other than for the express benefits as might be granted to the Additional Property under the terms of this Declaration. Following the date of initial recordation of this Declaration, the Declarant may, but shall not be required to, annex any portion or portions of such Additional Property. This Declaration shall only be applicable, except for the benefits as might be expressly bestowed upon the Additional Property under the terms of this Declaration as initially recorded, to those portions of the Additional Property as expressly made subject hereto by the Declarant or its successor and assigns in interest to the Additional Property. Until such time as a portion or portions of the Additional Property are made subject by express amendment to the terms of this Declaration or by Supplemental Declaration, no other portion of the Additional Property shall be, by implication, innuendo, or otherwise, subject to the terms of this Declaration other than for the benefits as expressly might be bestowed upon the Additional Property under the terms of this Declaration.

(a) The legal description of the Additional Property as of the date of recording of this Declaration is set forth on **Exhibit "A."** Portions of the Additional Property (together with additions thereto) may be added, as provided herein, to the Properties at different times, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence, or location in which any of such portions may be added to the Properties. The exercise of the option to submit a portion or portions of the Additional Property to this Declaration shall not bar the further exercise of this option as to other portions or the balance of the Additional Property.

(b) If the Additional Property or any portion or portions thereof are added to the Properties, Declarant reserves the right to designate the boundaries of the Lots, as well as the Common Area, if any, to be added to the Properties in connection therewith.

(c) Should the options to add the Additional Property, or any portion or portions thereof, not be exercised within the term specified herein or be terminated by Declarant, such option shall in all respects expire and be of no further force and effect. In the event that such option expires or is terminated, as aforesaid, Declarant shall not be obligated to impose on the Additional Property or any portion thereof any covenants, conditions, or restrictions whatsoever.

(d) The option hereby reserved by Declarant to cause all or any portion or portions of the Additional Property to become part of the Properties shall in no way be construed to impose upon Declarant any commitment or obligation to add all or any portion or portions of the Additional Property to the Properties or to construct thereon any improvements of any nature whatsoever.



(e) If the Additional Property or any portion or portions thereof is added to the Properties, then from and after the addition to the Properties of the Additional Property or such portion or portions by such amendment to this Declaration or by Supplemental Declaration, the number of votes in the Association shall be increased by the number of Lots to be located on the Additional Property or such portion or portions thereof as are added so that there shall continue to be, subject to the provisions hereof, one vote in the Association per Lot in the Community.

Section 14.5 Amendment. This Article shall not be amended during the Development Period without the prior written consent of Declarant.

[EXECUTIONS ON FOLLOWING PAGE]



IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 11
day of May, 2007.

DECLARANT:

NEW OAK GROVE REALTY
PARTNERS, LLC, a Georgia limited liability
company

Signed, sealed and delivered in the presence
of:

WITNESS

Patricia Cullen

By: TAHOE DEVELOPMENT
GROUP, LLC, ITS MANAGER

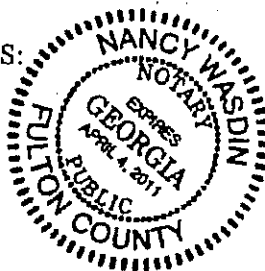
By: O'KELLEY & SOROHAN,
ATTORNEYS AT LAW, LLC
ITS MANAGER

By: [Signature] (SEAL)
JOSEPH O'KELLEY, JR.
ITS MANAGER

NOTARY

Nancy Wasdin

MY COMMISSION EXPIRES:
[NOTARY SEAL]



**EXHIBIT "A"**

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 1347TH DISTRICT, G.M.D., ATHENS-CLARKE COUNTY, GEORGIA, OAK GROVE SUBDIVISION, **PHASE 1A**, AS MORE FULLY DESCRIBED AND DELINEATED ACCORDING TO A PLAT OF SURVEY RECORDED IN PLAT BOOK G PAGE 64G SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE HERETO.

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 1347TH DISTRICT, G.M.D., ATHENS-CLARKE COUNTY, GEORGIA, OAK GROVE SUBDIVISION, **PHASE 1B**, AS MORE FULLY DESCRIBED AND DELINEATED ACCORDING TO A PLAT OF SURVEY RECORDED IN PLAT BOOK G PAGE 64H SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE HERETO.

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 1347TH DISTRICT, G.M.D., ATHENS-CLARKE COUNTY, GEORGIA, OAK GROVE SUBDIVISION, **PHASE 2**, AS MORE FULLY DESCRIBED AND DELINEATED ACCORDING TO A PLAT OF SURVEY RECORDED IN PLAT BOOK G PAGE 65A SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE HERETO.

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 1347TH DISTRICT, G.M.D., ATHENS-CLARKE COUNTY, GEORGIA, OAK GROVE SUBDIVISION, **PHASE 2A**, AS MORE FULLY DESCRIBED AND DELINEATED ACCORDING TO A PLAT OF SURVEY RECORDED IN PLAT BOOK G PAGE 65B SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE HERETO.

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE 1347TH DISTRICT, G.M.D., ATHENS-CLARKE COUNTY, GEORGIA, OAK GROVE SUBDIVISION, **PHASE 4**, AS MORE FULLY DESCRIBED AND DELINEATED ACCORDING TO A PLAT OF SURVEY RECORDED IN PLAT BOOK G PAGE 62G SAID PLAT BEING INCORPORATED HEREIN BY REFERENCE HERETO.

**EXHIBIT "B"****ADDITIONAL PROPERTY**

ANY PROPERTY THAT MAY BE ADJACENT TO AND CONTIGIOUS WITH THE EXHIBIT "A" PROPERTY; PROPERTY SHALL BE ADJACENT TO AND CONTIGIOUS WITH THE EXHIBIT "A" PROPERTY IF IT PHYSICALLY CONTECTS TO SUCH PROPERTY, AT ANY POINT, OR IF IT IS SEPERATED ONLY BY A ROAD, PUBLIC OR PRIVATE, OR WATER COURSE, INCLUDING ANY RIVER, CREEK, OR LAKE.