



## NOTICE REGARDING COVENANTS AND/OR RESTRICTIONS

The following Covenants and/or Restrictions are added as a courtesy only and are NOT WARRANTED by the property owner, their broker or agent as to completeness, accuracy, currency, or enforceability. Any interested buyer prospect is urged as part of their due diligence to contact the relevant Community Association or developer to determine for themselves what covenants and/or restrictions currently apply, how long they may remain in force, and if any changes or amendments may be currently under consideration. Additionally, or alternatively, one may wish to consider hiring an attorney to conduct this search for them and provide advice as needed.

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**CONSOLIDATED, AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
RESERVATION OF EASEMENTS FOR FALLING WATERS**

THIS CONSOLIDATED, AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR FALLING WATERS is made as of the 19<sup>th</sup> day of Nov., 2021, by the **FALLING WATERS RESIDENTIAL ASSOCIATION, INC.**, a Georgia nonprofit corporation (the "Association") and the undersigned owners of property in Falling Waters executing a Consent Form as further provided herein (hereinafter sometimes individually referred to as an "Owner" or collectively referred to as "Owners").

W I T N E S S E T H

WHEREAS, certain real property lying and being in Land Lots 32, 33, 39, 40, 41, 69, 70, 71, 73, 74, 75, 76, 77, 104, 105, 106 and 107 of the 5th District, 2nd Section, Gilmer County, Georgia as more particularly shown on those certain plats as follow: i) Plat Book 55, Page 283, *et. seq.*, Gilmer County, Georgia land records, ii) Plat Book 59, Page 13, *et. seq.*, aforesaid county land records, iii) Subdivision Plat of Falling Waters Phase One, recorded in Plat Book 51, Page 122, *et. seq.*, aforesaid county land records (Lots 1-42 and green space); iv) Subdivision Plat of Falling Waters Phase Two, recorded in Plat Book 52, Page 178, *et. seq.*, aforesaid county land records (Lots 43-47, 97-108); (v) Subdivision Plat of Falling Waters Phase Three, recorded in Plat Book 52, Page 181, *et. seq.*, aforesaid county land records (Lots 109-115, 116-118); (vi) Subdivision Plat of Falling Waters Phase Four, recorded in Plat Book 52, Page 184, *et. seq.*,

aforesaid county land records (Lots 119, 121-124 and 127); (vii) Subdivision Plat of Falling Waters Phase Five, recorded in Plat Book 52, Page 277, *et. seq.*, aforesaid county land records (Lots 221-261); (viii) Subdivision Plat of Falling Waters Phase Nine, recorded in Plat Book 56, Page 272, *et. seq.*, aforesaid county land records (Lots 128-152, 153-180 and 182-293) and in Plat Book 56, Page 248 (Lot 125R and 126R); (ix) Subdivision Plat of Falling Waters Phase Ten Group A, recorded in Plat Book 57, Page 33, *et. seq.*, aforesaid county land records (Lots 194-206, 221-235, 237-239 and 241 – 250); (x) Subdivision Plat of Falling Waters Phase Ten Group B, recorded in Plat Book 57, Page 150, *et. seq.*, aforesaid county land records (Lots 207-220 and 240); (xi) Subdivision Plat of Falling Waters Phase Eleven Group A, recorded in Plat Book 57, Page 252, *et. seq.*, aforesaid county land records (Lots 272 – 288, 291-299); (xii) Subdivision Plat of Falling Waters Phase Eleven Group B, recorded in Plat Book 58, Page 280, *et. seq.*, aforesaid county land records (Lots 251-271); (xiii) Subdivision Plat of Falling Waters Phase Thirteen, recorded in Plat Book 59, Page 80, *et. seq.*, aforesaid county land records (Lots 289-290 and 342-343); (xiv) Subdivision Plat of Falling Waters Phase Fourteen, recorded in Plat Book 58, Page 174, *et. seq.*, aforesaid county land records (Lot 349 and common area); (xv) Subdivision Plat of Falling Waters Phase Fifteen, recorded in Plat Book 58, Page 135, *et. seq.*, aforesaid county land records (Lots 135-136); (xvi) Subdivision Plat of Falling Waters Phase Sixteen, recorded in Plat Book 59, Page 126, *et. seq.*, aforesaid county land records (Lots 349-355 and common area and lake); (xvii) Subdivision Plat of Falling Waters Phase Seventeen, recorded in Plat Book 59, Page 82, *et. seq.*, aforesaid county land records (Lots 356-364 and common areas), which plats are hereby referred to and made a part of this description, which property was developed as the Falling Waters subdivision (hereinafter the "Falling Waters Property") and subjected to either or both of the provisions of that certain Master Declaration of Covenants, Conditions and Restrictions for Falling Waters which was recorded on May 28, 2008 at Deed Book 1479, Page 194, *et. seq.*, Gilmer County, Georgia land records, which by this reference is incorporated herein (hereinafter as supplemented and amended from time to time referred to as the "2008 Declaration") and that certain Declaration of Covenants, Reservations and Restrictions of Falling Waters Subdivision, which was recorded on April 14, 2014 in Deed Book 1860, Pages 188-202, Gilmer County, Georgia land records and recorded on April 25, 2014 in Deed Book 1028, Pages 423-437, Pickens County, Georgia land records hereinafter as supplemented and amended from time to time referred to as the "2014 Declaration") collectively referred to as the "Falling Waters Declarations"; and

WHEREAS, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the 2008 Declaration and the Association named in the 2014 Declaration, to have the power, authority and obligations set forth therein; and

WHEREAS, the 2008 Declaration and 2014 Declaration do not encumber the same phases of the Falling Waters Property, but both Falling Waters Declarations contemplate that owners of Lots encumbered by the Falling Waters Declarations are members of the Falling Waters Residential Association, Inc. and that such members are obligated to pay for the common expenses of the Association; and

WHEREAS, the easements reserved in the Falling Waters Declarations continue to run with the land; and

WHEREAS, despite the confusion created by multiple governing instruments, the Association and the Owners have continued to be self-governing by and operating under the full provisions of the 2014 Declaration; and

WHEREAS, the Association and the Owners desire to consolidate the Falling Waters Declarations and Amend and Restate the Falling Waters Declarations in their entirety and replace it with the Consolidated, Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Falling Waters attached hereto as Exhibit "A" and incorporated herein by this reference; and

WHEREAS, the Board believes it is in the Association and members' best interest to be bound by one consolidated governing document in order to increase efficiency of operation of the Association and to improve the marketability of title to Lots in Fallings Waters; and

WHEREAS, the amended provisions are in harmony with the provisions of the Falling Waters Declarations and are not material with respect to first mortgagees on Lots in that they do not materially and adversely affect the security, title or interest of any first mortgagee; provided, however, if a court of competent jurisdiction determines that these amendments do so without such first mortgagee's consent, then these amendments shall not be binding on the first mortgage so involved, unless it consents hereto; and if such consent is not forthcoming, then the provisions of the Falling Waters Declarations prior to these amendment shall control with respect to the affected first mortgagee; and

WHEREAS, the Association and the Owners desire to submit the Property to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.* (the "Act"), as the same is in effect on the date hereof and as may be amended from time to time, pursuant to the terms and conditions set forth herein;

NOW, THEREFORE, the Association and the Owners hereby declare that the real property described in Section 1 hereof and being the Falling Waters Property, including the improvements constructed thereon, is hereby subjected to the Consolidated, Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Falling Waters attached hereto as Exhibit "A" and incorporated herein by this reference and shall be held, sold, transferred, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, set forth in Exhibit "A", for the purpose of protecting the value and desirability of and which shall run with the title to, the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each and every Owner of all or any portion thereof as provided herein.

1.

The certain real property lying and being in Land Lots 32, 33, 39, 40, 41, 69, 70, 71, 73, 74, 75, 76, 77, 104, 105, 106 and 107 of the 5th District, 2nd Section, Gilmer County, Georgia as more particularly shown on those certain plats as follow: i) Plat Book 55, Page 283, *et. seq.*, Gilmer County, Georgia land records, ii) Plat Book 59, Page 13, *et. seq.*, aforesaid county land records, iii) Subdivision Plat of Falling Waters Phase One, recorded in Plat Book 51, Page 122, *et. seq.*, aforesaid county land records (Lots 1-42 and green space); iv) Subdivision Plat of Falling Waters Phase Two, recorded in Plat Book 52, Page 178, *et. seq.*, aforesaid county land records (Lots 43-47, 97-108); (v) Subdivision Plat of Falling Waters Phase Three, recorded in Plat Book 52, Page 181, *et. seq.*, aforesaid county land records (Lots 109-115, 116-118); (vi) Subdivision Plat of Falling Waters Phase Four, recorded in Plat Book 52, Page 184, *et. seq.*, aforesaid county land records (Lots 119, 121-124 and 127); (vii) Subdivision Plat of Falling Waters Phase Five, recorded in Plat Book 52, Page 277, *et. seq.*, aforesaid county land records (Lots 221-261); (viii) Subdivision Plat of Falling Waters Phase Nine, recorded in Plat Book 56, Page 272, *et. seq.*, aforesaid county land records (Lots 128-152, 153-180 and 182-293) and in Plat Book 56, Page 248 (Lot 125R and 126R); (ix) Subdivision Plat of Falling Waters Phase Ten Group A, recorded in Plat Book 57, Page 33, *et. seq.*, aforesaid county land records (Lots 194-206, 221-235, 237-239 and 241 – 250); (x) Subdivision Plat of Falling Waters Phase Ten Group B, recorded in Plat Book 57, Page 150, *et. seq.*, aforesaid county land records (Lots 207-220 and 240); (xi) Subdivision Plat of Falling Waters Phase Eleven Group A, recorded in Plat Book 57, Page 252, *et. seq.*, aforesaid county land records (Lots 272 – 288, 291-299); (xii) Subdivision Plat of Falling Waters Phase Eleven Group B, recorded in Plat Book 58, Page 280, *et. seq.*, aforesaid county land records (Lots 251-271); (xiii) Subdivision Plat of Falling Waters Phase Thirteen, recorded in Plat Book 59, Page 80, *et. seq.*, aforesaid county land records (Lots 289-290 and 342-343); (xiv) Subdivision Plat of Falling Waters Phase Fourteen, recorded in Plat Book 58, Page 174, *et. seq.*, aforesaid county land records (Lot 349 and common area); (xv) Subdivision Plat of Falling Waters Phase Fifteen, recorded in Plat Book 58, Page 135, *et. seq.*, aforesaid county land records (Lots 135-136); (xvi) Subdivision Plat of Falling Waters Phase Sixteen, recorded in Plat Book 59, Page 126, *et. seq.*, aforesaid county land records (Lots 349-355 and common area and lake); (xvii) Subdivision Plat of Falling Waters Phase Seventeen, recorded in Plat Book 59, Page 82, *et. seq.*, aforesaid county land records (Lots 356-364 and common areas), which plats are hereby referred to and made a part of this description, that is held of record by the undersigned Owners executing a Consent Form together with any additional Falling Waters Property which may become subject by virtue of filing a Supplementary Consent Form, by the recording of this Consolidated, Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Falling Waters (hereinafter the “Consolidated, Amended and Restated Declaration”), shall be subject to the covenants, conditions, restrictions and easements set forth in Exhibit “A” and which, by virtue of the recording of this Consolidated, Amended and Restated Declaration, shall be held, transferred, sold, conveyed, used, occupied, and encumbered subject to the Consolidated, Amended and Restated Declaration. Lot numbers identifying the subjected property are shown under the signatures of the undersigned Owners on the Consent Form.

2.

Owners who execute this Consolidated, Amended and Restated Declaration on the Consent Form or any Supplementary Consent Form after the date the aforesaid document is recorded in the Office of the Clerk of Superior Court of Gilmer County, as the case may be, agree on behalf of themselves and their heirs, successors and assigns, to immediately subject said Lot to the provisions of the Consolidated, Amended and Restated Declaration attached hereto as Exhibit "A" and incorporated herein by this reference, and to pay the assessments provided herein, and be members of the Association.

3.

By accepting title thereto, Owners who take title to a Lot which has previously been subjected to this Consolidated, Amended and Restated Declaration thereby agree that said Lot is subject to the conditions, restrictions, covenants, and easements attached hereto as Exhibit "A", and further agree to pay assessments as provided herein and be members of the Association.

4.

Only the real property described in Section 1 hereof is hereby made subject to this Consolidated, Amended and Restated Declaration attached hereto as Exhibit "A"; provided, however, by one or more Supplementary Consent Forms, Owners and the Association have the right, but not the obligation, to subject other real property described in Section 1, to the provisions of this Consolidated, Amended and Restated Declaration by executing a Supplementary Consent Form. The Association and the Owner(s) of any of the real property described in Section 1 and without the consent of any other Owners, may annex such real property to the provisions of this Consolidated, Amended and Restated Declaration and the conditions, restrictions, covenants, and easements attached hereto as Exhibit "A" and the jurisdiction of the Association by executing a Supplementary Consent Form describing the applicable Lot for record with the Clerk of the Superior Court of Gilmer County, Georgia. Any such Supplementary Consent Form shall be signed by the Owner(s) of the Lot being annexed and the President of the Association and any such annexation shall be effective upon the filing for record of said Supplementary Consent Form unless a later effective date is provided therein.

5.

Owners of Lots within the Falling Waters Property who do not elect to be bound by the Consolidated, Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Falling Waters and the conditions, restrictions, covenants, and easements attached hereto as Exhibit "A" by the filing of a Consent Form or Supplementary Consent Form will continue to be bound by the provisions in the 2008 Declaration and/or 2014 Declaration, as the case may be, including, without limitation, the obligation to pay assessments for common expenses of the Association and to abide by the covenants and restrictions contained therein. Furthermore, such Owners will remain members of the Association with voting privileges as described in the applicable Falling Waters Declarations and the By-laws.

IN WITNESS WHEREOF, the Association has caused this Reinstatement and Amendment to be executed under seal the day and year first above written.

**ASSOCIATION:** **FALLING WATERS RESIDENTIAL ASSOCIATION, INC.**, a Georgia nonprofit corporation

By: *Gaby Powers*  
Name: Gaby Powers  
Title: President

Attest: *Gary Wilder*  
Name: GARY WILDER  
Title: Secretary

[AFFIX CORPORATE SEAL]



Signed, sealed, and delivered  
in the presence of:

*Colin Thompson*  
WITNESS

*Tiffany Hardy*  
NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]

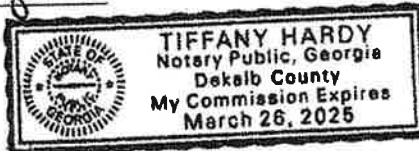


Exhibit "A"

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CONSOLIDATED, AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR  
FALLING WATERS

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THIS INSTRUMENT SUBJECTS THE MANDATORY MEMBERSHIP HOMEOWNERS  
ASSOCIATION PROVIDED FOR HEREIN TO THE PROVISIONS OF THE GEORGIA  
PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, *ET SEQ.*



CONSOLIDATED, AMENDED AND RESTATED DECLARATION OF COVENANTS,  
 CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS FOR

FALLING WATERS

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**EXHIBIT "1"** - CONSOLIDATED, AMENDED AND RESTATED BY-LAWS OF FALLING WATERS RESIDENTIAL ASSOCIATION, INC.

Article 1  
Definitions

The following words, when used in this Declaration or in any Supplementary Declaration, shall have the following meanings:

1.1 "Act" means the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*, as may be amended from time to time.

1.2 "Articles of Incorporation" means the Articles of Incorporation of Falling Waters Residential Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference, as may be amended from time to time.

1.3 "Area of Common Responsibility" means the Common Area, together with any additional areas for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or other applicable covenant, contract, or agreement.

1.4 "Association" means Falling Waters Residential Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

1.5 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to operate and manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*

1.6 "By-laws" means the Consolidated, Amended and Restated By-laws for Falling Waters Residential Association, Inc., as may be amended from time to time.

1.7 "Common Area" means all real and personal property, including easements and licenses, which the Association owns, leases or holds possessory or use rights in for the common use, benefit, and enjoyment of the Owners. Common Area specifically includes rights of way held for, and roadways constructed for the general use of lot owners, and any associated parking areas or other areas intended for the common use of all the lot owners and any Limited Common Area.

1.8 "Common Expenses" means all expenditures made or incurred by or on behalf of the Association, together with all the funds assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration.

1.9 "Community" refers to that certain real property described in Article 2, Section 1 of the Declaration and such additions thereto as may be made by Supplementary Declaration as provided in Article 2, Section 2 of the Declaration.

1.10 "Community-Wide Standard" means the standard of conduct, maintenance or other activity generally prevailing in the Community as determined by the Board of Directors of the

Association. Such standard may be more specifically determined by the Board of Directors of the Association and may be delineated in part by the rules and regulations of the Association.

1.11 "Declaration" means the Consolidated, Amended and Restated Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Falling Waters, and all amendments thereof filed for record in the records of the Clerk of the Superior Court of Gilmer County.

1.12 "2008 Declaration" means the Master Declaration of Covenants, Conditions and Restrictions for Falling Waters which was recorded on May 28, 2008 at Deed Book 1479, Page 194, *et. seq.*, Gilmer County, Georgia land records, and all amendments thereof filed for record in the records of the Clerk of the Superior Court of Gilmer County.

1.13 "2014 Declaration" means the Declaration of Covenants, Reservations and Restrictions of Falling Waters Subdivision, which was recorded on April 14, 2014 in Deed Book 1860, Pages 188-202, Gilmer County, Georgia land records and recorded on April 25, 2014 in Deed Book 1028, Pages 423-437, Pickens County, Georgia land records, and all amendments thereof filed for record in the records of the Clerk of the Superior Court of Gilmer County, Georgia and/or the Clerk of Superior Court of Pickens County.

1.14 "Drainage Facilities" shall mean and refer to any and all areas of the Community designated on the Plat or as may exist on the Community for storm and surface drainage, collection and retention, including, without limitation drainage easements, retention ponds and any and all pipes, ditches, culverts, headwalls, catch basins and riprap used in connection therewith.

1.15 "Improvements" means and refers to any residences, outbuildings, waterlines, wells, sewers, electric and gas distribution facilities, driveways, parking areas, fences, walls, recreational equipment, playhouses, play equipment, pools, steps, landscaping, lighting, signage, excavation, ditches, diversions, berms or any other thing or devices that alters the flow of any water and all other structures, improvements or landscaping materials of every kind and type placed, erected, constructed, maintained or permitted on a Lot, whether above or below the land surface.

1.16 "Limited Common Area" means any real estate or interest therein that is held for the use of some, but not all of the owners. Limited Common Areas shall include, but not be limited to, the common driveways accessing more than one Lot.

1.17 "Lot" means any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes a single-family dwelling site, as shown on the subdivision plat(s) for the Community recorded in the land records of Gilmer County, Georgia. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, all of the rights and interests of an Owner in the Common Area, as herein provided, together with membership in the Association.



1.18 "Majority" shall mean and refer to those eligible votes totaling more than fifty percent (50%) of the total eligible number.

1.19 "Member" shall mean and refer to a Person that is a member of the Association as provided in this Declaration, the 2008 Declaration, the 2014 Declaration and/or the Articles of Incorporation.

1.20 "Mortgage" means any and all instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of trust.

1.21 "Mortgagee" means the holder of a Mortgage.

1.22 "Occupant" means any Person occupying all or any portion of a Lot for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.23 "Owner" means the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

1.24 "Person" includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under Georgia law.

1.25 "Plat" those plats of the survey relating to the Community and being i) Plat Book 55, Page 283, *et. seq.*, Gilmer County, Georgia land records, ii) Plat Book 59, Page 13, *et. seq.*, aforesaid county land records, iii) Subdivision Plat of Falling Waters Phase One, recorded in Plat Book 51, Page 122, *et. seq.*, aforesaid county land records (Lots 1-42 and green space); iv) Subdivision Plat of Falling Waters Phase Two, recorded in Plat Book 52, Page 178, *et. seq.*, aforesaid county land records (Lots 43-47, 97-108); (v) Subdivision Plat of Falling Waters Phase Three, recorded in Plat Book 52, Page 181, *et. seq.*, aforesaid county land records (Lots 109-115, 116-118); (vi) Subdivision Plat of Falling Waters Phase Four, recorded in Plat Book 52, Page 184, *et. seq.*, aforesaid county land records (Lots 119, 121-124 and 127); (vii) Subdivision Plat of Falling Waters Phase Five, recorded in Plat Book 52, Page 277, *et. seq.*, aforesaid county land records (Lots 221-261); (viii) Subdivision Plat of Falling Waters Phase Nine, recorded in Plat Book 56, Page 272, *et. seq.*, aforesaid county land records (Lots 128-152, 153-180 and 182-293) and in Plat Book 56, Page 248 (Lot 125R and 126R); (ix) Subdivision Plat of Falling Waters Phase Ten Group A, recorded in Plat Book 57, Page 33, *et. seq.*, aforesaid county land records (Lots 194-206, 221-235, 237-239 and 241 - 250); (x) Subdivision Plat of Falling Waters Phase Ten Group B, recorded in Plat Book 57, Page 150, *et. seq.*, aforesaid county land records (Lots 207-220 and 240); (xi) Subdivision Plat of Falling Waters Phase Eleven Group A, recorded in Plat Book 57, Page 252, *et. seq.*, aforesaid county land records (Lots 272 - 288, 291-299); (xii) Subdivision Plat of Falling Waters Phase Eleven Group B, recorded in Plat Book 58, Page 280, *et. seq.*, aforesaid county land records (Lots 251-271); (xiii) Subdivision Plat of Falling Waters Phase Thirteen, recorded in Plat Book 59, Page 80, *et. seq.*, aforesaid county land records (Lots

289-290 and 342-343); (xiv) Subdivision Plat of Falling Waters Phase Fourteen, recorded in Plat Book 58, Page 174, *et. seq.*, aforesaid county land records (Lot 349 and common area); (xv) Subdivision Plat of Falling Waters Phase Fifteen, recorded in Plat Book 58, Page 135, *et. seq.*, aforesaid county land records (Lots 135-136); (xvi) Subdivision Plat of Falling Waters Phase Sixteen, recorded in Plat Book 59, Page 126, *et. seq.*, aforesaid county land records (Lots 349-355 and common area and lake); (xvii) Subdivision Plat of Falling Waters Phase Seventeen, recorded in Plat Book 59, Page 82, *et. seq.*, aforesaid county land records (Lots 356-364 and common areas). All of the Plats of survey are incorporated herein by this reference.

1.26 "Residence" shall mean and refer to any building, structure, or improvement on any Lot intended for the use and occupancy as a residence and all appurtenances thereto including, but not limited to, all garages, porches, retaining walls, balconies, accessory structures, decks, overhangs, foundations, extensions and projections therefrom.

1.27 "Supplementary Declaration or Supplementary Consent" means a supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.28 "Total Association Vote" means the votes attributable to the entire membership of the Association as of the record date for such action, but specifically excludes the votes of any Owners whose voting rights have been suspended as provided herein, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. If, for example, and without limitation, two-thirds (2/3) of the Total Association Vote is required to approve a matter, such matter must receive at least two-thirds (2/3) of the votes attributable to all existing members of the Association as of the record date for such action (excluding the votes of any Owners whose voting rights have been suspended as provided herein), whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

## Article 2 Property Subject to the Declaration

2.1 Submitted Property. The certain real property lying and being in Land Lots 32, 33, 39, 40, 41, 69, 70, 71, 73, 74, 75, 76, 77, 104, 105, 106 and 107 of the 5th District, 2nd Section, Gilmer County, Georgia as more particularly shown on those certain plats as follow: i) Plat Book 55, Page 283, *et. seq.*, Gilmer County, Georgia land records, ii) Plat Book 59, Page 13, *et. seq.*, aforesaid county land records, iii) Subdivision Plat of Falling Waters Phase One, recorded in Plat Book 51, Page 122, *et. seq.*, aforesaid county land records (Lots 1-42 and green space); iv) Subdivision Plat of Falling Waters Phase Two, recorded in Plat Book 52, Page 178, *et. seq.*, aforesaid county land records (Lots 43-47, 97-108); (v) Subdivision Plat of Falling Waters Phase Three, recorded in Plat Book 52, Page 181, *et. seq.*, aforesaid county land records (Lots 109-115, 116-118); (vi) Subdivision Plat of Falling Waters Phase Four, recorded in Plat Book 52, Page 184, *et. seq.*, aforesaid county land records (Lots 119, 121-124 and 127); (vii) Subdivision Plat of Falling Waters Phase Five, recorded in Plat Book 52, Page 277, *et. seq.*, aforesaid county land records (Lots 221-261); (viii) Subdivision Plat of Falling Waters Phase Nine, recorded in Plat Book 56, Page 272, *et. seq.*, aforesaid county land records (Lots 128-152, 153-180 and 182-293) and in Plat Book 56, Page 248 (Lot 125R and 126R); (ix) Subdivision Plat of Falling Waters

Phase Ten Group A, recorded in Plat Book 57, Page 33, *et. seq.*, aforesaid county land records (Lots 194-206, 221-235, 237-239 and 241 – 250); (x) Subdivision Plat of Falling Waters Phase Ten Group B, recorded in Plat Book 57, Page 150, *et. seq.*, aforesaid county land records (Lots 207-220 and 240); (xi) Subdivision Plat of Falling Waters Phase Eleven Group A, recorded in Plat Book 57, Page 252, *et. seq.*, aforesaid county land records (Lots 272 – 288, 291-299); (xii) Subdivision Plat of Falling Waters Phase Eleven Group B, recorded in Plat Book 58, Page 280, *et. seq.*, aforesaid county land records (Lots 251-271); (xiii) Subdivision Plat of Falling Waters Phase Thirteen, recorded in Plat Book 59, Page 80, *et. seq.*, aforesaid county land records (Lots 289-290 and 342-343); (xiv) Subdivision Plat of Falling Waters Phase Fourteen, recorded in Plat Book 58, Page 174, *et. seq.*, aforesaid county land records (Lot 349 and common area); (xv) Subdivision Plat of Falling Waters Phase Fifteen, recorded in Plat Book 58, Page 135, *et. seq.*, aforesaid county land records (Lots 135-136); (xvi) Subdivision Plat of Falling Waters Phase Sixteen, recorded in Plat Book 59, Page 126, *et. seq.*, aforesaid county land records (Lots 349-355 and common area and lake); (xvii) Subdivision Plat of Falling Waters Phase Seventeen, recorded in Plat Book 59, Page 82, *et. seq.*, aforesaid county land records (Lots 356-364 and common areas), which plats are hereby referred to and made a part of this description, which property was subjected to either or both of the provisions of that certain Master Declaration of Covenants, Conditions and Restrictions for Falling Waters which was recorded on May 28, 2008 at Deed Book 1479, Page 194, *et. seq.*, Gilmer County, Georgia land records, which by this reference is incorporated herein (hereinafter as supplemented and amended from time to time referred to as the "2008 Declaration") and that certain Declaration of Covenants, Reservations and Restrictions of Falling Waters Subdivision, which was recorded on April 14, 2014 in Deed Book 1860, Pages 188-202, Gilmer County, Georgia land records and recorded on April 25, 2014 in Deed Book 1028, Pages 423-437, Pickens County, Georgia land records hereinafter as supplemented and amended from time to time referred to as the "2014 Declaration") collectively referred to as the "Falling Waters Declarations"; and that is held of record by the undersigned Owners executing a Consent Form. Lot numbers identifying the subjected property are shown under the signatures of the undersigned Owners on the Consent Form. By virtue of recording this Declaration, said property shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to provisions of the Act and the covenants, conditions, restrictions, easements, assessments, and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title or interest in all or any portion of the real property subject to the Declaration, their respective heirs, legal representatives, successors, successors-in-title and assigns, and shall be for the benefit of all owners of the property subject to this Declaration.

**2.2 Additional Property.** Any property shown on any Plat, which property has not been submitted to the Declaration, may be submitted to the Declaration by recording a Supplementary Consent executed by the owner of such property and by the Board of Directors. Other property not shown on any Plat may be submitted to this Declaration upon the written consent of: (a) the owner(s) thereof; and (b) Owners holding at least one-half (1/2) of the Total Association Vote. The Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Gilmer County, Georgia land records, a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be executed on behalf of the Association by the President of the Association whose signature shall be attested by the Secretary of the Association. The annexation shall be effective only upon the filing



for record of such Supplementary Declaration in the Gilmer County, Georgia land records unless a later effective date is provided therein.

Article 3  
Property Rights; Easements

3.1 General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration may be conveyed, transferred and encumbered the same as other real property. The ownership of each Lot shall include, and there shall pass with 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. The Association, and its respective agents, employees, successors and assigns shall have the right at all reasonable times to enter upon all parts of each easement area transferred pursuant to this Article 3 for any of the purposes for which such easement area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Declaration.

3.2 Easement of Enjoyment. Every Owner shall have a right and easement of ingress and egress and use and enjoyment in and to the Common Area, subject to the terms of this Declaration and all other governing documents. Such right and easement may be exercised by each Owner and their respective family, licensees, guests and invitees, subject to the Rules and Regulations as may be adopted by the Board from time to time. The foregoing right and easement 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) easements, restrictions, reservations and rights of way as may actually exist, including, but not limited to utility easements, setbacks, restrictions and subdivision roadways, including common driveways shown on the Plats or set out in this Declaration;
- (b) The right to impose reasonable rules and regulations on the use and enjoyment of the Lots and of the Common Areas;
- (c) The right to dedicate or transfer parts of the common area to any public agency;
- (d) The right to suspend an Owner's voting rights and rights to use the Common Area for non-payment of any assessment or infraction of the published rules and regulations of the Association;
- (e) The right of the Association to rent, lease or reserve any portion of the Common Area to any Owner for the exclusive use of such Owner and his or her respective lessees, invitees, and guests upon such conditions as may be established by the Board;
- (f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;
- (g) The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area, subject to any approval requirements set forth in the Governing Documents;

3.3 Easement of Encroachment. There is hereby reserved for the benefit of the Association, the Members, the Owners, and their successors in title a non-exclusive, perpetual, reciprocal, appurtenant easement of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Lots and between each Lot and any adjacent Common Area due to unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary line along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

3.4 Easement for Utilities, Etc. There is hereby reserved for the benefit of the Association, the Members, the Owners, and their successors in title a perpetual non-exclusive easement upon, across, over, and under all of the Community (but not through a Structure existing or proposed) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, wetlands, irrigation systems; Drainage Facilities; street lights and signage; and all utilities, including, but not limited to, water, sewer, telephone, gas, and electricity systems, lines and meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Community, as necessary, to exercise the easements described above.

3.5 Easement for Slope Control and Drainage. There is hereby reserved for the benefit of the Association and its respective representatives, contractors and agents, employees, successors and assigns, a non-exclusive, perpetual, appurtenant easement over, across, under, through and upon each Lot for the purpose of:

- (a) Controlling soil erosion, including grading and planting with vegetation any areas of any Lot which are or may be subject to soil erosion;
- (b) Drainage of natural or man-made water flow and water areas from any portion of the Community;
- (c) Changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Lot or Common Area; and
- (d) Installing such pipes, lines, conduits or other equipment as may be necessary for slope control and drainage of any portion of the Community.

3.6 Easement for Entry. There is hereby reserved for the benefit of the Association a non-exclusive, perpetual, appurtenant easement to enter upon any Lot for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of

personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this section shall not constitute a trespass.

3.7 Easement for Maintenance and Enforcement. There is hereby reserved for the benefit of the Association a non-exclusive, perpetual, appurtenant easement to enter all portions of the Community, including each Lot but excluding the interior of any Residence to (i) perform its maintenance responsibilities and (ii) make inspections to ensure compliance with Governing Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense. The Association may also enter a Lot, excluding the interior of any Residence to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration and/or governing documents. All costs incurred, including reasonable attorney's fees, may be assessed against the violator as a Specific Assessment. Entry under this Section shall not constitute a trespass, and prior notice to the Owner shall not be required except as provided in maintenance provision.

3.8 Easement for Lake and Pond Maintenance and Flood Water. There is hereby reserved for the benefit of the Association a non-exclusive, perpetual, appurtenant right and easement, but not the obligation, to enter upon the Lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps and irrigation systems in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) draw water from such sources for purposes of irrigation; (c) construct, maintain and repair any bulkhead, wall, dam or other structure retaining water and (d) remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Association and their designees shall have an access easement over and across any of the Community abutting or containing any portion of any Lake, pond, stream or wetland to the extent reasonably necessary to exercise their rights under this section.

There is hereby reserved for the benefit of the Association a non-exclusive, perpetual, appurtenant right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within thirty (30) feet of Lake beds, ponds, streams and wetlands in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the Lakes, ponds, streams, and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such Lakes, ponds, streams and wetlands; (d) disturb existing landscaping; and (e) pile dirt and plant materials upon such areas. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. All affected areas shall be restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of any construction or maintenance activities authorized in this Declaration. Nothing herein shall be construed to make Association or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

3.9 Lateral Support There is hereby reserved for the benefit of the Association non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Area, every Lot, and any improvement which contributes to the lateral support of another portion for the Common Area or of another Lot, for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

3.10 Easement for Greenbelt Maintenance.

(a) It is hereby reserved for the benefit of the Association the nonexclusive right and easement, but not the obligation, to enter upon greenbelts, buffer zones and non-disturbance areas located within the Area of Common Responsibility to remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Association shall have an access easement over and across any of the Community abutting or containing any portion of greenbelt, buffer zone or non-disturbance area to the extent reasonably necessary to exercise their rights under this Section.

(b) Encroachment of structures into, over, or across greenbelts, buffer zones and non-disturbance areas shown on any recorded subdivision Plat of the Community is strictly prohibited. Any landscaping permitted shall be installed in accordance with Article 7. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements.

3.11 Easement for Lake or Creek Access. There is hereby reserved for the benefit of the Owners a perpetual, non-exclusive easement over and across areas of the Common Area adjacent to any Lake or creek designated by recorded subdivision plat for the purpose of ingress and egress to any Lake. Such easement is limited solely to access at the locations designated and originally constructed by the developer of the Community and/or the Association and shall not include the right for any individual Owner to construct any structure, walkway or path within the Common Area to facilitate Lake access.

3.12 Easement for Retaining Wall and Footing. There is hereby reserved for the benefit of the Association and its respective representatives, successors and assigns, contractors and agents a non-exclusive, perpetual, appurtenant easement over, across, under, through and upon the rear yards of any Lots (the "Adjoining Lots") adjacent to any retaining wall located in the Common Area bordering the Adjoining Lots and the footing for the retaining wall located beneath the surface of the rear yards of the Adjoining Lots. The purpose of this easement is for the placement of any retaining wall on the Common Area adjacent to the aforementioned Lots, for the placement and maintenance of any retaining wall footing beneath the rear yards of such Adjoining Lots, and for the minor unintentional placement or settling or shifting of any retaining wall into the rear yards of the Adjoining Lots.

3.13 Liability for Use. No Owner shall have a claim or cause of action against the Association arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Community, except in cases of willful or wanton misconduct.

3.14 Shared Driveway Easement. The conveyance of some, but not all Lots, include and are subject to the rights of others in and to common driveways shown on the plat and labeled "access easement". The easements shall be for ingress, egress, and regress and for installation of underground utilities, and for all other purposes incidental to the use of the lots accessed or capable of being accessed over such driveways. Use of the shared driveway easements shall be exclusive and shall be limited to only those lots thereby accessed. The rights of way and easement shall be the width shown on the Plats or amendments thereto, and if no width is shown the easements shall be 20 feet in width. The driveways shall remain open and unobstructed at all times, and no vehicles shall be parked in such driveways. The driveway easements shall be perpetual in nature, and shall inure to the benefit of and burden title to any numbered Lot thereby accessed and shall run with title to each Lot. It shall be the obligation of the Owners of Lots accessed by shared driveways to maintain the driveways in a manner so that such driveways are open and accessible by a passenger automobile in all weather, free of ruts, holes and erosion.

#### Article 4

##### Association Membership and Voting Rights

4.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration, the 2008 Declaration, the 2014 Declaration and/or the Articles of Incorporation shall have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the spouse of a member, but in no event shall more than one (1) Person representing a single membership hold office at the same time. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association.

4.2 Voting. Members shall be entitled to cast one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Lot shall be suspended in the event more than one (1) Person seeks to exercise it. The Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, By-laws, rules and regulations of the Association.

#### Article 5

##### Assessments

5.1 Purpose of Assessments. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Lots, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.



5.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments; (b) special assessments and (c) individual or specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, fines as may be imposed pursuant to the terms of this Declaration. All sums lawfully assessed by the Association against any Owner or Lot, whether for the share of the common expenses pertaining to that Lot, for fines, or otherwise, including without limitation, late charges (not in excess of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount due, or such higher amount as may be authorized by the Act from time to time), interest (at a rate not in excess of ten percent (10%) per annum on the principal amount due, or such higher amount as may be authorized by the Act from time to time), costs of collection, reasonable attorneys' fees actually incurred and, if the Board of Directors so elects, the fair rental value of the Lot, and all reasonable charges made to any Owner or Lot for materials furnished or services rendered by the Association at the Owner's request to or on behalf of the Owner or Lot, shall, from the time the same become due and payable, be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due and constitute a continuing lien in favor of the Association on the Lot prior and superior to all other liens whatsoever except: (1) liens for ad valorem taxes on the Lot; (2) the lien of any first priority Mortgage covering the Lot and the lien of any Mortgage recorded prior to the recording of this Declaration; and (3) the lien of any secondary purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot. Pursuant to the Act, the recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien shall be required. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of the grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings pursuant to a Mortgage described in (2) or (3) above.

No Owner may waive or otherwise exempt themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or nonuse of the Common Areas, including, without limitation, nonuse of the Community recreational facilities. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments. As provided in O.C.G.A. Section 44-3-232, the obligation for the payment of assessments and fees arising hereunder shall include the costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and the award of attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

5.3 Budget. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause the budget and

the annual assessment to be levied against each Lot for the year to be delivered to each member at least thirty (30) days prior to the due date of such annual assessment. The budget and the annual assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for any period, then and until such time as a budget has been determined, as provided herein, the budget in effect shall continue.

5.4 Annual Assessments. Annual assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice for delinquents. Unless otherwise provided by the Board, the annual assessment shall be paid in one annual installment. Annual assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Areas, improvements to the Common Areas, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. Annual assessments may include, without limitation, the following: (a) sums for property taxes for the Common Areas; (b) insurance premiums; (c) legal and accounting fees; (d) third-party management company fees, if any; (e) charges for utilities and other services provided by the Association, if any; (f) costs to maintain the Community entry features, including any electricity and irrigation expenses associated therewith; (g) landscape maintenance; (h) costs associated with the maintenance of the storm water detention/retention pond(s) and storm water drainage facilities serving the Community; (i) costs to operate and maintain the Community recreational facilities; (j) costs of maintenance, operation and repair of those portions of the Common Areas which are the responsibility of the Association under the Declaration, including, but not limited to, fencing and any gated entryway and (k) expenses and liabilities incurred as provided herein and in the Articles of Incorporation and By-laws for the indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

5.5 Special Assessments. In addition to other assessments authorized herein, the Board may in its discretion levy special assessments in any year for the purpose of paying the costs of unexpected maintenance, repairs or replacement of the Common Area or the cost of other unanticipated expenses, needs or obligations of the Association incurred or projected to be incurred in the performance of its obligations in this Declaration. Any Special Assessment shall become effective unless disapproved by a majority of the Total Association Vote. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for in the Bylaws, which petition must be presented to the Board within thirty (30) days after the date of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

5.6 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. The failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not

constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. By way of explanation and not limitation (a) fines levied pursuant to this Declaration, (b) the cost of maintenance performed by the Association for which an Owner is responsible, (c) the expense of any service provided by the Association at the request of the Owner which benefits one or more, but less than all Lots and (d) expenses of the Association which are attributable to or incurred as a result of the conduct of an Owner or the Occupants, guests, tenants, invitees or licensees of the Owner may be specifically assessed against the Lot of such Owner.

5.7 Effect of Non-Payment of Assessments: Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and as provided in the Act, such Owner and such successors-in-title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and such successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves. Any assessment or installment thereof delinquent for a period of more than thirty (30) days shall incur a late charge (not in excess of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount due, or such higher amount as may be authorized by the Act from time to time), interest (at a rate not in excess of ten percent (10%) per annum on the principal amount due, or such higher amount as may be authorized by the Act from time to time) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred. The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of Gilmer County, Georgia, as the case may be, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. Each Owner, by acceptance of a deed, vests in the Association the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the lien.

The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all Owners. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also suspend the membership rights of the delinquent Owner, including the right to vote, the right to serve as a member of the Board of Directors, the right of enjoyment in and to the Common Areas, including, without limitation, the Community recreational facilities, and the right to receive and enjoy such services and other benefits as may then be provided by the Association, if any. Any suspension shall not affect an Owner's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent lien on such Lot in favor of the Association. As provided in O.C.G.A. Section 44-3-232, the obligation for the payment of assessments and fees arising hereunder shall include the costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and the award of



attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

5.8 Date of Commencement of Assessments. Assessments shall commence as to all Lots when the Board of Directors first determines a budget and levies assessments. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide.

5.9 Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

5.10 Estoppel Certificate. Any Owner, Mortgagee, or a Person or entity having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, including any late charges, interest, fines, or other charges against that Lot. Such request shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. The Association shall respond in writing within five (5) business days of receipt of the request for a statement, or such longer period as may be permitted by the Act and the Association may require the payment of a reasonable fee not to exceed Ten and No/100 Dollars (\$10.00), or such higher amount as may be authorized by the Act, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

5.11 Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots.

5.12 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the annual assessment in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purpose.

Article 6  
Maintenance Responsibility: Common Areas and Lots

6.1 Association's Maintenance Responsibility.

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

- (1) All Common Area;
- (2) Any entry feature, access gates, gates houses and gatekeeper's cottage;
- (3) All Private Streets located within Falling Waters;
- (4) All recreational amenities located within Falling Waters from time to time;
- (5) Any Lake, trails or creeks;
- (6) All landscaping parks, ponds, structures, and improvements, including any parking areas, trails and sidewalks situated upon the Common Area;
- (7) All furnishings, equipment and other personal property of the Association;
- (8) Any landscaping, parks, sidewalks, buffers, entry features, structures and improvements within public rights-of-way within or abutting the Community or upon such other public land adjacent to the Community as deemed necessary in the discretion of the Board;
- (9) Such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration any Cost Sharing Agreement, or any contract or agreement for maintenance thereof entered into by the Association;
- (10) All Detention Facilities, ponds, lakes, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Community, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith; and
- (11) Any wetlands or other natural areas which shall remain in its natural state located within the Community; provided; however, that such natural areas do not have to be maintained to the same standard as other areas maintained by the Association.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, Private Streets, property dedicated to the public, public roads located outside of the Community or provided 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 to maintain the Community-Wide-Standard.

(b) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that 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 or desirable to maintain the Community-Wide Standard.

- (c) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the Annual Assessment, without prejudice to the right of the Association to seek reimbursement for the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof.
- (d) No diminution or abatement of assessments shall be claimed or allowed by reason of an alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.
- (e) In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees (including contractors, subcontractors, vendors, etc.) of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Lot of such Owner as a specific assessment.

#### 6.2 Owner's Maintenance Responsibility.

(a) General. Except for maintenance performed on or to a Lot by the Association pursuant to Section 5.1, if any, all maintenance of the Lot, the Residence and all structures, landscaping, and other improvements located thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance obligation shall include, without limitation, the following: (i) prompt removal of all litter, trash, refuse, and waste; (ii) lawn mowing on a regular basis; (iii) tree and shrub pruning; (iv) watering landscaped areas; (v) keeping improvements and exterior lighting in good repair and working order; (vi) keeping lawn and garden areas alive, free of weeds, and attractive; (vii) keeping driveways and walkways in good repair; (viii) complying with all governmental health and police requirements; (ix) maintaining grading and storm water drainage as originally established on the Lot; (x) repairing exterior damage to improvements; (xi) all maintenance, repair and replacement to the residential dwelling located on a Lot, including, without limitation, periodic painting and pressure washing as needed; (xii) all storm water drainage facilities which are located on and exclusively serve the Lot; (xiii) all pipes, wires and

conduits which exclusively serve the Lot and (xiv) removal of fallen trees from the front of the Lot and any landscaped areas on the Lot.

(b) Failure to Maintain. In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable period of time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement to the Lot and all costs thereof shall be assessed against the Owner and the Lot as a specific assessment.

6.3 Partition. The Common Area shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of: (a) all Owners of all portions of the property located within the Community; and (b) all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Community.

6.4 Condemnation. In the event of a taking by eminent domain of all or any portion of the Common Area on which improvements have been constructed, the Association shall, if reasonably possible, restore or replace such improvements on the remaining Common Area, unless within sixty (60) days after such taking, an alternative plan is approved by at least seventy-five percent (75%) of the Total Association Vote. The provisions of this Declaration applicable to the replacement or restoration of damaged improvements on the Common Area shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

6.5 Liability. Owners, Occupants and their guests shall use Area of Common Responsibility and all other Common Area and all portions of the Community not contained within a Lot, including, without limitation, the Community recreational facilities, at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and Occupants shall have an affirmative duty and responsibility to inspect the Common Area and all portions of the Community not contained within a Lot for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, its officers, directors, employees, representatives and agents shall not be held liable for: (a) personal injury to any person occurring on the Common Area; (b) loss or damage to personal belongings used or stored on the Common Area or on any other portion of the Community; or (c) loss or damage, by theft or otherwise, of any other property of such Owner or Occupant.

In addition to the foregoing, the Association and its officers, directors, employees, representatives and agents shall not be liable for injury or damage to any Person or property: (a)

caused by the elements or by an Owner or any other Person; (b) resulting from any rain or other surface water which may leak or flow from any street, 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 or from any portion of the Common Area; or (c) caused by any street, pipe, plumbing, drain, pond, lake, dam, 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.

#### Article 7 Architectural Standards

Except to the extent the same may be a violation of any provision of the Falling Waters Declarations, any alterations, changes or modifications to architecture or landscaping originally installed on Lots as of the date this Declaration is recorded in the Gilmer County, Georgia land records, as the case may be, shall be deemed an approved change pursuant to this Article.

7.1 General. In order to preserve the natural setting and beauty of the Community, to establish and preserve a harmonious and aesthetically pleasing design for the Community and to protect and promote the value of the Community, the Lots and all improvements located thereon and submitted to this Declaration shall be subject to the restrictions set forth in Article 7. No exterior construction, alteration or addition of any improvements of any nature whatsoever including, without limitation, staking, clearing, excavating, grading, filling, construction of impervious surfaces, building, exterior alteration of existing improvements, installing storm and screen doors, storm windows, fencing, signage, painting, adding permanent exterior lighting (except for reasonable temporary seasonal decorative lights, as the same may be determined from time to time by the Architectural Control Committee), and planting and removing landscaping materials (except for seasonal planting and landscaping consistent with the Community-Wide Standard), shall be commenced or placed upon any part of the Community unless, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. However, additions and/or modifications to the interior of porches, patios, decks and similar portions of a structure visible from outside the Lot shall be subject to approval. This Article shall not apply to Improvements made to the Common Areas by or on behalf of the Association.

7.2 Architectural Control Committee. The Architectural Control Committee ("ACC") shall mean and refer to those Persons appointed by the Board of Directors to serve on the Architectural Control Committee, which shall then have such rights, powers and authority as may be granted to it by the Board of Directors, including the responsibility of reviewing and approving building, construction and landscaping activity within the Community hereunder. The ACC shall consist of three (3) to five (5) members, all of who shall be Owners and who may or may not be members of the Board of Directors. The regular term of office for each member shall be two (2) years. Any member appointed by the Board may be removed with or without cause by the Board of Directors at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member.



7.3 Guidelines and Procedures. No exterior construction, addition, alteration or modification shall be commenced or maintained by any Owner, including, without limitation, the construction, reconstruction, placement or installation of residential dwellings, sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, dog houses, greenhouses, play houses, swing sets, basketball goals, awnings, walls, fences, exterior lights, garages, guest or servants' quarters or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), nor shall any landscaping, fencing, grading, excavation or filling of any nature whatsoever be implemented and installed, unless and until two (2) copies of the plans and specifications shall have been submitted in writing to the Association's Secretary or some other officer as specified by the Board and approved by the ACC. Such plans and specifications shall be of sufficient detail to allow the ACC to make its review and to the extent required by the ACC shall show the nature, kind, shape, height, materials and location of the proposed structure or Improvement. The ACC shall be the sole arbiter of such plans and specifications and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and it shall be entitled to stop any construction in violation of such plans and specifications or any other provisions of the Declaration. If the ACC fails to approve or to disapprove submitted plans and specifications within thirty (30) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. If construction does not commence on a project for which plans have been approved within one (1) year of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the ACC for reconsideration.

As a condition of approval under this Article, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for the maintenance, repair, replacement and insurance to and on any Improvement, change, modification, addition or alteration. In the discretion of the Board of Directors, an Owner may be required to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest.

The ACC shall have sole and full authority to determine the Community-Wide Standard. The Board of Directors, in its sole discretion, may adopt architectural guidelines to illustrate the Community-Wide Standard and may, from time to time, add, modify or repeal the architectural guidelines for the Community. Notwithstanding anything to the contrary herein, any amendments or modifications to the architectural guidelines shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants. The Board of Directors, ACC and its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property in the Community to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with and such Persons shall not be deemed guilty of trespass by reason of such entry; provided, however, nothing herein shall be construed as permitting the Association to enter any residential dwelling located on a Lot without the consent of the Owner thereof.

7.4 Limitation of Liability. Plans and specifications are not approved for engineering or structural design, quality of materials or for compliance with applicable building codes,

permitting requirements, zoning conditions or other applicable governmental laws, ordinances and regulations governing construction in the Community and by approving such plans and specifications the Association and its respective directors, officers, members, representatives, agents or employees assume no liability or responsibility therefor or for any defect in any structure or Improvement constructed from such plans and specifications or for any violation of applicable building codes, zoning conditions, permitting requirements or for any other violation of governmental laws, ordinances and regulations governing construction in the Community. Neither the Association, nor the officers, directors, members, employees and agents of the Association shall be liable in damages to anyone submitting plans and specifications for approval or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against the Association or its respective officers, directors, members, employees, representatives and agents to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for 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.

7.5 No Waiver. The approval of the Board of Directors or the ACC, as applicable, of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Board of Directors or the ACC, as applicable, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters whatsoever subsequently or additionally submitted for approval or consent.

7.6 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors and the ACC shall be authorized to grant individual variances from any of the provisions of this Declaration, the architectural guidelines if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to, topography, natural obstructions, hardship, aesthetic considerations or environmental considerations and would not be inconsistent with the overall scheme of development for the Community. No variance shall (a) be effective unless in writing, (b) be inconsistent with the overall scheme of development for the Community, or (c) estop the Board of Directors from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

7.7 Enforcement. Any structure, Improvement or landscaping improvement placed or made in violation of this Article or that is inconsistent with the approval issued by the ACC shall be deemed to be nonconforming. Upon written request from the Board of Directors, Owners shall, at their own cost and expense, remove such nonconforming structure or Improvement and restore the land and Improvements to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board and its agents shall have the right to enter the property, remove the nonconforming structure or

Improvement, and restore the property to substantially the same condition as previously existed. All costs, including, without limitation, reasonable attorney's fees actually incurred, may be assessed against the Lot as a specific assessment. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article, or the architectural guidelines may be excluded by the Board of Directors from the Community, subject to any applicable notice and hearing procedures contained herein or in the By-laws. Neither the Association nor its officers, directors, members, employees and agents shall be held liable to any Person for exercising the rights granted by this Section, including, without limitation, claims for damages resulting from the removal of the non-conforming structure or Improvement in accordance with the procedures set forth herein. In addition to any other remedies available to the Association and the Board, in the event of noncompliance with this Article, the Board may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, the Association, acting through its Board of Directors, shall have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article, including, without limitation, the right to levy and collect fines as provided herein, subject to any applicable notice provisions contained in the By-laws. All costs incurred by the Association in enforcing the terms of this Article, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the Owner and collected in the same manner as provided for in the collection of assessments.

#### Article 8 Use Restrictions and Rules

8.1 Rules and Regulations. The Board of Directors may, from time to time, without a vote of the members, promulgate, modify or delete reasonable rules and regulations applicable to the Community, including, without limitation, rules and regulations governing the use of the Lots and Common Areas. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of Owners whose Lots are submitted to this Declaration pursuant to Article 2.

8.2 Residential Use. Each Lot shall be used for residential purposes exclusively. Leasing of a Lot for residential occupancy, consistent with all zoning requirements for the Community and in accordance with this Declaration, shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing at the Lot may conduct business activities within the residential dwelling located thereon so long as the business activity: (a) does not otherwise violate the provisions of the Declaration, By-laws or any rules and regulations of the Association; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Community; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Community; (g) does not constitute a nuisance or a hazardous or offensive use; (h) does not threaten the security or safety of other residents of the Community; and (i) does not involve door-to-door solicitation within the



Community, all as may be determined in each case in the sole discretion of the Board of Directors.

The Board may issue rules regarding permitted business activities. 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: (a) the activity is engaged in full or part-time; (b) the activity is intended to or does generate a profit; or (c) a license is required for the activity.

8.3 Signs. Signs may be erected on a Lot but must be approved by the ACC except as provided for herein or by Board resolution. The Board, on behalf of the Association, shall have the right to erect and display reasonable and appropriate signs. The Board of Directors shall also have the right to adopt reasonable rules and regulations governing the display and placement of signs in the Community, including, without limitation, imposing reasonable time, place and manner restrictions. The Board may impose a fine, in an amount determined by the Board of Directors, for the display of any sign which violates this provision and is not removed within twenty-four (24) hours after written demand is delivered to the Owner at that Lot. Notwithstanding anything to the contrary herein, the provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure.

#### 8.4 Vehicles; Parking.

(a) General. Vehicles shall be parked only in appropriate parking spaces serving the Lot or other designated parking areas established by the Board, if any. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, bicycles, scooters, go carts, golf carts, trucks, campers, buses, vans and automobiles. The term "parking spaces serving the Lot" shall refer to the number of garage parking spaces and if, and only if, the Occupants of a Lot have more vehicles than the number of garage parking spaces, those excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway located on such Lot. No vehicles shall be parked on the streets serving the Community for more than seven (7) days without the prior written approval of the Board. Parking in the alleyways shall be strictly prohibited. All parking shall be further subject to such reasonable rules and regulations as the Board may adopt from time to time.

(b) Restrictions on Certain Vehicles. No vehicle may be left upon any portion of the Community, except in an enclosed garage or other area designated by the Board, if any, for a period of more than five (5) days if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. After such five-day period, such vehicle may be removed from the Community by the Board of Directors or the appropriate authority of Gilmer County. No towed vehicle, boat, personal watercraft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go cart, golf cart, commercial vehicle, camper, bus or mobile home shall be regularly stored in the Community or temporarily kept in the Community, except if kept in an enclosed garage or other area designated by the Board, if any, for periods

longer than forty-eight (48) hours (the temporary removal of such vehicle from the Community shall not be sufficient to establish compliance with the forty-eight (48) consecutive hour provision provided for herein). No eighteen-wheel trucks or the cabs of such trucks shall be parked, kept or stored within the Community except as may be reasonably necessary to provide service to or delivery within the Community or as otherwise permitted by the Board of Directors. Neither the roadways in Falling Waters nor any Lot or any part of the Common Area shall be used for recreational ATV or off road motorcycle riding.

(c) Commercial Vehicles. The term "commercial vehicles" as used in this paragraph, shall include, without limitation, any vehicle which bears any indicia of commercial use, including, but not limited to, writing, logos, ladders, ladder racks, vehicles displaying signage of a commercial or business nature or vehicles which are not primarily used for the transportation of passengers. Commercial vehicles shall not be permitted in the Community, except if kept in an enclosed garage; provided however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service to or make a delivery within the Community.

(d) Remedies of the Association for Noncompliance. If any vehicle is parked on any portion of the Common Areas or upon any Lot in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity that will do the towing and the name and telephone number of a member of the Board or of its agent to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within twelve (12) months of such notice, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the Owner or user of the vehicle. Notwithstanding anything herein to the contrary, if a vehicle is parked on the Common Areas such that it is blocking another vehicle, is obstructing the flow of traffic or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately.

If a vehicle is towed in accordance with this Section, the Association and its respective affiliates, directors, officers, employees, representatives or agents, shall not be liable to any Person for any claim of damage as a result of the towing activity. The Board of Directors may exercise any and all remedies available for a violation of this Section, including, without limitation, the right to levy a fine against a non-complying Owner or Occupant, which remedies shall be in addition to not in lieu of its authority to remove the violating vehicle.

8.5 Leasing of Lots. In order to protect the equity of the individual members, to carry out the purpose for which the Association was formed by preserving the character of the Community as a homogenous residential community of predominantly owner-occupied homes and by preventing the Community from assuming the character of a renter-occupied neighborhood, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the

project be substantially owner-occupied, leasing of Lots shall be governed by the restrictions imposed by this Section.

(a) General. No Owner may lease his or her Lot unless: (1) the Lot is a Grandfathered Lot, as defined herein; or (2) the Owner has received a hardship leasing permit, in writing, from the Board of Directors, all as more specifically set forth below.

Any Lot which is not a Grandfathered Lot may be leased only if the Owner has applied for and received from the Board of Directors a hardship leasing permit. A hardship leasing permit will allow an Owner to lease his or her Lot in accordance with the terms and conditions set forth in this Section and in accordance with the rules and regulations of the Association and the covenants and conditions set forth in the Declaration. Notwithstanding anything to the contrary herein, a hardship leasing permit is only be valid as to a specific Owner and Lot and shall not be transferrable between Lots or subsequent Owners.

(b) Definitions.

(i) Effective Date means the date this Amendment is recorded in the Gilmer County, Georgia land records.

(ii) Grandfathered Lot means any Lot being leased as of the Effective Date. Grandfathered Lots may continue to be leased until title to said Lot is conveyed to any Person or entity other than the Person or entity holding record title as of the Effective Date, provided the tenant complies with all regulations pertaining to the use of the Lot set forth in the Declaration and any amendments thereto, the By-Laws and any rules and regulations of the Association. All Owners of Grandfathered Lots shall file a copy of the lease agreement in effect with the Board within thirty (30) days of the Effective Date.

(iii) Leasing means the regular, exclusive occupancy of a Lot by any person(s) other than the Owner for which the Owner received any consideration or benefit, including, but not limited to, a fee, rent, gratuity or emolument. For purposes hereof the following shall not constitute leasing: (1) occupancy of the Lot by an Owner's spouse, parents or children; (2) occupancy of the Lot by a roommate of an Owner-Occupant; (3) occupancy of the Lot by one or more wards if the Lot is owned by their legal guardian, or (4) occupancy by one or more beneficiaries of a trust if the Lot is owned in trust by the trustee.

(c) Hardship Leasing Permits. Leasing of a Lot is prohibited unless an Owner receives a hardship leasing permit as provided herein. If an Owner must lease his or her Lot to avoid an undue hardship, the Owner shall apply to the Board in writing for a hardship leasing permit. The Board may issue or deny requests for hardship leasing permits in its discretion after considering the following factors, which include, but are not limited to: (1) the nature, degree and likely duration of the

hardship; (2) the harm, if any, which will result to the Community if the hardship leasing permit is approved; (3) the number of hardship leasing permits which have been issued to other Owners; (4) the Owner's role in causing the hardship or ability to cure the hardship; and (5) whether previous hardship leasing permits have been issued to the Owner.

A hardship hereunder shall include, but not be limited to, the following situations: (1) an Owner dies and the Lot is being administered by his or her estate; (2) an Owner must relocate outside the North Georgia area and cannot, within six months from the date that the Lot was placed on the market, sell the Unit except at a price below the current appraised market value, after making reasonable efforts to do so; or (3) an Owner takes a leave of absence or temporarily relocates out of the North Georgia area and intends to return to reside in the Lot within one year.

Hardship leasing permits shall be valid for a term not to exceed one (1) year. Owners may reapply for additional hardship leasing permits at the expiration of a hardship leasing permit in accordance with the procedures set forth herein.

(d) Leasing Provisions. If the Lot is a Grandfathered Lot or an Owner obtains a hardship leasing permit as provided herein, the leasing of such Lot shall be governed by the following provisions:

(i) Notice. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board of Directors with a copy of the following information: (1) a copy of the fully executed lease agreement; (2) the name of the lessee and all other people occupying the Lot; (3) the phone number of the lessee; (4) the Owner's address and telephone number other than at the Lot; and (5) other information that the Board may reasonably require.

(ii) General. Lots may be leased only in their entirety; rooms, basements or fractions or portions of a Lot may not be leased without the prior written approval of the Board of Directors. All leases shall be in writing. There shall be no subleasing of Lots or assignment of leases unless approved in writing by the Board of Directors. All leases must be for an initial term of at least one (1) year, except with written approval by the Board of Directors, which shall not be unreasonably withheld in cases of undue hardship. The Owner must provide the lessee with copies of the Declaration, By-Laws, and the rules and regulations of the Association and the lease shall provide that the Owner has made available to the lessee copies of the Declaration, By-Laws, and the Association's rules and regulations and architectural guidelines.

(iii) Compliance; Liability for Assessments. If a Lot is leased or occupied in violation of this Section, then the Board of Directors shall be authorized, in addition to all other available remedies, to terminate the lease and

occupancy, and to suspend all voting rights and the right to use and enjoy the Common Areas of the Owner and any unauthorized tenants(s) or Occupant(s).

Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Compliance with Declaration, By-Laws, Rules and Regulations and Architectural Guidelines. Lessee shall abide by and comply with all provisions of the Declaration, By-Laws, and rules and regulations and architectural guidelines adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance. The Owner agrees to cause all Occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations and architectural guidelines adopted pursuant thereto and is responsible for all violations caused by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, By-Laws and rules and regulations and architectural guidelines adopted pursuant thereto.

In the event that the lessee or a person living with the lessee violates the Declaration, By-Laws, or a rule or regulation or architectural guidelines for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with the provisions contained herein. If the fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, By-Laws or rules and regulations or architectural guidelines adopted pursuant thereto by the lessee, any Occupant, or any guest of the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from violations of the Declaration, By-Laws or rules and regulations of the Association adopted thereunder, including the power and authority to terminate the lease without liability upon such violation(s) and to evict the lessee and/or the Occupant(s) as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof, it being hereby agreed that in such instance the Association shall have standing to terminate the lease and initiate dispossessory proceedings against the lessee and/or the Occupant(s). In the event the Association proceeds to evict



the lessee and/or the Occupant(s) of a Lot, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment and lien against the Lot and any leasing permit granted herein shall automatically be revoked.

(B) Liability for Assessments. If an Owner who is leasing his or her Lot fails to pay any annual, special or specific assessment or any other charge owed to the Association for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid annual, special and specific assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board of Director's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board of Director's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(C) Right to Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area.

(e) Exemptions. This Section shall not apply to any leasing transaction entered into by the Association or an institutional holder of any first Mortgage on a Lot who becomes the Owner of a Lot through Foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such first Mortgage.

8.6 Transient Rentals. Notwithstanding anything herein to the contrary in this Declaration, under no circumstances shall a Unit be leased, rented or used for short-term transient or hotel purposes or rented through short-term internet rental services, including, without limitation, VRBO, Airbnb, HomeAway, or such other similar rental services.

#### 8.7 Animals and Pets.

(a) General. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in a reasonable number as determined by the Board from time to time. No pets shall be kept, bred or maintained for any commercial purpose. No dog runs, runners or exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 7 hereof. Dogs shall at all times when outside of a dwelling located on a Lot be kept on a leash or otherwise under the physical control of a responsible person. All Owners must control their pets at all times, whether or not such Owner is present, in a manner

that will prevent any pet from: (a) making noise at objectionable sound levels for extended periods of time, whether continuously or intermittently; (b) endangering the health or safety of other Owners, their families, guests or invitees or creating fear in other Owners as to the safety of themselves, their families, guests or invitees; or (c) otherwise constituting a nuisance or inconvenience to the Owner(s) or Occupant(s) of any other Lot; all of the foregoing as determined by the Association in its sole discretion.

All pets shall be registered, licensed and inoculated if and as required by law. Animal control authorities shall be permitted to enter the Community to patrol and remove unlicensed pets. Animal waste deposited in any Common Areas must be removed immediately by the owner of the animal or the person responsible for the animal. The Association may adopt reasonable rules and regulations designed to minimize damage and disturbance to other Owners and Occupants, including without limitation, regulations requiring damage deposits, waste removal, leash controls and noise controls. The Association may require that an Owner remove any animal that presents an actual threat to the health or safety of residents and require abatement of any nuisance or unreasonable source of annoyance. In the event that the Owner fails to remove an animal as provided herein, the Association shall have the right to institute legal action to have the animal removed and all costs associated therewith, including, without limitation, reasonable attorneys' fees actually incurred, shall be a specific assessment against the Lot of such Owner.

8.8 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a Lot. No property within the Community shall 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. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property within the Community. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community by other Owners and Occupants. Without limiting the generality of the foregoing, no exterior speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, screaming, shouting, excessively loud talking, fighting, raucous behavior, insobriety, playing loud music or television, use of any alarm, equipment, or device, mechanical or otherwise which creates or produces excessively loud sounds or any vibrations, or any conduct which creates any noxious or offensive odors outside of a home shall be permitted, located, used, placed, installed or maintained upon any Lot, or any portion thereof. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person as determined in a particular instance by the Board. Notwithstanding anything to the contrary herein, each Owner and Occupant acknowledges that its agents, subcontractors or employees may engage in construction activities on one or more Lots in the Community and further agrees that such construction activities shall not be deemed a nuisance as provided herein.

8.9 Unightly 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 in any part of the Community.

8.10 Tree Removal. No commercial cutting of timber shall be permitted on any Lot. Trees that are more than ten (10) inches in diameter at a point twelve (12) inches above the ground and no ornamental or flowering trees, including, but not limited to, dogwood trees, cottonwood trees, cherry trees or apple trees, regardless of diameter shall be removed without prior written approval under Article 7 hereof; provided that dead, dying and diseased trees certified as such by an arborist may be removed without the approval of the ACC. The Association and Owners shall also comply with all zoning conditions and local ordinances applicable to tree removal. In the event of a conflict between the provisions of this Section and any zoning condition or local ordinance, the more restrictive provision shall govern. This provision shall not apply to the removal of trees by the Association.

8.11 Drainage and Grading. Catch basins, retention ponds, detention ponds, drainage easement areas and related drainage facilities are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flow after the location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 7 hereof. In the event storm water drainage from any Lot or Lots flows across another Lot, provisions shall be made by the Owner of such downstream Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course although no specific drainage easement for such flow of water is provided on the subdivision plat for the Community recorded in the Gilmer County, Georgia land records, as applicable. Each Owner shall be responsible for maintaining all drainage areas located on 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.

Any grading or other land use which creates erosion runoff into streams or other Lots is prohibited, including any such activity in conjunction with construction of any septic system. Any grading performed in violation of any county, state or federal ordinance or statute or regulation shall be deemed to be a noxious or offensive activity and may result in fines by the Association or the ACC, or in a civil action to enjoin such activity.

Any land disturbing activity shall comply with the rules of the Georgia Division of Environmental Protection and any applicable County ordinances which protect the area from excessive erosion, groundwater depredation and ground instability.

8.12 Garbage Cans, Woodpiles, Etc. All garbage cans, recycling bins, woodpiles, swimming pool pumps, filters and related equipment, and other similar items shall be located or screened so as to be concealed from the view of neighboring streets and property. All rubbish,



trash, garbage, recycling materials and yard waste shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris, yard waste or other waste matter of any kind may not be burned within the Community. The Association has no obligation to contract with a private trash removal company to pick up usual and customary household trash. In the event an Owner or Occupant contracts with a private trash removal company to pick up usual and customary household trash, the following rules shall govern pick-up of such trash: recycling and yard waste receptacles shall be placed at the curb no earlier than 6:00 a.m. the day of pick-up and shall be removed by 9:00 p.m. on collection day. Trash removal, recycling and yard waste pick-up shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt from time to time.

8.13 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with prior written approval in accordance with the Board. With written approval of the Board any two or more contiguous Lots may be combined. Upon approval, all setback lines and other use restrictions shall apply separately to the resulting Lot as if the same had been an original Lot. The resulting Lot shall incur only one Association assessment and shall have only one individual membership right in the Association.

8.14 Firearms and Fireworks. The discharge of firearms and fireworks within the Community is prohibited; provided that, the Board, on behalf of the Association, shall have the right to discharge fireworks at community events. The term "firearms" includes, but is not limited to, "B-B" guns, pellet guns, archery equipment and firearms of all types, regardless of size. The term "fireworks" shall include, but not be limited to, those items as listed in O.C.G.A. Section 25-10-1, as amended.

8.15 Artificial Vegetation, Gardens, Play Equipment, Exterior Sculpture, Water Features and Similar Items. No artificial vegetation shall be permitted in the Community. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals), exterior sculpture, fountains or water features may be erected on any Lot without prior written approval in accordance with the provisions of Article 7 hereof.

8.16 Conservation Equipment. No solar energy collector panels or attendant hardware or other conservation equipment shall be constructed or installed on a Lot unless as an integral and harmonious part of the architectural design of a structure or otherwise screened from view and approved in accordance with the provisions of Article 7 hereof.

8.17 Clotheslines. No outside clotheslines shall be constructed, placed or maintained on any Lot unless screened from view of neighboring Lots and the streets within the Community.

8.18 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments, with the exception of stained wood blinds or shutters, which can be seen at any time from the outside of any structure located on a Lot shall be white, off-white or such other color(s) as may be permitted in accordance with Article 7 hereof. Bed sheets, blankets, towels, black plastic, paper and similar type items shall not be used as window treatments.

8.19 Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure may be used as a residence, either temporarily or permanently, without written approval under Article 7 hereof. A guest home may be constructed on any Lot containing 2 acres or more, either as a stand-alone building, or as part of a garage, so long as such structure is built according to a plan approved by the ACC, is architecturally compatible with the primary dwelling and is built no more than one year before construction begins on such dwelling. No more than one outbuilding may be constructed on any Lot and only upon ACC approval. Said outbuilding shall be used only for the purposes of housing boats, cars, RVs or lawn and garden equipment. Said building must be constructed in a workman-like manner and may not be constructed more than one year prior to construction of the main residence.

8.20 Traffic Regulations. The Association is hereby authorized to promulgate, administer and enforce Rules and Regulations governing vehicular and pedestrian traffic on the Common Area and the use of any and all motorized devices on the Common Area. The Association shall be entitled to enforce such rules and regulations by establishing such enforcement procedures as it deems appropriate, including the levying of fines for any violations thereof. All vehicles of any kind and nature which are operated on the Common Area within the Community shall be operated in compliance with all such Rules and Regulations and in a careful, prudent, safe and quiet manner and with due consideration for the rights of all Owners and occupants of Lots. The Association shall be authorized to erect signage, guardrails and other improvements on the private streets within the Community, which it deems is beneficiary to the residents of the Community in its sole discretion.

8.21 Setback Requirement. No structure, other than an approved fence, may be built within twenty-five (25) feet of any roadway or common driveway right of way, or any front or rear lot lines, or within twenty (20) feet of any side property line or within forty (40) feet of any rear property line.

8.22 Mineral Extraction. No well for the production of, or from which there may be produced, oil, gas or minerals shall be dug or operated upon any Lot not owned by Declarant, nor shall any machinery, appliance or structure ever be placed, operated or maintained thereon in connection therewith, nor shall there be any subsurface mining or drilling activity thereon; provided further that the prohibition against drilling activity shall not include any drilling or excavation activity associated with the installation of utilities and communication facilities and any activities associated with soil testing, construction of building foundations or master drainage control.

8.23 Campground. This development is not to be used as a campground. Lot Owners are not, however, prohibited from overnight stays in professionally manufactured equipment, provided the camping equipment is not left on any Lot for more than seven (7) days out of any thirty (30) day period and is not in violation of any local or state ordinance. Tent camping is allowed provided tent(s) are not visible from any road or roadway or any adjacent Lot. Permanent residence in any type of camping equipment is strictly forbidden.

8.24 Hunting. No Lot or Lots within the Community shall be used for the establishment of a hunt club and no property within the Community shall be used for the purpose of hunting. Hunting is not allowed at any time or on any part of the subdivision, and no firearm shall be discharged within the Development.

8.25 Private Streets. The Private Streets shall be subject to the provisions of this Declaration regarding use of Common Area. Additionally, Owners of Lots and other permitted users of the Private Streets shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the Private Streets by other authorized users of the Private Streets. Prohibited activities shall include without limitation, obstruction of the Private Streets.

8.26 Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on any part of the Common Area without the prior written consent of the Association. 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 Area as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, occupants and family, 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.

8.27 Fuel Storage Tanks. Fuel storage receptacles/tanks must be screened from view of neighboring streets and Lots and must be buried underground and installed consistent with any applicable architectural guidelines adopted by the Board or ACC and any applicable federal, state or county statutes or ordinances governing the storage of fuel. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

8.28 Sight Distance at Intersections. All property located at street intersections or driveways shall be landscaped, improved and maintained so as to permit safe sight across from areas. No fence, wall, hedge or shrub shall be placed or permitted to remain where it would cause a traffic or sight problem.

8.29 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.

8.30 Lake. Any Lake shall be used only in accordance with the Lake Use Restrictions promulgated by the Association, if any. Swimming, fishing, boating or other active uses of any Lake shall be strictly governed by the Lake Use Restrictions and may be prohibited altogether in the discretion of the Association. Boats, if allowed, will be subject to limitations set forth in the Lake Use Restrictions, including, without limitation, limitations on size and motors. Fishing, if allowed, is permitted with such licenses as may be required by any governmental entity. Except as originally developed, no trails or pathways shall be established along the perimeter of the

Lake. No docks, piers or gazebos shall be constructed, attached or floated upon or adjacent to any Lake without the specific approval of the ACC. Notwithstanding the foregoing, the Association shall have the right to use the equipment it deems necessary at the times and places it deems necessary to comply with the maintenance responsibilities. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of any Lake.

8.31 Preservation of the Lake. Each Owner acknowledges that any Lake significantly benefits all Owners. It is the intent of this provision to provide for the preservation of any Lake in its clean and pristine condition and for continued use of any Lake for recreational purposes. To this end, no Owner shall take any action, including but not limited to, polluting any Lake, adding chemicals or detergent to any Lake, placing debris in any Lake, or taking or failing to take any action which would detrimentally affect the condition of any Lake or the ability of other Owners to continue to use any Lake for recreational purposes. Each Owner covenants and agrees with the other Owners that he or she will take no action to increase the amount of siltation entering any Lake or to reduce or raise the level of any Lake and will take all necessary actions to preserve any lake in its pristine condition, to preserve continued use of any Lake for recreational purposes, and to preserve any Lake at its present level. In addition, Owners shall refrain from any actions which would erode or damage the shoreline of any Lake.

8.32 Wetlands. All 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 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 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.

## Article 9 Insurance and Casualty Losses

9.1 Insurance Obtained by the Association. The Board of Directors shall have the authority to and shall obtain insurance for all insurable Improvements located on the Common Areas; however, insurance carried by the Association hereunder shall not include any part of a Lot nor shall the Association include public liability insurance for individual Owners for liability arising within the Lot. Insurance carried by the Association shall also exclude any personal property of the Owner. Insurance obtained and maintained by the Association shall cover loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in the amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all risk" or comparable coverage in like amounts. The Association's insurance policy may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance equals at least the replacement cost of the insured property. The Board shall make available for review by



Owners a copy of the Association's insurance policy to allow Owners to assess their personal insurance needs, and each Owner shall have the right to obtain additional coverage at such Owner's own expense.

The Board of Directors shall obtain a public liability policy applicable to the Common Areas covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million and No/100 Dollars (\$1,000,000.00). Policies may contain a reasonable deductible as determined by the Board of Directors.

Premiums for all insurance obtained by the Association hereunder shall be a common expense of the Association. All insurance purchased by the Association pursuant to this Section shall run to the benefit of the Association, the Board, officers, all agents and employees of the Association, the Owners, and their respective Mortgagees, and all other Persons entitled to occupy any Lot, as their interests may appear.

In addition to other insurance coverage required by this Section, the Board shall have the authority and may obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if reasonably available at reasonable cost, as determined in the sole discretion of the Board, a fidelity bond or employee dishonesty coverage covering directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the director's best business judgment. Such coverage, if obtained, shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall not be subject to cancellation, nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association.

9.2 Insurance Obtained by Lot Owners. By virtue of taking title to a Lot, each Owner acknowledges that the Association has no obligation to provide any insurance for such Lot or any personal property of the Owner or Occupants and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall be obligated to obtain and maintain at all times insurance covering the Lot and such Owner's personal property and a liability policy covering damage or injury occurring on or in a Lot. The policies required hereunder shall be in effect at all times. Upon request by the Board, the Owner shall furnish a copy of such insurance policy or policies to the Association. In the event that any Owner fails to obtain insurance as required hereunder, the Association may purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner and such Owner's Lot, to be collected in the manner provided for collection of assessments under Article 5 hereof.

9.3 Damage and Destruction – Insured by Association.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any Improvement covered by insurance written in the name of the Association, the Board of Directors 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



Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or Improvements necessary to comply with applicable building codes.

(b) Repair and Construction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote, and the Owners of any damaged Lots otherwise agree. 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 such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against the Owners of Lot who would be responsible for such loss in the absence of insurance or otherwise to the Owners of all Lots. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the Improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. 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 property shall be maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration.

9.4 Damage and Destruction – Insured by Owners. Improvements on a Lot damaged or destroyed by fire or other casualty shall be repaired or reconstructed in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 7 of this Declaration. The repair or reconstruction shall be completed within seventy-five (75) days after the damage or destruction occurred or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable period of time thereafter.

## Article 10 General Provisions

10.1 Authority and Enforcement. Each Owner and Occupant shall comply strictly with the By-laws, rules and regulations, use restrictions and architectural guidelines, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plat(s) for the Community and in the deed to such Owner's Lot, if any. The Association, acting through the Board of Directors, may impose reasonable fines or other sanctions for violations of the foregoing in accordance with this Declaration and the By-laws, which fines shall be collected as provided herein for the collection of assessments and may count each day a violation continues after notice thereof as a separate

violation. The failure to comply with this Declaration, the By-laws, use restrictions, the rules and regulations and architectural guidelines shall be grounds for an action to recover sums due for damages, injunctive relief or both, and shall include, without limitation, reasonable attorneys' fees actually incurred, maintainable by the Association or an aggrieved Owner. The failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to record in the appropriate land records a notice of violation of the Declaration, By-laws, rules and regulations, use restrictions or architectural guidelines and to assess the cost of recording and removing such notice against the Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing. The Association shall also have the right to suspend an Owner's right (and the right of the Owner's family, guests, and tenants and of the Co-Owners of such Owner and their respective families, guests and tenants) to use any of the recreational facilities located in the Common Areas. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days per violation. The Board shall have the power to impose all or any combination of these sanctions. The actions and powers provided for herein are in addition to all other remedies available under the Act and Georgia law.

10.2 Duties and Powers of the Association. The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, the By-laws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, the By-laws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and the By-laws, in that order, shall prevail, and each Owner of a Lot, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

10.3 Occupants Bound. All provisions of the Declaration, By-laws, rules and regulations, use restrictions and architectural guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests, licensees and invitees of Owners and Occupants. The Owner shall be responsible for ensuring that the Occupants, guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, By-laws, rules and regulations, use restrictions and the architectural guidelines. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

10.4 Self-Help. In addition to any other remedies provided for herein, the Association, acting through the Board of Directors or its duly authorized agents shall have the power to enter upon any Lot or any other portion of the Community to abate or remove any structure, Improvement, thing or condition which violates this Declaration, the By-laws, the rules and regulations, the use restrictions or the architectural guidelines. Unless an emergency situation exists, the violating Owner shall be given ten (10) days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law and by this Declaration. All costs of self-help, including, without limitation,

reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

10.5 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law and the Act; provided, however, if and to the extent that, Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be (a) automatically extended for successive periods of twenty (20) years (or the maximum period allowed by applicable law, if less), unless a written instrument signed by the then Owners of at least two-thirds (2/3) of the Lots has been recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

10.6 Amendment. The Association, acting through the Board of Directors and without any further consent or action on the part of the members, may amend this Declaration for those specific purposes permitted under Georgia law, including, without limitation, if such amendment is necessary to bring any provision hereof into compliance with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*

In addition, this Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote or written consent, of two-thirds (2/3) of the Owners of Lots submitted to this Declaration pursuant to Article 2. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the By-Laws, the Articles of Incorporation and Georgia law were given. The amendments authorized by this Section may be of uniform or non-uniform application and Owners shall be deemed to have agreed that the Declaration may be amended as provided herein and that any rule of law requiring unanimous approval of amendments having a non-uniform application shall not apply. Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein.

10.7 Mortgagee Provisions. The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Community. The provisions of this Section apply to this Declaration, the Articles of Incorporation of the Association, By-laws and rules and regulations of the Association ("Governing Documents"), notwithstanding any other provisions contained therein.

- (a) Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state

the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of: (i) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such Eligible Holder; (ii) any delinquency in the payment of assessments or changes owed by a Lot subject to the Mortgage of such Eligible Holder, which such delinquency has continued for a period of sixty (60) Days, or any other violation of the Declaration or By-laws relating to such Lot or the Owner or occupant which is not cured within sixty (60) Days; (iii) any lapse, cancellation or material modification of any insurance policy maintained by the Association; (iv) any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

- (b) No Priority. No provision of this Declaration or the By-laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.
- (c) Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.
- (d) Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) Days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.
- (e) Construction of Section 10.7. Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Georgia law for any of the acts set out in this Section.

10.8 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Declaration or the Board will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the records of the Clerk of the Superior Court of Gilmer County, Georgia as the case may be. 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 construed as defining, limiting, extending or otherwise modifying or adding to the particular



Article or Section to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of Georgia.

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

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

10.11 Rights of Third Parties. This Declaration shall be recorded for the benefit of the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Property, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of Mortgagees herein provided, the Owners shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

10.12 No Trespass. Whenever the Association, the Board, the ACC, and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of the Community, the entering thereon and the taking of such action shall not be deemed to be a trespass.

10.13 Preparer. This Declaration was prepared by Erin Murray O'Connell, Dorough & Dorough, LLC, Attorneys at Law, 160 Clairemont Avenue, Suite 650, Decatur, Georgia 30030.

10.14 Notices. Except as otherwise specifically provided in such document(s), as the case may be, notices provided for in this Declaration or the Articles or By-laws shall be in writing, and shall be addressed to an Owner at the address of the Lot and to the Association at the address of their respective registered agent on file with the Secretary of State of the State of Georgia. Any Owner may designate a different address, including an electronic mail address, for notices to such Owner by giving written notice to the Association. Owners shall keep the Association advised of their current address and phone number(s) where they can be reached. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable commercial courier service, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act". The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the



notice sent.

10.15 No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status, disability or sexual orientation.

10.16 Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

10.17 Notice of Sale or Acquisition. Prior to the sale of a Lot, the Owner shall provide the Association with written notice of the name of the purchaser and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall provide the Association with written notice of the name and mailing address of the Owner and such other information as the Board may reasonably require. All Owners shall keep the Association apprised of any change in name, address, electronic mail address or telephone number.

10.18 Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

10.19 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors shall be authorized to grant individual variances from any of the provisions of this Declaration, the By-laws and any rule, regulation, use restriction or any architectural guidelines promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case is warranted and would not be inconsistent with the overall scheme of development for the Community.

10.20 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least two-thirds (2/3) of the Total

Association Vote. This Section shall not apply to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to *ad valorem* taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This Section shall not be amended unless such amendment is made as provided herein or is approved by the percentage votes necessary to institute proceedings as provided above.

10.21 Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT THE ASSOCIATION AND ITS BOARD OF DIRECTORS, AND THE ARCHITECTURAL CONTROL COMMITTEE, IF ANY, DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL CONTROL COMMITTEE, IF ANY, ARE NOT INSURERS OR PROVIDERS OF SAFETY OR SECURITY AND SHALL HAVE NO DUTY TO PROVIDE ANY SAFETY OR SECURITY ON THE COMMON AREAS OR ANY OTHER PORTION OF THE COMMUNITY; AND THAT EACH OWNER, OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, THE BOARD OF DIRECTORS, AND THE ARCHITECTURAL CONTROL COMMITTEE, IF ANY, HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.