



## 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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BOOK 813 PAGE 14-89  
DENA M. ADAMS, CLERK  
WHITE COUNTY, GA

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**FOR**

**LACEOLA**

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TABLE OF CONTENTS

	Page
Article 1. <u>DEFINITIONS</u> .....	1
1.1 <u>"Additional Property"</u> .....	1
1.2 <u>"Adjacent Properties"</u> .....	1
1.3 <u>"ARB"</u> .....	1
1.4 <u>"Area of Common Responsibility"</u> .....	2
1.5 <u>"Articles of Incorporation"</u> or <u>"Articles"</u> .....	2
1.6 <u>"Association"</u> .....	2
1.7 <u>"Board of Directors"</u> or <u>"Board"</u> .....	2
1.8 <u>"Builder"</u> .....	2
1.9 <u>"By-Laws"</u> .....	2
1.10 <u>"Common Area"</u> .....	2
1.11 <u>"Common Expenses"</u> .....	2
1.12 <u>"Community-Wide Standard"</u> .....	2
1.13 <u>"Cost Sharing Agreement"</u> .....	2
1.14 <u>"Declarant"</u> .....	2
1.15 <u>"Days"</u> .....	3
1.16 <u>"Design Guidelines"</u> .....	3
1.17 <u>"Development Period"</u> .....	3
1.18 <u>"Exclusive Common Area"</u> .....	3
1.19 <u>"General Assessment"</u> .....	3
1.20 <u>"Governing Documents"</u> .....	3
1.21 <u>"Lake"</u> .....	3
1.22 <u>"Lake Use Restrictions"</u> .....	3
1.23 <u>"Lot"</u> .....	3
1.24 <u>"Majority"</u> .....	3
1.25 <u>"Master Plan"</u> .....	4
1.26 <u>"Member"</u> .....	4
1.27 <u>"Mortgage"</u> .....	4
1.28 <u>"Mortgagee"</u> .....	4
1.29 <u>"Neighborhood"</u> .....	4
1.30 <u>"Neighborhood Assessments"</u> .....	4
1.31 <u>"Neighborhood Association"</u> .....	4
1.32 <u>"Neighborhood Expenses"</u> .....	4
1.33 <u>"Owner"</u> .....	4
1.34 <u>"Person"</u> .....	5
1.35 <u>"Properties"</u> .....	5
1.36 <u>"Public Records"</u> .....	5
1.37 <u>"Special Assessment"</u> .....	5
1.38 <u>"Specific Assessment"</u> .....	5
1.39 <u>"Supplemental Declaration"</u> .....	5
Article 2. <u>PROPERTY RIGHTS</u> .....	5
2.1 <u>Common Area</u> .....	5
2.2 <u>Exclusive Common Area</u> .....	6
2.3 <u>Lake</u> .....	6
2.4 <u>View Impairment</u> .....	7

2.5	<u>No Partition</u> .....	7
2.6	<u>Condemnation</u> .....	7
2.7	<u>Private Streets</u> .....	8
Article 3.	<u>MEMBERSHIP AND VOTING RIGHTS</u> .....	8
3.1	<u>Membership</u> .....	8
3.2	<u>Voting</u> .....	8
3.3	<u>Neighborhoods</u> .....	9
Article 4.	<u>RIGHTS AND OBLIGATIONS OF THE ASSOCIATION</u> .....	9
4.1	<u>Function of Association</u> .....	9
4.2	<u>Personal Property and Real Property for Common Use</u> .....	10
4.3	<u>Enforcement</u> .....	10
4.4	<u>Implied Rights; Board Authority</u> .....	11
4.5	<u>Governmental Interests</u> .....	11
4.6	<u>Indemnification</u> .....	11
4.7	<u>Dedication of or Grant of Easement on Common Area</u> .....	12
4.8	<u>Security</u> .....	12
4.9	<u>Street Lighting Agreement</u> .....	12
4.10	<u>Relationship with Tax-Exempt Organizations</u> .....	12
4.11	<u>Powers of the Association Relating to Neighborhood Associations</u> .....	12
4.12	<u>Presence and Management of Wildlife</u> .....	13
4.13	<u>Provision of Services</u> .....	13
4.14	<u>Restricted Access Fence and Gates</u> .....	13
Article 5.	<u>MAINTENANCE</u> .....	13
5.1	<u>Association's Responsibility</u> .....	13
5.2	<u>Owner's Responsibility</u> .....	15
5.3	<u>Neighborhood's Responsibility</u> .....	15
5.4	<u>Standard of Performance</u> .....	15
5.5	<u>Party Walls and Similar Structures</u> .....	15
5.6	<u>Cost Sharing Agreements</u> .....	16
Article 6.	<u>INSURANCE AND CASUALTY LOSSES</u> .....	16
6.1	<u>Association Insurance</u> .....	16
6.2	<u>Owners Insurance</u> .....	19
6.3	<u>Limitation of Liability</u> .....	20
Article 7.	<u>ANNEXATION AND WITHDRAWAL OF PROPERTY</u> .....	20
7.1	<u>Annexation by Declarant</u> .....	20
7.2	<u>Annexation by Membership</u> .....	21
7.3	<u>Withdrawal of Property</u> .....	21
7.4	<u>Additional Covenants and Easements</u> .....	21
7.5	<u>Amendment</u> .....	21

Article 8.	<u>ASSESSMENTS</u> .....	22
8.1	<u>Creation of Assessments</u> .....	22
8.2	<u>Computation of General Assessment</u> .....	22
8.3	<u>Computation of Neighborhood Assessments</u> .....	23
8.4	<u>Reserve Budget and Capital Contribution</u> .....	24
8.5	<u>Special Assessments</u> .....	24
8.6	<u>Specific Assessments</u> .....	24
8.7	<u>Remedies for Non-Payment of Assessments</u> .....	25
8.8	<u>Date of Commencement of Assessments</u> .....	26
8.9	<u>Failure to Assess</u> .....	26
8.10	<u>Exempt Property</u> .....	26
8.11	<u>Capitalization of Association</u> .....	26
8.12	<u>Default Interest Rate; NSF Checks; Late Fees</u> .....	26
Article 9.	<u>ARCHITECTURAL STANDARDS</u> .....	27
9.1	<u>General</u> .....	27
9.2	<u>Architectural Review</u> .....	27
9.3	<u>Guidelines and Procedures</u> .....	27
9.4	<u>Specific Guidelines and Restrictions</u> .....	29
9.5	<u>Construction Period</u> .....	31
9.6	<u>No Waiver of Future Approvals</u> .....	31
9.7	<u>Variance</u> .....	32
9.8	<u>Limitation of Liability</u> .....	32
9.9	<u>Enforcement</u> .....	32
Article 10.	<u>USE RESTRICTIONS</u> .....	33
10.1	<u>General</u> .....	33
10.2	<u>Rules and Regulations</u> .....	33
10.3	<u>Residential Use</u> .....	33
10.4	<u>Vehicles</u> .....	34
10.5	<u>Leasing</u> .....	34
10.6	<u>Occupants Bound</u> .....	34
10.7	<u>Animals and Pets</u> .....	35
10.8	<u>Nuisance</u> .....	35
10.9	<u>Streams</u> .....	35
10.10	<u>Drainage and Grading</u> .....	35
10.11	<u>Sight Distance at Intersections</u> .....	36
10.12	<u>Storage of Materials, Garbage, Dumping, Etc.</u> .....	36
10.13	<u>Subdivision of Lot</u> .....	37
10.14	<u>Guns</u> .....	37
10.15	<u>Combustible Liquid</u> .....	37
10.16	<u>Completion of Construction; Occupancy of Unfinished Lots</u> .....	37
10.17	<u>Irrigation Systems and Wells</u> .....	37
10.18	<u>Wetlands</u> .....	37
10.19	<u>Lake</u> .....	38
10.20	<u>Watercraft on the Lake</u> .....	38
10.21	<u>Use Restrictions Not in Violation of the Americans With Disabilities Act</u> .....	38
10.22	<u>Special Provisions for Lakeside Lots</u> .....	38

10.23	<u>Private Streets</u> .....	38
Article 11.	<u>PROVISIONS REGARDING EASEMENTS</u> .....	39
11.1	<u>Easements of Encroachment</u> .....	39
11.2	<u>Easements for Utilities, Etc.</u> .....	39
11.3	<u>Easement for Slope Control, Drainage and Waterway Maintenance.</u> .....	40
11.4	<u>Easements to Serve Additional Property.</u> .....	40
11.5	<u>Easement for Entry.</u> .....	40
11.6	<u>Easements for Maintenance and Enforcement.</u> .....	41
11.7	<u>Lateral Support.</u> .....	41
11.8	<u>Easement for Special Events.</u> .....	41
11.9	<u>Driveway Access.</u> .....	41
11.10	<u>Rights to Stormwater Runoff and Water Reclamation.</u> .....	42
11.11	<u>Liability for Use of Easements.</u> .....	43
Article 12.	<u>MORTGAGEE PROVISIONS</u> .....	43
12.1	<u>Notices of Action.</u> .....	43
12.2	<u>No Priority.</u> .....	43
12.3	<u>Notice to Association.</u> .....	43
12.4	<u>Failure of Mortgagee to Respond.</u> .....	43
12.5	<u>Construction of Article 12.</u> .....	43
Article 13.	<u>DECLARANT'S RIGHTS</u> .....	44
13.1	<u>Transfer or Assignment.</u> .....	44
13.2	<u>Development and Sales.</u> .....	44
13.3	<u>Improvements to Common Areas.</u> .....	44
13.4	<u>Additional Covenants.</u> .....	44
13.5	<u>Right of Declarant to Disapprove Actions.</u> .....	44
Article 14.	<u>RIGHT OF FIRST REFUSAL AND RIGHT TO REPURCHASE</u> .....	45
14.1	<u>Right of First Refusal.</u> .....	45
14.2	<u>Right to Repurchase.</u> .....	46
14.3	<u>Repurchase Price.</u> .....	46
14.4	<u>Declarant's Exercise of Repurchase Right</u> .....	46
14.5	<u>Repurchase Closing.</u> .....	47
14.6	<u>Subdivision of Lot</u> .....	47
14.7	<u>Subordination to Mortgages</u> .....	47
14.8	<u>Expiration</u> .....	47
Article 15.	<u>GENERAL PROVISIONS</u> .....	47
15.1	<u>Duration.</u> .....	47
15.2	<u>Amendment.</u> .....	48
15.3	<u>Severability.</u> .....	49
15.4	<u>Dispute Resolution.</u> .....	49
15.5	<u>Litigation.</u> .....	49
15.6	<u>Non-Merger.</u> .....	49

15.7	<u>Grants</u> .....	49
15.8	<u>Cumulative Effect; Conflict</u> .....	50
15.9	<u>Use of the Words "Laceola"</u> .....	50
15.10	<u>Compliance</u> .....	50
15.11	<u>Exhibits</u> .....	50

**TABLE OF EXHIBITS**

<u>Exhibit</u>	<u>Subject Matter</u>	<u>Page First Appearing</u>
"A"	Land Initially Submitted	1
"B"	Land Subject to Annexation	2
"C"	By-Laws of Laceola Community Association, Inc.	2

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

LACEOLA

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made as of the date on the signature page hereof by Blue Creek Partners, LLC, a Georgia limited liability company (the "Declarant").

Declarant is the owner of the real property described on Exhibit "A," which is attached and incorporated by reference, or if Declarant is not the owner of such property, Owner has consented to this Declaration. This Declaration imposes upon the Properties (as defined in Article 1 below) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of Laceola Community Association, Inc. to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Design Guidelines (capitalized terms are defined in Article 1 below).

Declarant hereby declares that all of the property described in Exhibit "A" and any Additional Property subjected to this Declaration by Supplemental Declaration (as defined in Article 1 below) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

This document does not and is not intended to create a condominium within the meaning of the O.C.G.A. §44-3-70, et seq., nor a property owners' development within the meaning of the O.C.G.A. §44-3-220, et seq.

**Article 1.**  
**DEFINITIONS**

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Additional Property": All of that certain real property which is more particularly described on Exhibit "B", which is attached and incorporated herein by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2 "Adjacent Properties": Any residential, nonresidential, or recreational areas which are located adjacent to, in the vicinity of, or within the Properties; which are owned and operated, in whole or in part, by Persons other than the Association; which are not subject to this Declaration; and which are neither Lots nor Common Area as defined in this Declaration.

1.3 "ARB": The Architectural Review Board, as described in Section 9.2.



1.4 “Area of Common Responsibility”: The Common Area, together with those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenant, contract, or agreement. The Area of Common Responsibility shall include any real property and improvements which are designated as areas to be maintained by the Association on a recorded subdivision plat for any portion of the Properties.

1.5 “Articles of Incorporation” or “Articles”: The Articles of Incorporation of Laceola Community Association, Inc., as filed with the Secretary of State of the State of Georgia.

1.6 “Association”: Laceola Community Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

1.7 “Board of Directors” or “Board”: The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Georgia corporate law.

1.8 “Builder”: Any Person approved by the ARB who purchases one or more Lots for the purpose of constructing improvements thereon for later sale to consumers or purchases one or more parcels of land within the Properties for further subdivision, development, and/or resale in the ordinary course of such Person’s business. Any Person occupying or leasing a Lot for residential purposes shall cease to be considered a Builder with respect to such Lot immediately upon occupancy of the Lot for residential purposes, notwithstanding that such Person originally purchased the Lot for the purpose of constructing improvements for later sale to consumers. Persons who are not approved by the ARB are not Builders.

1.9 “By-Laws”: The By-Laws of Laceola Community Association, Inc., attached as Exhibit “C”, as they may be amended.

1.10 “Common Area”: 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 and enjoyment of the Owners. The term also shall include the Exclusive Common Area, as defined below.

1.11 “Common Expenses”: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

1.12 “Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. The community-wide standard shall meet the minimum standards established by the Design Guidelines, rules and regulations of the Association or Board resolutions, whichever is the highest standard. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the ARB.

1.13 “Cost Sharing Agreement”: Any agreement, contract or covenant between the Association and an owner or operator of property adjacent to, in the vicinity of, or within the Properties for the allocation of expenses that benefit both the Association and the owner or operator of such property.

1.14 “Declarant”: Blue Creek Partners, LLC, a Georgia limited liability company, or any successor, successor-in-title, or assign who is designated as the Declarant in a recorded instrument executed by the immediately-preceding Declarant and the owner of all or any portion of the property

described on Exhibits "A" and "B"; provided however, there shall be only one (1) Person entitled to exercise the rights and powers of the "Declarant" hereunder at any one time.

1.15 "Days": Calendar Days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday (nationally for the United States or the State of Georgia), then such time period shall be automatically extended to the close of business on the next regular business day.

1.16 "Design Guidelines": The design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to Article 9.

1.17 "Development Period": The period of time during which the Declarant owns any property which is subject to this Declaration, any Additional Property, or has the unilateral right to subject Additional Property to this Declaration pursuant to Section 7.1.

1.18 "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Neighborhoods or Lots, as more particularly described in Article 2.

1.19 "General Assessment": Assessments levied on all Lots subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 8.1 and 8.2.

1.20 "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, the Design Guidelines and rules of the Association, or any of the above, as each may be amended from time to time.

1.21 "Lake": That certain body of water known as "Lake Laceola" as well as the dam used to create the Lake located within the Properties and subject to the Lake Use Restrictions.

1.22 "Lake Use Restrictions": Access restrictions, use restrictions and procedures governing access, dock use, watercraft use on the Lake or other use of the Lake as may be promulgated by the Association from time-to-time, and, during the Development Period, consented to by the Declarant.

1.23 "Lot": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon. The term shall include within its meaning, by way of illustration but not limitation, townhouse units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include Common Area, common property owned by any Neighborhood Association, or property dedicated to the public.

In the case of a parcel of vacant land or land on which improvements are under construction, the parcel shall be deemed to be a single Lot until such time as a subdivision plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Lots determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.24 "Majority": That subset of votes, Owners, Members, or other measured group, as the context may indicate, which totals more than fifty percent (50%) of the total eligible number.

1.25 "Master Plan": The land use plan or development plan for "Laceola," prepared by the land planning firm of DeVictor-Langham, 45 West Crossville Road, Suite 502, Roswell, Georgia 30075, as such plan may be amended from time to time, which includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article 7.

1.26 "Member": A Person entitled and subject to membership in the Association pursuant to Section 3.1.

1.27 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot.

1.28 "Mortgagee": A beneficiary or holder of a Mortgage.

1.29 "Neighborhood": A separately developed area within the Properties, whether or not governed by a Neighborhood Association (as defined below), in which the Owners of Lots may have common interests other than those common to all Members of the Association. For example, and by way of illustration and not limitation, each single-family attached or detached housing development may constitute a separate Neighborhood, or a Neighborhood may be comprised of more than one housing type with other features in common and may include noncontiguous parcels of Property.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee, if any, (established in accordance with the By-Laws) or Neighborhood Association if any, (as defined below) having concurrent jurisdiction over the property within the Neighborhood. Neighborhood boundaries may be established and modified as provided in Section 3.3.

1.30 "Neighborhood Assessments": Assessments levied against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 8.1 and 8.3.

1.31 "Neighborhood Association": Any owners association having concurrent jurisdiction with the Association over any Neighborhood.

1.32 "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Lots within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to such Neighborhood(s).

1.33 "Owner": One or more Persons who hold the record title to any Lot, including the Declarant and any Builder but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is sold under a recorded land sales contract, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. If a Lot is owned by more than one Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

1.34 "Person": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.35 "Properties": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article 7.

1.36 "Public Records": The Official Records of the Clerk of Superior Court of White County, Georgia, or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real property located within White County, Georgia.

1.37 "Special Assessment": Assessments levied in accordance with Section 8.5.

1.38 "Specific Assessment": Assessments levied in accordance with Section 8.6.

1.39 "Supplemental Declaration": An instrument filed in the Public Records which subjects Additional Property to this Declaration, designates Neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

## **Article 2.** **PROPERTY RIGHTS**

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Lot, subject to:

- (a) This Declaration and all Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area pursuant to Section 4.3;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
- (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 either the Board or the Declarant to permit use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;
- (h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(i) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.2; and

(j) 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 or Owner's respective lessees, invitees, and guests upon such conditions as may be established by the Board.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such rights appurtenant to the leased Lot to the lessee of such Lot.

2.2 Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and occupants of specified Lots or Neighborhoods. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, boat launching facilities, community docks, shared driveways, roads, landscaped areas and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Lots to which the Exclusive Common Areas are assigned either as a Neighborhood Assessment or as a Specific Assessment, as applicable.

Initially, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Common Area is conveyed to the Association or in this Declaration or any Supplemental Declaration and/or on the subdivision plat relating to such Common Area; provided however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Lots and/or Neighborhoods during the Development Period. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of particular Lots or a particular Neighborhood or Neighborhoods and Exclusive Common Area may be reassigned upon approval of the Board and the vote of a Majority of the total Class "A" votes in the Association, including, if applicable, a Majority of the Class "A" votes within the Neighborhood(s) to which the Exclusive Common Area is assigned, if previously assigned, and within the Neighborhood(s) to which the Exclusive Common Area is to be assigned or reassigned.

The Association may, upon approval of a Majority of the Class "A" votes within the Neighborhood(s) to which any Exclusive Common Area is assigned, permit Owners of Lots in other Neighborhoods to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses or Specific Assessments attributable to such Exclusive Common Area.

2.3 Lake. Access to and use of the Lake shall be strictly subject to the Lake Use Restrictions and no Person shall gain any right to enter or to use the Lake including the dam or to gain access to the Lake from the Properties other than by virtue of membership in the Association or ownership or occupancy of a Lot.

No representation or warranty is made to any Person regarding the existence of water within the Lake or the sustenance of the water level of the Lake. Declarant hereby reserves for itself and its designees all rights to water within the Properties, including, without limitation, all water within the Lake and those tributaries within the Properties which serve as a water source for the Lake, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such right shall

include an easement over the Properties for access and for installation and maintenance of facilities and equipment to capture and transport such water.

Any Person, including, without limitation, any Owner, occupant of any Lot, or tenant, guest or invitee of any Owner gaining access to or using the Lake from the Properties for any purpose shall assume the risk of such use. Under no circumstance shall the Declarant, the Association or any Person acting on behalf of either the Declarant or the Association assume any liability for use of the Lake by an Owner, its invitees, or licensees or for encroachment of water from the Lake or other water bodies onto the Lots. The Declarant and the Association shall not be responsible for any loss, damage, or injury to any person or property arising from either an encroachment of water from the Lake or other water bodies onto the Lots or the authorized or unauthorized use of Lake, ponds, or streams within the Properties. In addition, the Association shall not be responsible for maintaining, increasing or decreasing the water level within any water body or removing vegetation from any Lake or other water body.

2.4 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across the Lake, the Common Area, any recreational facilities, or any vistas from Lots will be preserved without impairment. The Association, and during the Development Period the Declarant shall have: (i) no obligation to take any actions including but not limited to pruning or thinning trees or other landscaping to provide visibility of the Lake or of any other vista; and (ii) the right to add or remove trees and other landscaping adjacent to the Lake or any other portion of the Properties in accordance with the Design Guidelines.

2.5 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

2.6 Condemnation. If any part of the Common Area, including any Exclusive Common Area, shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least sixty-seven percent (67%) of the total Class "A" votes in the Association and the written consent of the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) Days after such taking the Declarant, so long as the Declarant owns any property which is subject to this Declaration or which may be unilaterally subjected to this Declaration by the Declarant, and at least sixty-seven percent (67%) of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board and the ARB. The provisions of Section 6.1(c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purpose as the Board shall determine.

2.7 Private Streets. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to, over and across any private streets and roads within the Properties ("Private Streets"), whether or not such Private Streets are Common Area, for the purpose of ingress and egress to public rights-of-way. The rights and nonexclusive easements granted herein are appurtenant to the title to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) The right of the Declarant, so long as the Declarant owns the Private Streets, to adopt, amend and repeal rules regulating the use and enjoyment of the Private Streets, provided that the Declarant shall not by the adoption of any rule or regulation bar access of the Owners across the Private Streets;
- (c) The right of the Declarant to dedicate all or any part of Private Streets;
- (d) The right of the Declarant to mortgage, pledge, or hypothecate any or all of the Private Streets as security for money borrowed or debts incurred, provided that the Declarant shall not subject the Private Streets to any security instrument without obtaining the agreement of the lender to subordinate its interest in the Private Streets to the easements for the Owners contained in this Section; and
- (e) The rights of the Declarant and the Association to maintain the Private Streets.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable.

**Article 3.**  
**MEMBERSHIP AND VOTING RIGHTS**

3.1 Membership. Every Owner of a Lot shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all Persons shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.2 (d) and in the By-Laws. The membership rights of any Member which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee, or by any individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association.

3.2 Voting. The Association shall have two classes of membership, Class "A" and Class "B" as set forth below.

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 3.1; provided however, there shall be only one vote per Lot and no vote shall be exercised for any property which is exempt from assessment under Section 8.10. All Class "A" votes shall be cast as provided in Section 3.2(d) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint the members of the Board of Directors during the Development Period.

Upon termination of the Development Period, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns.

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Lots within any Additional Property made subject to this Declaration pursuant to Article 7, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(d) Exercise of Voting Rights by Class "A" Members. If there is more than one (1) Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one (1) Person seeks to exercise it. No vote shall be exercised on behalf of any Lot if any assessment for such Lot is delinquent.

3.3 Neighborhoods. Every Lot shall be located within a Neighborhood; provided however, unless and until additional Neighborhoods are established, the Properties shall consist of one Neighborhood. The Declarant, in its sole discretion, may establish Neighborhoods within the Properties by designation on Exhibit "A" to this Declaration, a Supplemental Declaration, or a plat. During the Development Period, the Declarant may unilaterally amend this Declaration or any Supplemental Declaration from time to time to assign property to a specific Neighborhood, to redesignate Neighborhood boundaries, or to remove property from a specific Neighborhood.

The Lots within a particular Neighborhood may be subject to additional covenants and/or the Lot Owners may be members of a Neighborhood Association in addition to the Association. However, no Neighborhood Association shall be formed or otherwise established without the prior submission to and written approval of the Declarant to all documents creating or establishing such Neighborhood Association, including without limitation, the submission of any articles of incorporation, by-laws and other organizational and governing documents. With the prior written approval of the Declarant, any Neighborhood which does not have a Neighborhood Association may, but shall not be obligated to, elect a Neighborhood Committee, as described in the By-Laws, to represent the interests of Owners of Lots in such Neighborhood.

Any Neighborhood may request that the Association provide a higher level of service or special services for the benefit of Lots in such Neighborhood and, upon the affirmative vote, written consent, or a combination thereof, of Owners of a Majority of the Lots within the Neighborhood, the Association may, in its sole discretion, provide the requested services. The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided any such administrative charge shall apply at a uniform rate per Lot to all Neighborhoods receiving the same service), shall be assessed against the Lots within such Neighborhood as a Neighborhood Assessment pursuant to Article 8 hereof.

#### **Article 4.**

### **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

4.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 10. The Association shall also be responsible for administering and enforcing the architectural



standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia.

4.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any lake, pond or other body of water that may be conveyed. Upon written request of Declarant, the Association shall reconvey to Declarant any portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3 Enforcement. The Board, or any committee established by the Board, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in Section 3.22 of the By-Laws. Such sanctions may include, without limitation:

(a) imposing monetary fines which shall constitute a lien upon the Lot of the violator (In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing liens in the Public Records for nonpayment of any assessments or fees;

(c) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

(d) suspending an Owner's right to vote;

(e) suspending any Person's right to use any recreational facilities within the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(f) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 Days delinquent in paying any assessment or other charge owed to the Association; and

(g) levying Specific Assessments to cover costs incurred in bringing a Lot into compliance in accordance with Section 8.6(c).

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by entering the Lot and exercising self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules or the correction of any maintenance, construction or other violation of the Governing Documents) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

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

The Association, by contract or other agreement, may enforce county, city, state and federal ordinances, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.4 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. During the Development Period, the Declarant may designate sites within the Properties for public or quasi-public facilities. No membership approval shall be required for such designation. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner of such property consents.

4.6 Indemnification. The Association shall indemnify every officer, director, ARB member and committee member against all damages, liability, and expenses, including attorneys' fees, reasonably incurred 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 he or she may be a party by reason of being or having been an officer, director, ARB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and Georgia law.

The officers, directors, and ARB and other 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 ARB and other committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors or ARB or other committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and ARB and other committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or ARB or other committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7 Dedication of or Grant of Easement on Common Area. The Association may dedicate portions of the Common Area to White County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity or private utility provider.

4.8 Security. Each Owner and occupant of a Lot and their respective lessees, invitees, licensees, and guests shall be responsible for their own personal safety and security on their Lot and on the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken (including, without limitation, any entry gates); if any. No representation or warranty is made that any security system or measure including without limitation, any mechanism for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, the Declarant, and any successor Declarant are not insurers or guarantors of security within the Properties, and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties. Any costs incurred by the Association to provide such services shall be paid by the Association and shall be charged either to all Lots as a General Assessment or a Specific Assessment, or only to those certain Neighborhoods or Lots benefited thereby, as a Special Assessment or a Neighborhood Assessment, as determined by the Board in its sole discretion.

4.9 Street Lighting Agreement. Declarant reserves the right to subject the Properties to a contract with an electric utility company for the installation of underground electric cables and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company by each Owner or the Association.

4.10 Relationship with Tax-Exempt Organizations. The Declarant or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations for the benefit of the Properties. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense and included as a line item in the Association's annual budget. For the purposes of this Section a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code, including but not limited to, Sections 501(c)(3) or 501(c)(4) thereof.

4.11 Powers of the Association Relating to Neighborhood Associations. The Association may veto any action taken or authorized by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also may require specific action to be taken by any Neighborhood Association to fulfill its obligations and responsibilities under any Governing Document. For example, the Association may require that specific maintenance or repairs or aesthetic changes be performed by the Neighborhood Association. If the Neighborhood Association fails to comply with such requirements within a reasonable time as specified in writing by the Association, the Association may effect such action on behalf of the Neighborhood Association and assess the Lots within such Neighborhood for any expenses incurred by the Association in taking such action. Such assessments may also be collected as a Specific Assessment.

4.12 Presence and Management of Wildlife. Each Owner and occupant, and each tenant, guest and invitee of any Owner or occupant acknowledges that the Properties are located adjacent to and in the vicinity of natural areas. Such areas may contain wildlife. Neither the Association, the Board, the original Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence of such wildlife on the Properties. Each Owner and occupant of a Lot and each tenant, guest, and invitee any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the Declarant or any successor of the Declarant have made no representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

4.13 Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including the Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense or a Neighborhood Expense, depending on whether the service or facility is provided to all Lots or only the Lots within a specified Neighborhood. In addition, the Board shall be authorized to charge use and consumption fees for services and facilities to the benefited Lot(s) as a Specific Assessment(s) or by requiring payment at the time the service or facility is provided. As an alternative, the Association may arrange for the costs of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services and facilities which may be provided include garbage collection, snow removal, lawn and yard maintenance, tree pruning and removal of dead trees, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security and similar services and facilities. The Board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein shall be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

4.14 Restricted Access Fence and Gates. Access to all or any portion of the Properties may, at the Declarant's sole discretion, be restricted by a fence and one or more gates located along the perimeter of the Properties. Vehicular access into the Properties may be restricted by electronically operated or other controlled access entry gates located at the entrances into the Properties. The use and operation of any restricted access fence and gate may be limited or eliminated from time to time by the Declarant during the Development Period and the Board of Directors thereafter.

## **Article 5.** **MAINTENANCE**

### 5.1 Association's Responsibility.

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

- (i) all Common Area;
- (ii) all landscaping and other flora, common green spaces, structures, and improvements, including any entry features, gates, private streets (including any guide rails placed alongside such streets), bike and pedestrian pathways/trails, situated upon the Common Area;

(iii) the Lake and any retaining wall, bulkhead or dam retaining water therein; provided however the Association shall not be required to dredge the Lake and may leave the Lake in its natural condition;

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

(v) such portions of any Additional 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.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable 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 (a) such maintenance responsibility is otherwise assumed by or assigned to an Owner, or a Neighborhood Association or (b) such property is dedicated to any other local, state or federal governmental 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) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or by any other means during the Development Period except with the written consent of the Declarant.

(d) 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 General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Cost Sharing Agreements, any recorded covenants, or any agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment solely against the Lots within the Neighborhood(s) to which the Exclusive Common Areas are assigned, or a Specific Assessment against the particular Lots to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

(e) The Association shall have the right but not the obligation to maintain the grass and other landscaping on each unimproved Lot, including any grass within that portion of the Lot located between the lot boundary adjacent to the street to the rear property line. For purposes of this section,

unimproved Lot shall mean a Lot without a dwelling. The cost of such maintenance shall be assessed to the applicable Lot Owner as a Specific Assessment.

(f) In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, the Declarant may, upon not less than ten (10) Days' notice and opportunity to cure such failure by the Association, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Lot, and all structures, parking areas, lawns, landscaping and other flora and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association. With respect to any Lot, such maintenance responsibility shall include, but is not limited to, the removal of all litter and trash and lawn mowing on a regular basis. In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment in accordance with Section 8.6. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation. Entry by the Association or any agent of the Association under this Section 5.2 shall not constitute a trespass.

5.3 Neighborhood's Responsibility. Upon resolution of the Board of Directors, the Owners of Lots within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining signage, entry monuments or other unique features applicable to the Neighborhood.

Any Neighborhood Association having responsibility for maintenance within a particular Neighborhood pursuant to additional covenants applicable to such Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If such Neighborhood Association fails to do so, the Association may perform such responsibilities and assess the costs as a Specific Assessment against all Lots within such Neighborhood as provided in Section 8.6.

5.4 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. Neither the Association or any Neighborhood Association nor any Owner shall be liable for any damage or injury occurring on, or arising out of the condition of, property which such Person does not own except to the extent that such person has been negligent in the performance of its maintenance responsibilities.

5.5 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Lots which serves and/or separates any two adjoining Lots shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

5.6 Cost Sharing Agreements. The Association may enter into Cost Sharing Agreements with the owners or operators of portions of the Adjacent Properties:

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

(b) to permit the use of any recreational and other facilities located on such Adjacent Properties by the Owners of all Lots or by the Owners of Lots within specified Neighborhoods; and/or

(c) to obligate the Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such Adjacent Properties, if any, which are used by or benefit jointly the owners of such Adjacent Properties and the owners within the Properties.

The owners of such Adjacent Properties shall not be Members of the Association and shall not be entitled to vote on any Association matter.

The owners of such Adjacent Properties shall be subject to assessment by the Association only in accordance with the provisions of such Cost Sharing Agreement(s). If the Association is obligated to share costs incurred by the owners of such Adjacent Properties, the Cost Sharing Agreement shall provide whether such payments by the Association shall constitute Common Expenses or Neighborhood Expenses of the Association. The owners of the Adjacent Properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein.

## Article 6.

### INSURANCE AND CASUALTY LOSSES

#### 6.1 Association Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable

improvements on the Common Area, if any, and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual General Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance, boiler and machinery insurance, and building ordinance coverage.

In addition, the Association may obtain and maintain property insurance on the insurable improvements within any Neighborhood in such amounts and with such coverages as the Owners in such Neighborhood may agree upon pursuant to Section 3.3. Any such policies shall provide for a certificate of insurance to be furnished to the Neighborhood Association and to the Owner of each Lot insured upon request.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment, except that (i) premiums for property insurance obtained on behalf of a Neighborhood shall be charged to the Owners of Lots within the benefited Neighborhood as a Neighborhood Assessment; and (ii) premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefited unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in White County, Georgia.

All Association policies shall provide for a certificate of insurance to be furnished to each Member insured and to the Association upon request.



The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 8.6.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Georgia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and the Owners. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners of Lots within the Neighborhood and their Mortgagees, as their interests may appear;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause; and

(vi) contain an endorsement requiring at least thirty (30) Days prior written notice to the Association as well to each Owner, and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses, of any proposed cancellation, substantial modification, or non-renewal.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

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

(iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement excluding Owners individual policies from consideration under any "other insurance" clause;

(v) an endorsement requiring at least thirty (30) Days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(vi) a cross liability provision; and

(vii) a provision vesting the Board with the exclusive authority to adjust losses; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless: (i) at least sixty percent (60%) of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within sixty (60) Days after the loss not to repair or reconstruct, or, in the case of damage or destruction to an Exclusive Common Area, one hundred percent of the Owners who benefit from the Exclusive Common Area vote not to repair or rebuild; (ii) the planned community is terminated; or (iii) the repair or replacement would be illegal under any Georgia or local health or safety statute or ordinance.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-Day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional Days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. If any portion of the community is not repaired or reconstructed as set forth above, any insurance proceeds shall be distributed to all the Members (of, if appropriate, their Mortgagees) of the Association or the Neighborhood, as appropriate, except that proceeds attributable to any Exclusive Common Areas shall be distributed to the Owners of the Lots who benefited from the Exclusive Common Area.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments in accordance with Section 8.5 to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1(a).

6.2 Owners Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of

all insurable improvements on his or her Lot, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Lot is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Lot and the Owner thereof pursuant to Section 8.6.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. The ARB shall have the authority to establish time periods for commencing and completing any repair or reconstruction. Alternatively, the Owner shall clear the Lot of all debris and ruins and restore and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

The requirements of this Section shall apply to any Neighborhood Association that owns common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Lot. Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Lots within such Neighborhood and for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

6.3 Limitation of Liability. Notwithstanding the duty of the Association to maintain and repair portions of the Common Area, neither the Association, its Board of Directors, its successors or assigns, nor any officer or director or committee member, employee, agent, contractor (including the management company, if any) of any of the same shall be liable to any Member or the any one of the Member's immediate household for any injury or damage sustained in the Area of Common Responsibility, the Common Area or other area maintained by the Association, or for any injury or damage caused by the negligence or misconduct of any Members or their family members, guests, invitees, agents, servants, contractors or lessees, whether such loss occurs in the Common Area or in individual Lots.

Each Owner, by virtue of the acceptance of title to his or her Lot, and each other Person having an interest in or right to use any portion of the Properties, by virtue of accepting such interest or right to use, shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands, and causes of action against the Association arising from or connected with any matter for which the liability of the Association has been disclaimed under this Section.

#### Article 7.

#### ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation by Declarant. Until twenty (20) years after the recording of this Declaration in the Public Records, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the Additional Property. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the

consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the Additional Property in any manner whatsoever.

7.2 Annexation by Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a Majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and during the Development Period the written consent of the Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period, for the purpose of removing any portion of the Properties from the coverage of this Declaration, provided such withdrawal is not contrary to the overall, uniform scheme of development for the Properties. By way of example, and not limitation, of the foregoing, a removal of property for the purpose of (i) adjusting boundary lines, (ii) complying with any applicable governmental statute, rule, regulation or judicial determination, (iii) enabling any reputable title insurance company to issue title coverage regarding the Properties or on any portion thereof, (iv) enabling any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots, (v) satisfying the requirements of any local, state or federal governmental agency, or (vi) exempting any tracts of land, either designated now or in the future for nonresidential development, from the provisions of this Declaration, shall be deemed as a permissible withdrawal which is not inconsistent with the overall uniform scheme of development. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

7.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

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

**Article 8.**  
**ASSESSMENTS**

8.1 Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Lots within a particular Neighborhood or Neighborhoods; (c) Special Assessments as described in Section 8.5; and (d) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments and fees, together with interest, late charges, costs of collection, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid, as more particularly provided in Section 8.7. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage or through a deed in lieu of foreclosure shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15<sup>th</sup>) calendar day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action taken by the Association or Board.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2 Computation of General Assessment. At least 30 Days before the beginning of each fiscal year, the Board shall adopt a budget covering the estimated Common Expenses during the coming year, which may include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.4.

General Assessments shall be levied equally against all Lots subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total

budgeted Common Expenses, including reserves. Notwithstanding the foregoing, the Association shall have the right to assess all improved Lots at a different rate than all unimproved Lots. For the purposes of this provision, an unimproved Lot shall mean a Lot without a habitable dwelling. Until December 31, 2003, each unimproved Lot shall be assessed at a rate of fifty percent (50%) of the General Assessment until the first Day of the first month following (i) the issuance of a certificate of occupancy for the residential dwelling thereon or (ii) actual occupancy of the dwelling, whichever is earlier. Thereafter, the Board may increase the assessment rate applicable to unimproved Lots as necessary to cover the operating expenses of the Association. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year and any income expected to be generated from any Cost Sharing Agreement.

During the Development Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of cash or "in kind" services or materials or a combination thereof, which may be treated as either a contribution or an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years and the treatment of such payment shall be made known to the membership, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the General Assessment to each Owner at least thirty (30) Days prior to the beginning of the fiscal year for which it is to become effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members representing at least sixty-seven percent (67%) of the total Class "A" votes in the Association and during the Development Period, by the Declarant. There shall be no obligation to call a meeting for purposes of considering the budget except upon a petition of the Members as provided for special meeting in the By-Laws, which petition must be presented to the Board within twenty (20) Days after the date of the notice of the assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget effect shall continue for the current year. In such event or if the budget proves inadequate for any reason, the Board may prepare a revised budget for the remainder of the fiscal year. The Board shall send a copy of the revised budget to each Owner at least 30 Days prior to its becoming effective. The procedure shall continue as set forth in the immediately preceding paragraph. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3 Computation of Neighborhood Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Board shall adopt a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment. Any Neighborhood may request that additional services or a higher level of services be provided by the Association and, upon approval of Owners in accordance with Section 3.3, any additional costs shall be added to such budget. Such budget shall include a contribution establishing a reserve fund for repair and replacement of capital items maintained

as a Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall be allocated equally among all Lots within the Neighborhood(s) benefited thereby and levied as a Neighborhood Assessment.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner of a Lot in the Neighborhood at least thirty (30) Days prior to the beginning of the fiscal year. Such budget and related assessment shall become effective unless disapproved by Owners of a Majority of the Lots in the Neighborhood to which the Neighborhood Assessment applies and by the Declarant, during the Development Period. There shall be no obligation to call a meeting for purpose of considering the budget except on petition of Owners of at least sixty-seven percent (67%) of the Lots in such Neighborhoods. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the Owners within any Neighborhood disapprove any line item of a Neighborhood budget, the Association shall not be obligated to provide the services anticipated to be funded by such line item of the budget. If the Board fails for any reason to determine a Neighborhood budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

8.4 Reserve Budget and Capital Contribution. The Board may annually prepare reserve budgets for both general and Neighborhood purposes which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. If a reserve budget is prepared, the Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual General Assessments or Neighborhood Assessments, as appropriate, over the budget period.

8.5 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against all Lots, if such Special Assessment is for Common Expenses, or against the Lots within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be allocated equally among all Lots subject to such Special Assessment. Any Special Assessment shall become effective unless disapproved at a meeting of Members representing at least sixty-seven percent (67%) of the total Class "A" votes allocated to Lots which will be subject to such Special Assessment and by the Declarant during the Development Period. 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 special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within twenty (20) Days after delivery 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.

8.6 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Lot or Lots as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot(s) or occupants thereof which the Association is required to perform that benefits a specific Lot or is provided upon request of the Owner pursuant to a list of choices of

special services which the Board may from time to time authorize to be offered to Owners and occupants which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(b) to cover the costs associated with maintenance, repair, replacement and insurance of any Exclusive Common Area assigned to one or more Lots; and

(c) to cover costs incurred in bringing the Lot(s) into compliance with the terms of the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests.

In addition, fines levied by the Association pursuant to the Governing Documents shall constitute Specific Assessments.

The Association may also levy a Specific Assessment against the Lots within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules; provided however, the Board shall give prior written notice to the Owners of Lots in the Neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

8.7 Remedies for Non-Payment of Assessments. The Association shall have a lien against each Lot to secure payment of assessments including, without limitation, General, Special and Specific Assessments and other charges, as well as interest at a rate to be set by the Board (subject to the maximum interest rate limitations of Georgia law), late charges in such amount as the Board may establish (subject to the limitations of Georgia law), costs of collection and reasonable attorneys' fees regardless of whether suit is brought and including any appeals. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment and judicial or nonjudicial foreclosure.

The Declarant or the Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment including such acquirer, its successors and assigns.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration has been recorded shall be deemed to consent to the fact that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.



8.8 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date that such Lot is conveyed to a Person other than the Declarant. The first annual General Assessment and Neighborhood Assessment, if any, levied on each Lot shall be adjusted according to the number of Days remaining in the fiscal year at the time assessments commence on the Lot.

8.9 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail 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 General Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.10 Exempt Property. The following property shall be exempt from payment of General Assessments, Neighborhood Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1;

(b) Any property dedicated to and accepted by any governmental authority or public utility; and

(c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

(d) Any property that is owned by a charitable or non-profit corporation or public agency or municipality whose primary purposes, either as an organization or in acquiring and holding the property include the acquisition and preservation of open space for public benefit and held by such agency or organization for such recreational or open space purposes.

8.11 Capitalization of Association. Upon acquisition of record title to a Lot by the first Owner thereof other than the Declarant, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to the greater of \_\_\_\_\_ dollars or \_\_\_\_\_ percent of the annual General Assessment per Lot for that year. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot to the first owner. Capital contributions shall be used by the Association in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents.

8.12 Default Interest Rate; NSF Checks; Late Fees. Except as otherwise provided in the Governing Documents, any assessment levied upon an Owner which is not paid within fifteen (15) Days after the date upon which it is due shall bear interest at the lesser of (a) the rate of eighteen percent (18%) per annum; or (b) the maximum rate of interest permissible under the laws of the State of Georgia. In addition, if any Owner pays any assessment (General, Neighborhood, Special or Specific) with a check on an account that has insufficient funds ("NSF"), the Board may, in its sole discretion, demand that all future payments be made by certified check or money order along with imposing a reasonable processing charge. Finally, the Association may charge a delinquent Owner an administrative/late fee in an amount determined by the Board of Directors for each installment due to the Association which is delinquent. Any payment received by the Association shall be applied first to any attorneys fees and other costs of

collection, then to any interest accrued on the late installment, then to any administrative late fee and then to the delinquent assessment.

**Article 9.**  
**ARCHITECTURAL STANDARDS**

9.1 General. No exterior structure or improvement, as described in Section 9.4 shall be placed, erected, installed or made upon any Lot or adjacent to any Lot where the purpose of the structure is to service such Lot, and no improvements shall be permitted except in compliance with this Article, and with the prior written approval of the ARB under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

Any Owner may remodel, paint or redecorate the interior of structures on his Lot without approval. However, modifications to the interior of porches, screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval.

All dwellings constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee otherwise approves in its sole discretion.

This Article shall not apply to the activities of the Declarant. This Article may not be amended without the Declarant's written consent during the Development Period.

9.2 Architectural Review. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties acknowledges that, as the developer of the Properties, Declarant has a substantial interest in ensuring that all structures and improvements within the Properties enhance Declarant's reputation as a developer and do not impair Declarant's ability to market, sell or lease any portion of the Properties or the Additional Property. Therefore, the Declarant may, on its behalf, establish an Architectural Review Board (ARB) to be responsible for the administration of the Design Guidelines and review of all applications for construction and modifications under this Article shall be handled by the ARB. The members of the ARB do not need to be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the ARB in having any application reviewed by architects, engineers or other professionals.

The ARB shall have exclusive jurisdiction over all construction on any portion of the Properties. Until one hundred percent (100%) of the Properties have been developed and conveyed to Owners other than Builders, and initial construction on each Lot has been completed in accordance with the Design Guidelines and a certificate of occupancy has been issued for a dwelling, the Declarant retains the right to appoint all members of the ARB which may consist of one or more Persons, who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board shall appoint the members of the ARB who shall thereafter serve and may be removed in the Board's discretion.

9.3 Guidelines and Procedures.

(a) Design Guidelines. The Declarant shall prepare the initial Design Guidelines for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties,

as well as specific provisions which vary according to land use and from one portion of the Properties to another depending upon the location, unique characteristics, and intended use. For example, by way of illustration but not limitation, the Design Guidelines may impose stricter requirements on those portions of the Properties adjacent to or visible from the Lake, any boat launching or docking facility, or any stream or other body of water. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the ARB in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the ARB and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt the Design Guidelines prior to closing on the first Lot and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less or more restrictive (with the condition that any change which will make the Design Guidelines more restrictive will not require changes to be made to existing conditions on Lots, unless such a change is required by applicable law). The ARB shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties.

(b) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARB for review and approval (or disapproval). In addition, information concerning septic tank drainage fields and placement, irrigation systems, drainage, lighting, grading, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the ARB may consider whichever factors it deems appropriate, in its sole discretion, including, without limitation, the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation. In reviewing and acting upon any request for approval, the ARB shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Decisions of the ARB may be based solely on aesthetic considerations or upon any other consideration. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

In the event that the ARB fails to approve or to disapprove any application within thirty (30) Days after submission of all information and materials reasonably requested, the application shall be deemed approved, except that, notwithstanding the foregoing, the ARB shall have the right, to extend this 30-Day period by another sixty (60) Days if, in its sole discretion, seasonal factors hinder the ability of the ARB to provide an effective review during the 30-day period following submission of the required information. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB pursuant to Section 9.7.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Approval by the ARB shall be effective for a period of one (1) year from the date the approval is given. If work has not commenced within the one (1) year period, the approval shall expire, and no work shall thereafter commence without resubmitting plans to the ARB for re-approval, which may be granted or denied at the sole discretion of the ARB.

(c) Architect, Builder and General Contractor Approval. In order to ensure that appropriate standards of construction are maintained throughout the Properties, all architects, Builders and general contractors must be approved by the ARB prior to engaging in any construction activities within the Properties. The ARB may implement an approval process utilizing established criteria and requiring the submission of a written application for approval. Approval of any plans may be withheld until such time as the Owner's architect, Builder or contractor has been approved by the ARB. Approval of an architect, Builder or general contractor may be conditioned upon an agreement with the ARB to maintain certain insurance coverages required by the ARB, pay construction deposits to ensure completion of a project without damage to the Properties, and pay fees determined by the ARB, from time to time. Both the criteria and the application form are subject to change in the sole discretion of the ARB. Approval of architects, Builders and contractors may not be construed as a recommendation of a specific architect, Builder or contractor by the ARB or the Declarant, nor a guarantee or endorsement of the work of such architect, Builder or contractor. The criteria and requirements established by the ARB for approval of architects, Builders and contractors are solely for the Declarant's protection and benefit and are not intended to provide the Owner with any form of guarantee with respect to any approved architect, Builder, or contractor. Owner's selection of an architect, Builder, or contractor shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such architect, Builder or contractor. Furthermore, Owner waives any and all claims and rights that Owner has or may have now or in the future, against the ARB or the Declarant. Once approved (unless such approval is withdrawn by the ARB), an approved architect, Builder or contractor shall not be required to re-submit to the approval process.

#### 9.4 Specific Guidelines and Restrictions.

(a) Exterior Structures and Improvements. For the purposes of determining compliance with Section 9.1 above, "exterior structures and improvements" shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; installation of utility lines or drainage improvements; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; installation or replacement of mailboxes; basketball hoops; swing sets and similar sports and play equipment; clotheslines; garbage cans; wood piles; septic tanks; swimming pools; gazebos or playhouses; window air-conditioning units or fans; hot tubs; solar panels; antennas; satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; hedges, walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; any type of non-natural object; and planting or removal of landscaping materials. Notwithstanding the foregoing, the Declarant and the Association shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal or other applicable laws and regulations.

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

(i) Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB except: (1) such signs as may be required by legal proceedings; (2) not more than one (1) professional security sign of such size deemed reasonable by the ARB in its sole discretion. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or occupant within any portion of the Properties, including the Common Area, any Lot, any

structure or dwelling located on the Common Area or any Lot (if such sign would be visible from the exterior of such structure or dwelling as determined in the ARB's sole discretion).

The Declarant and the ARB reserve the right to prohibit signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All authorized signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the marketing and development of the Properties, including, without limitation, "for sale" signs installed by Declarant and Builder signs installed in accordance with the Design Guidelines.

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

(iii) Lighting. Exterior lighting visible from a public street shall not be permitted except for: (1) approved lighting as originally installed on a Lot; (2) one (1) approved decorative post light; (3) pathway lighting; (4) porch lighting (5) street lights in conformity with an established street lighting program for the Properties; (6) seasonal decorative lights during the usual and common season; or (7) front house illumination of model homes. All lights shall be installed or aimed so that they do not present a disabling glare to drivers or pedestrians or create a nuisance by projecting or reflecting objectionable light onto a neighboring property.

(iv) Temporary or Detached Structures. Except as may be permitted by the Declarant during initial construction, or the ARB thereafter, no temporary house, dwelling, garage, barn or out building shall be placed or erected on any Lot.

No mobile home, trailer home, travel trailer, camper or recreational vehicle shall be stored, parked or otherwise allowed to be placed on a Lot as a temporary or permanent dwelling. These recreational vehicles shall also be subject to the restrictions set forth in Section 10.4 of the Declaration.

In addition, no modular home or manufactured home shall be placed, erected, constructed or permitted within the Properties. "Modular home and manufactured home" shall include any prefabricated or pre-built dwelling which consists of one or more transportable sections or components and shall also be deemed to include manufactured building, manufactured home, modular building, modular home, modular construction, and prefabricated construction as determined in the sole discretion of the ARB. The placement of prefabricated and transportable sections onto a permanent foundation and the inspection of the resulting structure by the building inspector shall not exempt such structure from this prohibition. Prefabricated accessory structures, such as sheds and gazebos, must be reviewed and approved in strict accordance with Article 9 of the Declaration.

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

(vi) Standard Mailboxes. The ARB, and during the Development Period, the Declarant, reserves the right to approve and alter the style, design, color and location prior to any original installation or replacement of any mailbox and, at any time, may require the installation of a standard

mailbox or the inclusion of a Lot's mailbox into a structure containing multiple individual mailboxes (a "Mailbox Bank") located within the Common Area or other location within the Properties. The type of mailbox mandated may vary from one Neighborhood to another or from one Lot to another. Application shall be made to the ARB prior to installation or replacement of a mailbox. By accepting a deed to a Lot, each Owner agrees that the ARB may remove any non-approved mailbox in a reasonable manner; all costs for the same shall be paid by Owner of such Lot, and all claims for damages caused by the ARB in such event are hereby waived.

(vii) Minimum Dwelling Size. The Design Guidelines may establish a minimum square footage of enclosed, heated and cooled living space for residential dwellings, which minimum may vary from one Neighborhood to another. Upon written request of an Owner, the ARB may waive the minimum square footage requirement if, in the ARB's sole discretion, the resulting appearance of such residential dwelling will preserve and conform to the overall appearance, scheme, design, value and quality within the Properties.

(viii) Building Placement Guidelines. The Design Guidelines or a plat may establish a location and other guidelines governing the placement of the residential dwellings on the Lot. Such placement may vary from one Lot to the next and may be established for any number, all or no Lots at the sole discretion of the Declarant. Upon written request of an Owner, the ARB may waive or permit a variance in the placement of the dwelling within the Lot if, in the ARB's sole discretion, the resulting location of such residential dwelling will preserve and conform to the overall dwelling placement scheme within the Properties.

(ix) Water Facilities. No individual water supply system shall be permitted within the Properties.

(x) Fences and Hedges. All fences and hedges shall be installed in accordance with the Design Guidelines unless otherwise approved by the ARB.

(xi) Erosion Control. Compliance with any and all applicable state, local or other governmental erosion control statutes, ordinances or regulations shall be the responsibility of the Owner. All plans submitted to the ARB shall comply with such statutes, ordinances or regulations.

9.5 Construction Period. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. The initial construction of all structures must be completed within one (1) year after commencement of construction, unless extended by the ARB in its sole discretion. All other construction shall be completed within the time limits established by the ARB at the time the project is approved by the ARB.

For the purposes of this Section, commencement of construction shall mean that (a) all plans for such construction have been approved by the ARB; (b) a building permit has been issued for the Lot by the appropriate jurisdiction; and (c) construction of a structure has physically commenced beyond site preparation. Completion of a structure shall mean that a final certificate of occupancy has been issued by the appropriate jurisdiction for the Lot.

9.6 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.7 Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate, and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain (a) approval of any governmental agency; (b) the issuance of any permit; or (c) the terms of any financing shall not be considered a hardship warranting a variance.

9.8 Limitation of Liability. The criteria and requirements established by the ARB for approval of architects, Builders and contractors are solely for the Declarant's protection and benefit and are not intended to provide the Owner with any form of guarantee with respect to any approved architect, Builder or contractor. Owner's selection of an architect, Builder or contractor shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such architect, Builder or contractor. Furthermore, Owner waives any and all claims and rights that Owner may have now or in the future against the ARB or the Declarant. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties only, and shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the ARB shall bear no responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, or for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARB nor any committee, or member of any of the foregoing shall be held liable and Owner agrees to indemnify and hold the same harmless from any cause of action or claim for any injury, damages, or loss arising out of the manner or quality of approved construction on or modifications to any Lot. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in Section 4.6.

9.9 Enforcement. The Declarant, any member of the ARB, or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARB, Owners shall, at their own cost and expense, remove such structure or improvement, including, without limitation, a tree which has been planted without the prior approval of the ARB, and restore the property to substantially the same condition as existed prior to the commencement of the nonconforming work. Should an Owner fail to remove and restore as required in the ARB's written request, any authorized agent of Declarant, the ARB, or the Board shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section 9.9 shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant and the ARB by any means of enforcement described in Section 4.3. All costs associated with enforcement, together with the interest at the maximum rate then allowed by law, may be assessed against the affected Lot and collected as a Specific Assessment.

Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete

any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment.

Neither the ARB or any of its members nor the Association, the Declarant, or their members, officers or directors shall be held liable to any Person for exercising the rights granted by this Article. 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 Design Guidelines may be excluded by the ARB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB.

**Article 10.**  
**USE RESTRICTIONS**

10.1 General. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Lot. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A" or "B," offices for any property manager retained by the Association, business offices for the Declarant or the Association or related parking facilities) consistent with this Declaration and any Supplemental Declaration.

10.2 Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and occupants 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 in a regular or special meeting by a Majority of the Members, and during the Development Period the written consent of the Declarant.

10.3 Residential Use. All Lots may be used only for residential purposes of a single family and for ancillary business or home office uses. A business or home office shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the activity conforms to any zoning requirements which apply to the Properties; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other invitees or door-to-door solicitation of residents of the Properties; (d) the activity does not increase traffic or include frequent deliveries within the Properties; and (e) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

No real estate brokerage firms, real estate sales offices, or any other business directly or indirectly selling and/or managing real property or improvements shall be permitted within the Properties except with the Declarant's prior written approval which may be denied in Declarant's sole discretion. No other trade or business activity shall be conducted upon a Lot without the prior written approval of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of



consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Lot shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a Builder approved by the ARB with respect to its development and sale of the Properties or its use of any Lots which it owns within the Properties.

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

#### 10.4 Vehicles.

(a) Automobiles and non-commercial trucks and vans shall be parked only in the garages or in the driveways, if any, serving the Lots unless otherwise approved by the ARB. No automobile or non-commercial truck or van may be left upon any portion of the Properties, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Properties. No motorized vehicles shall be permitted on pathways or unpaved Common Area (except for Private Streets) except for public safety vehicles authorized by the Board and vehicles used by the Association in maintenance of all or a portion of the Properties.

(b) Recreational vehicles shall be parked only in the garages, if any, serving the Lots. The term "recreational vehicles," as used herein, shall include, without limitation, motor homes, mobile homes, boats, jet skis or other watercraft, trailers, other towed vehicles, motorcycles, quad runners, minibikes, scooters, go-carts, golf carts, campers, buses, commercial trucks and commercial vans. Any recreational vehicle parked or stored in violation of this provision shall be considered a nuisance and may be removed from the Properties.

(c) Recreational vehicles may be operated on the streets within the Properties only by a licensed driver in accordance with Georgia law.

(d) All vehicles shall be subject to such reasonable rules and regulations as the Board of Directors may adopt from time to time, including, without limitation, the right to limit the number of vehicles permitted on each Lot and the right to limit use of all-terrain vehicles and off-road vehicles on the streets.

10.5 Leasing. All Owners acknowledge that the Declarant intends for Laceola to be a community of Owner-occupied residences. Leasing activity should be consistent with this intention. Lots may be leased for residential purposes only. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing. The Board may require notice of any lease together with such additional information deemed necessary by the Board including any credit reports or references. No lease shall contain a term (including all options to renew) of less than twelve (12) months unless otherwise approved by the Board in writing. This Section 10.5 shall not apply to any Lot owned by the Declarant or any affiliated entity of the Declarant.

10.6 Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Design Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically

mentioned. Fines may be levied against Owners or occupants. If a fine is first levied against an occupant and is not paid timely, the fine may then be levied against the Owner.

10.7 Animals and Pets. 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 reasonable number, as determined by the Board. No animals shall be kept, bred or maintained for commercial purposes. All pets shall be on a leash or otherwise reasonably controlled by the owner whenever outside a Lot and shall be kept in such a manner as to not become a nuisance by barking or other acts. The owners of the pet shall be responsible for all of the pet's actions. If, in the sole opinion of the Board, any animal becomes a danger, an annoyance or a nuisance in the Properties or to nearby property or destructive of wildlife, trees, shrubs, plants or flora, such animal shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3.

10.8 Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Properties shall be used, in whole or in part, for the storage of any property or item 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 Properties, nor shall any action be taken which tends to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. There shall not be maintained any plants or animals or device or object of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature which may diminish or destroy the enjoyment of the Properties. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the ARB, shall be located, installed or maintained upon the exterior of any Lot unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to automatically cease audible operation.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.

10.9 Streams. No streams which run across any Lot may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in Article 11.

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

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.

Use of any areas designated as "drainage easement areas" or another similar term on any recorded subdivision plat of the Properties, shall be subject to strict prohibitions against encroachment of structures

into, over or across the drainage easement areas, and the right of the Declarant to enter upon and maintain the drainage easement areas. Such maintenance activities may include disturbance of landscaping pursuant to the terms contained in any declaration of easements, notwithstanding approval of the landscaping as set forth in Article 9.

Each Owner shall be responsible for controlling the natural and man-made water flow from its Lot. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Properties with excessive water flow from its Lot. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Lots. Neither the Association nor the Declarant shall bear any responsibility for remedial actions to any Lot.

No Person shall alter the grading of any Lot without prior approval pursuant to Article 9 of this Declaration. No Person may fill in or pipe any roadside or lot-line swale, except as necessary to provide a minimum driveway crossing. The Declarant hereby reserves for itself and the Association a perpetual easement across the Properties for the purpose of altering drainage and water flow. However, the exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent.

All Persons shall comply with any and all applicable federal, state or county erosion control ordinances or regulations in construction of improvements on any Lot, and, where required, shall maintain silt fencing and vegetative and structural sediment control and collection devices.

All Persons shall comply with any and all applicable state or county ground disturbance laws, including, but not limited to Chapter 9 of Title 25 of the Official Code of Georgia Annotated, also referred to as the Call Before You Dig law, specifically O.C.G.A. §25-9-6.

10.11 Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between greater than 2 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

10.12 Storage of Materials, Garbage, Dumping, Etc. All garbage cans shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash and garbage shall be placed in appropriate containers at a designated location as directed by the Board from time to time and regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake within the Properties, except that fertilizers may be applied to landscaping on Lots provided that care is taken to minimize runoff. No hazardous materials shall be treated, deposited, stored, disposed of, or used in or on any Lot or the improvements thereon. "Hazardous materials" shall be defined as materials, substances, gases, or vapors identified as hazardous, toxic or radioactive by any applicable federal, state or local laws, regulations or ordinances.

Each Owner shall maintain its Lot in a neat and orderly condition throughout initial construction of a residential dwelling and not allow trash and debris from its activities to be carried by the wind or otherwise scattered within the Properties. Storage of construction materials on the Lot shall be subject to

such conditions, rules and regulations as may be set forth in the Design Guidelines. Each Owner shall keep roadways, easements, swales, and other portions of the Properties clear of silt, construction materials and trash from its activities at all times. No lumber, metals, bulk materials, refuse, trash or other similar materials shall be kept, stored, or allowed to accumulate outside the buildings on any Lot, except during the initial construction period of the improvements to the Lot. Trash and debris during initial construction of a residential dwelling shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Lots and shall not be buried or covered on the Lot. Any Lot on which construction is in progress may be inspected by the Declarant, the Association or a designee of either at all reasonable times. During times when construction is not actively taking place on the Lot, all materials shall be neatly stacked or placed in any trash receptacles. In addition, Owners shall remove trash and debris from the Lot upon reasonable notice by Declarant in preparation for special events.

10.13 Subdivision of Lot. The written consent of the Declarant shall be required prior to any subdivision of a Lot or change of Lot boundary lines which occur following the filing and approval of a subdivision plat including such Lot in the Public Records. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots which it owns, with the written prior consent of the owner of the Lot or Lots affected. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.14 Guns. The discharge of firearms on the Properties is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board may impose fines and exercise other enforcement remedies as set forth in this Declaration to enforce this restriction, but shall not be obligated to exercise self-help to prevent any such discharge.

10.15 Combustible Liquid. There shall be no storage of gasoline, propane, heating or other fuels, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment and except as may be approved in writing by the ARB. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.16 Completion of Construction: Occupancy of Unfinished Lots. No dwelling erected upon any Lot shall be occupied in any manner at any time prior to the dwelling being fully completed. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. With respect to construction of a residential dwelling, such construction shall be completed within one (1) year from commencement.

For the purposes of this Section, commencement of construction shall mean that: (i) all plans for such construction have been approved by the ARB; (ii) a building permit has been issued for the Lot by the appropriate jurisdiction; and (iii) construction of a residential dwelling on the Lot has physically commenced beyond site preparation. Completion of a dwelling shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the Lot.

10.17 Irrigation Systems and Wells. Sprinkler or irrigation systems shall be installed only in accordance with the Design Guidelines. Declarant shall have the right but not the obligation to install sprinkler or irrigation systems or nonpotable wells within or abutting the Properties which draw upon water from lakes, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties and the Declarant shall have the right to draw water from such sources within the Properties at all times and at any time.

10.18 Wetlands. Any areas designated on any recorded plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any

restrictions or covenants recorded against such property and be approved by the U.S. Army Corps of Engineers (COE). Notwithstanding anything contained in this Section, the Declarant, the Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the COE or any successor thereof responsible for the regulation of wetlands.

10.19 Lake. The Lake shall be used only in accordance with the Lake Use Restrictions promulgated by the Declarant or the Association. Swimming, fishing, boating or other active uses of the Lake from the Properties shall be strictly governed by the Lake Use Restrictions. Certain activities and certain types of boats may be prohibited altogether in the discretion of the Declarant or the Association. No Person may use the Lake in any fashion for irrigation of a Lot. 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 any maintenance responsibilities it bears concerning the Lake. Neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Lake.

10.20 Watercraft on the Lake. All watercraft which are brought onto the Lake through docks or ramps attached to or located on the Properties shall be registered to operate in the State of Georgia and be registered and approved by the Association. The use of such watercraft shall be subject to rules and regulations, including, without limitation, insurance requirements, that the Association may promulgate from time to time.

10.21 Use Restrictions Not in Violation of the Americans With Disabilities Act. Nothing contained in this Article 10 or elsewhere within this Declaration shall interfere with any provision under the Americans with Disabilities Act or any similar applicable federal, state or local law, ordinance or regulation.

10.22 Special Provisions for Lakeside Lots. Owners of Lots with boundaries bordering the Lake ("Lakeside Lots") shall be restricted and prohibited from attaching to the Properties any facility where boats or any other type of watercraft can be launched, retrieved or moored ("Boat Docks"), unless such activity is permitted by the Lake Use Restrictions and the Design Guidelines. Should the construction of such Boat Docks at the Lakeside Lots be approved, all plans for construction of boat docks must be approved in writing by the ARB prior to construction, which approval may be withheld by the ARB in its sole discretion. Boat Docks shall be subject to rules and specifications which may either be established by the Board from time to time or set forth in the Design Guidelines. Owners of Lakeside Lots shall also comply with rules and restrictions set forth by the Association regarding approval of Boat Docks, use of the Lake, and other matters, as applicable. Owners of Lakeside Lots acknowledge that their Lots may be subject to additional rules and restrictions required by the COE for land adjacent to such bodies of water. Owners shall be responsible for protecting and maintaining the shore line from erosion into the Lake. If erosion occurs, the Association shall have the right, but not the obligation, to repair the erosion and charge the costs of the same to the Owner of the Lot where the erosion occurs as a Specific Assessment. The Owner shall maintain insurance for any permitted privately-owned Boat Dock and shall indemnify and hold the Declarant and the Association harmless for any damage or cause of action arising from use of the dock. The Association shall be permitted at its sole discretion to require the Owner to provide a certificate of insurance for the Boat Dock and to name the Association and the Declarant as additional insureds on any policy.

10.23 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 pursuant to Section 2.7 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 any of the Private Streets.

**Article 11.**  
**PROVISIONS REGARDING EASEMENTS**

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Association, the Members, and the Owners, and their successors-in-title.

11.1 Easements of Encroachment. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment between adjacent Lots, between each Lot and any adjacent Common Area, and between each Lot due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) or to the unintentional increase in the water level of the Lake or other water bodies which results in an encroachment of water onto the Lots, to a distance of not more than three (3) feet (except for encroachment due to the rising of the water level of the Lake or other water bodies for which there shall be no limit such distance for the easement of encroachment), as measured from any point on the common boundary 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.

11.2 Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant during the Development Period, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable 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, and drainage systems; street lights and signage; and all utilities, including, but not limited to, septic tanks and/or septic fields, water, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above.

Declarant specifically grants to the local water supplier, electric company, telephone company, cable company, and natural gas supplier the easements set forth herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) There is hereby reserved to the Declarant during the Development Period, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

(c) Any damage to a Lot resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall such an exercise unreasonably interfere with the use of any Lot, and except that in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

(d) Declarant reserves unto itself, in the exercise of its sole discretion, upon the request of any Person holding or intending to hold an interest in the Properties, or at any other time, the right to: (i) release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section; or (ii) define the limits of any such easements.

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. The Declarant, for itself and the Association, and their respective representatives, successors and assigns, contractors and agents, hereby establishes and reserves a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon each Lot for the purposes 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 Properties;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Lot or Common Area;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties;

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties; and

(f) installing, maintaining, repairing and replacing any dams constructed on the Properties.

11.4 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads, for the posting of signs, and for connecting and installing utilities serving the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of the Additional Property

11.5 Easement for Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents, employees and managers of the Association, any member of its Board or committees, and its officers, 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 and permission from 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. Any entry by the Association or its authorized agents, employees or managers of the Association, any member of its Board or committees, or its officers onto a Lot for the purposes specified herein shall not constitute a trespass.

11.6 Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot to (a) perform its maintenance responsibilities under Article 5, and (b) make inspections to ensure compliance with the 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. Entry under this Section shall not constitute a trespass.

The Association also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, item or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, may be assessed against the violator as a Specific Assessment.

11.7 Lateral Support. Every portion of the Common Area, every Lot, and any improvement which contributes to the lateral support of another portion of the Common Area or of another Lot shall be burdened with an easement 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.

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

11.9 Driveway Access.

(a) Driveway. Certain Lots ("Driveway Lots"), as shown on the Master Plan, plat for the subdivision or as provided in the deed of conveyance to the particular Lot, are served by a joint use driveway located or to be located on or across other Lots ("Common Driveway"). Declarant wishes to provide an easement for use of all portions of the Common Driveway by the owners of the Driveway Lots ("Driveway Lot Owners"). Declarant further wishes to establish certain covenants for construction and maintenance of the Common Driveway.

(b) Easement. Declarant reserves a non-exclusive, perpetual, appurtenant easement under, through, over and across all of the area designated as "Common Driveway" on the Master Plan, plat for the subdivision or in the deed of conveyance to the particular Lot (the "Driveway Easement Area") for the use and enjoyment of the Driveway Easement Area by the Declarant, and its successors and assigns, including but not limited to the Driveway Lot Owners, for pedestrian and vehicular ingress and egress, which may be utilized by the Driveway Lot Owners, by all persons residing in any single family residence on any of the Driveway Lots, and by the guests and invitees of such Driveway Lot Owners, for the purpose of gaining access to the Driveway Lots from the Private Streets serving the Properties.

The easement rights granted hereunder shall run with, benefit, and be appurtenant to title to the Driveway Lots. The easement rights granted hereunder shall further run with and be appurtenant to title to the Driveway Easement Area and shall constitute a burden upon the Driveway Easement Area, subject to the following terms and conditions.



(c) Prohibited Activities. Driveway Lot Owners and other permitted users of the Driveway Easement Area shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the Driveway Easement Area by other authorized users. Prohibited activities shall include without limitation obstruction of any part of the Driveway Easement Area. No vehicles shall be parked on the Driveway Easement Area.

(d) Individual Driveways. Each of the Driveway Lot Owners shall have the right to install an individual driveway connecting such Lot to the Common Driveway within the Driveway Easement Area; provided that the installation of any such individual driveway shall be subject to all the terms and provisions of the Declaration, including but not limited to Article 9 with respect to architectural review. Each Driveway Lot Owner shall be responsible for the maintenance, repair and replacement of any individual driveway so installed on such Owner's Driveway Lot.

(e) Construction. The Declarant shall be responsible for the installation and construction of all Common Driveways. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself and its designees and each of the Driveway Lot Owners' perpetual non-exclusive easements upon, across, over, and under the Driveway Easement Area for the purpose of installing and constructing the Common Driveway and any and all utility lines to serve the Driveway Lots and an easement for access of vehicular and pedestrian traffic over, across, and through the Driveway Easement Area and the Driveway Lots, as necessary, to exercise the easement described above.

Entry for such purposes shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Driveway Lot Owners' property. Entry under this Section shall not constitute a trespass. Any damage to a Driveway Lot Owner's property resulting from the exercise of the easements described herein shall promptly be repaired by, and at the expense of, the person exercising the easement.

(f) Maintenance. The Association shall be responsible for maintaining the Common Driveway in a good, driveable condition. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal easements for the Association to enter the Driveway Easement Area to perform its maintenance responsibilities under this Declaration. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Driveway Lot Owners as a Specific Assessment as detailed in Section 8.6 of the Declaration. Except in emergencies, entry for such purposes shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Driveway Lot Owners' property. Entry under this Section 11.9 shall not constitute a trespass. Any damage to a Driveway Lot Owner's property resulting from the exercise of the easements described herein shall promptly be repaired by, and at the expense of the Association.

Declarant further reserves, creates, establishes, promulgates and declares for itself and its designees and each of the Driveway Lot Owners non-exclusive, perpetual, reciprocal easements for the maintenance of any and all utility lines to serve the Driveway Lots.

11.10 Rights to Stormwater Runoff and Water Reclamation. Declarant hereby reserves for itself and its designees all rights to ground water, surface water, and storm water runoff, located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water and runoff.

11.11 Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant or its successors or assigns arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Properties, except in cases of willful or wanton misconduct.

**Article 12.**  
**MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1 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:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where 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;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2 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.

12.3 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.

12.4 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.

12.5 Construction of Article 12. Nothing contained in this Article 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 Article.

**Article 13.**  
**DECLARANT'S RIGHTS**

13.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.2 Development and Sales. The Declarant and Builders authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Lots, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive Days. The Declarant and authorized Builders, if any, shall have easements over the Properties for access, ingress and conducting such activities.

In addition, the Declarant and any Builders authorized by Declarant may establish within the Properties, including any clubhouse, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Lots, including, but not limited to, business offices, signs, model homes, tents, sales offices, sales centers and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and authorized Builders shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Area by Persons other than Owners without the payment of any use fees.

13.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

13.4 Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or any such similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by a written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

13.5 Right of Declarant to Disapprove Actions. Declarant shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Declarant, would tend to impair rights of the Declarant under the Governing Documents,

or interfere with development of or construction on any portion of the Properties, or diminish the level of services being provided by the Association.

(a) The Declarant shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Declarant has registered with the secretary of the Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Declarant may waive its right to receive notice in the same manner as provided in the By-Laws; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Declarant exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Declarant shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

#### Article 14.

#### RIGHT OF FIRST REFUSAL AND RIGHT TO REPURCHASE

##### 14.1 Right of First Refusal.

(a) Unless specifically waived or modified in writing by Declarant, in the event that an Owner desires to sell, transfer or assign a Lot prior to the issuance of a final Certificate of Occupancy by the controlling government authority, the Declarant shall have a right of first refusal to acquire the Lot upon the same terms and conditions as set forth in a bona fide written offer to purchase which is acceptable to the Owner (the "Contract").

(b) Declarant shall have thirty (30) Days from the date of the receipt of the Contract from the Owner within which to give written notice of the Declarant's exercise of its right of first refusal; provided, however, if such Owner is then delinquent on any amounts owed to the Association, such time period shall be extended automatically such that Declarant shall have thirty (30) Days from the date upon which all amounts owed to the Association by the Owner are paid, within which to give written notice of the Declarant's exercise of its right of first refusal. After such period of time, the Owner shall be free to transfer the Lot in accordance with the Contract.

(c) In the event that Declarant shall exercise its right of first refusal, the sale shall be consummated within thirty (30) Days after delivery of the Declarant's written notice in accordance with Section 14.1(b). Owner shall convey the Lot to Declarant by deed in the same form (including warranties) and containing only those title exceptions as were contained in the original deed executed by Declarant in favor of such Owner. The Owner shall be obligated to pay any and all outstanding assessments or other charges due and owing under this Declaration and shall cure or cause to be cured all title defects or exceptions not existing at the time the Owner acquired Lot from the Declarant. The remaining terms of the sale shall be as set forth in the Contract, except as modified by the provisions of this Section.

(d) In the event that Declarant does not exercise its right of first refusal and the Owner elects not to sell the Lot pursuant to the Contract, the Declarant's right of first refusal shall continue to be in full force and effect against the Owner. If the Owner elects to sell the Lot pursuant to the Contract, the Declarant's right of first refusal shall be in force and affect against the new owner.

(e) Notwithstanding the above, Declarant shall have no right of first refusal if the transfer of the Lot is to (i) the owner of a leasehold; (ii) the spouse of the Owner; (iii) a person who is a direct lineal descendant of the Owner; (iv) a trust whose beneficiaries are solely the spouse and direct lineal descendants of the Owner; (v) an entity in which the Owner owns, directly or indirectly, not less than fifty-one percent (51%) of such entity; (vi) an entity which owns, directly or indirectly, not less than fifty-one percent (51%) of the Owner; (vii) a person acquiring title pursuant to a foreclosure sale; or (viii) a person acquiring title by means of sale in lieu of foreclosure (each such transaction hereinafter referred to as an "Exempt Transaction"). The Owner shall give Declarant at least seven (7) Days prior written notice of any transfer which is an Exempt Transaction with sufficient documentation to establish that the transfer is an Exempt Transaction.

14.2 Right to Repurchase. The Declarant shall have the right to repurchase ("Repurchase"), unless specifically waived or modified in writing by Declarant, any Lot upon the occurrence of the failure of the Owner to complete construction by obtaining the final certificate of occupancy issued by the controlling governmental authority with respect to all proposed construction on the Lot within twelve (12) months after commencement of construction in accordance with plans approved by the Architectural Review Board. Such time period may be extended by the Declarant in its sole discretion.

For the purposes of this Declaration, commencement of construction shall mean that (i) all plans for such construction have been approved by the ARB; (ii) a building permit has been issued for the Lot by the appropriate jurisdiction; and (iii) construction of a residential dwelling on the Lot has physically commenced beyond site preparation. Completion of a dwelling shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the Lot.

14.3 Repurchase Price. In the event that the Declarant shall exercise its right to Repurchase a Lot in accordance with Section 14.2, the repurchase price ("Repurchase Price"), shall equal the purchase price originally paid by the Owner plus five percent (5%) per annum of the purchase price received by the Declarant plus the actual cost of improvements, if any, made to such Lot by Owner. Such costs shall be determined by Owner's production of original and verifiable invoices (the "Improvement Invoices") submitted to Declarant and shall not include any interest charges, other loan fees or carrying charges, closing costs, attorneys' fees, personal expenses of the Owner or its successors-in-title, or general overhead expenses. Failure by Owner to submit such invoices within seven (7) Days after demand from Declarant shall result in the amounts of such invoices being excluded from the Repurchase Price.

14.4 Declarant's Exercise of Repurchase Right. In order to exercise its Repurchase rights under Section 14.2 (the "Exercise"), Declarant shall deliver its written notice of Exercise to Owner, together with the Declarant's calculation of the Repurchase Price.

14.5 Repurchase Closing.

(a) The closing on the Repurchase pursuant to Section 14.2 shall take place within thirty (30) Days of the final calculation of the Repurchase Price.

(b) The Owner shall transfer the Lot by a deed in the same form (including warranties) and containing only those title exceptions as were contained in the original deed executed by Declarant in favor of such Owner.

(c) The Owner shall be obligated to pay any and all outstanding assessments or other charges due and owing under this Declaration and shall cure or cause to be cured all title defects or exceptions not existing at the time the Owner acquired the Lot from the Declarant.

(d) Real estate ad valorem taxes and prepaid assessments shall be prorated as of the date of closing.

(e) In the event that there are insufficient closing proceeds to cover all of the Owner's obligations pursuant to this Declaration (the unpaid amounts hereinafter, the "Deficiency"), Declarant shall have the right but not the obligation to take the Lot subject to such liens which are not paid from the closing proceeds and to obtain a recorded judgment against the Owner in the amount of the Deficiency which amount shall bear interest at the rate payable on judgments in Georgia from the date of closing until paid.

14.6 Subdivision of Lot. In the event that a Lot is subdivided in accordance with the provisions of this Declaration and subsequently transferred to a new Owner, then for purposes of calculating the Repurchase Price under Section 14.3, the price paid to Declarant for the original Lot shall be allocated prorata on an acreage basis among the Lots resulting from the subdivision.

14.7 Subordination to Mortgages. The Declarant's rights under Sections 14.1 and 14.2 are subordinate and junior to all rights of Mortgagees under Mortgages recorded in the Public Records. Declarant shall have no right of Repurchase in the event of a foreclosure or proceedings in lieu of foreclosure; however, upon the transfer of title to the Lot as a result of such foreclosure or proceedings in lieu of foreclosure, the Lot will be subject to all of the provisions of this Declaration, including the provisions of this Article.

14.8 Expiration. Notwithstanding anything herein to the contrary, upon the earlier to occur of: (i) the issuance of the final certificate of occupancy by the controlling governmental authority with respect to all proposed construction on the Lot, unless such Lot is later subdivided in a manner resulting in the creation of a Lot(s) which is an unimproved lot(s), or (ii) twenty (20) years after the date this Declaration is recorded in the Public Records, the Declarant's right of first refusal and Repurchase rights provided for in this Article 14 shall expire and be of no further force or effect.

**Article 15.**  
**GENERAL PROVISIONS**

15.1 Duration.

(a) Except as otherwise limited by Georgia law, this Declaration shall have perpetual duration. If Georgia law limits the period during which covenants may run with the land, then this Declaration shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or

other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by Georgia law, in which case such law shall control, this Declaration may be terminated within the first twenty (20) years after the date of recording by an instrument signed by all Owners within the Properties, which instrument is recorded in the Public Records; provided however, this Declaration may not be terminated during the Development Period without the prior written consent of the Declarant. After twenty (20) years from the date of recording, this Declaration may be terminated only by an instrument signed by both Owners owning at least fifty-one percent (51%) of the Lots and constituting at least fifty-one percent (51%) of the total number of Owners, and by the Declarant, if the Declarant owns any portion of the Properties. Any instrument terminating this Declaration hereunder must comply with the requirements of O.C.G.A. §44-5-60(d), and shall be recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

#### 15.2 Amendment.

(a) By Declarant. The Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. In addition, so long as the Declarant owns property which is subject to this Declaration or which may be unilaterally subjected to the Declaration by the Declarant, Declarant may unilaterally amend this Declaration for any other purpose. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing.

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

(c) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Association, including sixty-seven percent (67%) of the Class "A" votes held by Members other than the Declarant, and, during the Development Period, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific provision shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

(d) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recording or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or

circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

15.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment, court order, or any other applicable law shall in no way affect other provisions or applications.

15.4 Dispute Resolution. It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Properties and to avoid litigation if at all possible. Accordingly, the Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association rules, or the Articles through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

15.5 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members representing seventy-five percent (75%) of the total Class "A" votes in the Association. This Section shall not apply, however, 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 in Article 8; (c) proceedings involving challenges to ad valorem taxation; (d) counter-claims brought by the Association in proceedings instituted against it; (e) actions brought by the Association against any contractor, vendor, or supplier of goods and services arising out of a contract for services or supplies; or (f) actions brought by the Association during the Development Period. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

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

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



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

15.9 Use of the Words "Laceola". No Person shall use the words "Laceola" or any logo of Laceola or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the term "Laceola" in printed or promotional matter where such term is used solely to specify that particular property is located within Laceola and the Association and any other community association located on Laceola shall be entitled to use the words "Laceola" in its name.

15.10 Compliance. Every Owner and occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

15.11 Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of this Declaration. "C" Exhibit is attached for informational purposes and may be amended as provided therein.

[EXECUTIONS BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 26 day of November, 2002.

BLUE CREEK PARTNERS, LLC,  
a Georgia limited liability Company

By: [Signature]

Name: Mr. Barry K. Blalock

Title: Managing Member



ATTEST:

[Signature]

STATE OF GEORGIA

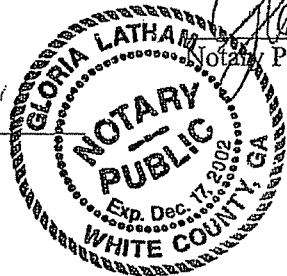
COUNTY OF WHITE

I, a Notary Public of the County and State aforesaid, certify that Mr. Barry K. Blalock, personally came before me this day acknowledged that he is the Managing Member of Blue Creek Partners, LLC, a Georgia limited liability company, and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by its Managing Member.

Witness my hand and official stamp or seal, this 26 day of November, 2002

[Signature]  
Notary Public

My commission expires: \_\_\_\_\_



**EXHIBIT "A"**

**Land Initially Submitted**

All that tract or parcel of land, together with the improvements and appurtenances belonging thereto, lying and being in White County, Georgia, as shown on a plat for survey made by Kenyon L. Miller, RLS #2595, dated 8-30-02, a copy of which plat was recorded on \_\_\_\_\_, in the White County Records in Plat Book 51, Page(s) 165 and to which plat reference is hereby made for a more particular description of said land.

and 166

**EXHIBIT "B"**

**Additional Property**

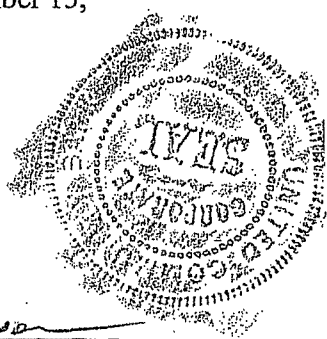
Any property located within a five (5) mile radius of the perimeter boundary of the land described on Exhibit A attached hereto.

CONSENT OF LENDER

The undersigned, UNITED COMMUNITY BANK, by and through its authorized officer, hereby consents to the foregoing Declaration of Covenants, Conditions and Restrictions for Laceola Community Association, Inc. in accordance with Deeds to Secure Debt by and between LCZ, INC. As Borrower and UNITED COMMUNITY BANK as Lender dated September 15, 1999, as modified, and December 13, 2001.

Executed this 9<sup>th</sup> day of December 2002.

UNITED COMMUNITY BANK,  
(SEAL)



By: Donald E. Allison

Name: DONALD E. ALLISON

Title: EXECUTIVE VICE PRESIDENT

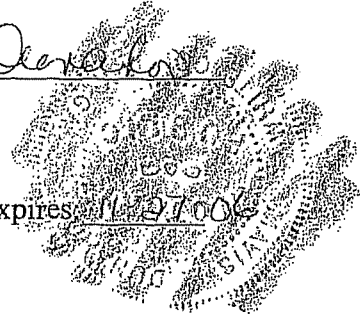
STATE OF GEORGIA  
COUNTY OF WHITE

Before me the undersigned authority, a Notary Public in and for said State and County, personally appeared Donald E. Allison, with whom I am personally acquainted, and who, upon oath, acknowledged himself/herself to be the EVP of United Community Bank, the within named Declarant, and that he/she as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

Witness my hand and seal, at office this 9 day of December 2002.

Mavis L. Deane  
Notary Public

My Commission Expires 11/30/06

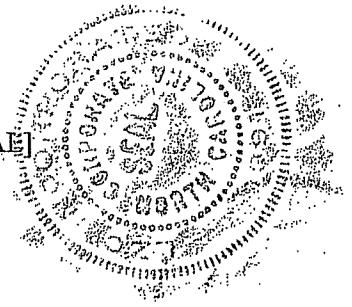


OWNER CONSENT

OWNER: LZC, INC., a North Carolina corporation

By: *Barry K. Blalock* [SEAL]  
Mr. Barry K. Blalock

Its: President



STATE OF GEORGIA

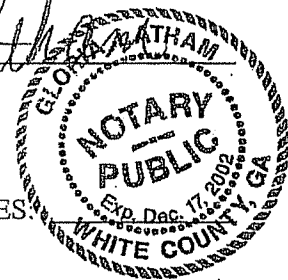
COUNTY OF WHITE

Before me, the undersigned authority, a Notary Public in and for said State and County, personally appeared Mr. Barry K. Blalock, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the President of LZC, Inc., a North Carolina corporation, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such President.

Witness my hand and seal, at office this 10 day of November, 2002.

*Gloria Atham*  
NOTARY PUBLIC

MY COMMISSION EXPIRES.



[NOTARIAL SEAL]