



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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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

THE TRAILS AT LONG MOUNTAIN

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STATE OF GEORGIA
COUNTY OF WHITE

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
TRAILS AT LONG MOUNTAIN**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE TRAILS AT LONG MOUNTAIN ("hereinafter "Declaration") is made this _____ day of _____, 2013 by B&T Land Investments, LLC (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter the "Property"). Declarant intends by this Declaration to impose upon the Property mutually beneficial covenants, conditions, restrictions and easements under a general plan of improvement and development for the benefit of future owners and current owners, by way of their mutual consent, of property within the residential community to be known as THE TRAILS AT LONG MOUNTAIN. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property submitted to this Declaration.

NOW THEREFORE, Declarant hereby declares that all of the Property, and any additional property which may be subjected to this Declaration in accordance with its terms (hereinafter "Additional Property") shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements hereinafter set forth, which are for the purpose of protecting and preserving the values and desirability of the Property, and which shall run with the Property submitted to this Declaration and which shall be binding on all parties having any right, title or interest in and to such Property, their heirs, successors, successors in title and assigns and which shall inure to the benefit of each such party.

This document is not intended and should not be construed so as to create a property owner's association pursuant to O.C.G.A. § 44-3-220, *et. seq.* nor a condominium pursuant to O.C.G.A. § 44-3-70, *et. seq.*

ARTICLE I

DEFINITIONS

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

Section 1. "Additional Property" shall mean Property not described in Exhibit "A" which may later be added to TRAILS AT LONG MOUNTAIN pursuant to Article VII of this Declaration and made subject to this Declaration.

Section 2. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association; as such document may be amended from time to time.

Section 3. "Association" shall mean and refer to TRAILS AT LONG MOUNTAIN HOMEOWNERS ASSOCIATION, INC., a non-profit, non-stock, membership corporation incorporated under the laws of the State of Georgia, and its successors and assigns.

Section 4. "Board of Directors" or "Board" shall mean and refer to the governing body of the Association, having such duties as are provided in the Declaration, the By-Laws, the Articles of Incorporation, the Georgia Non-Profit Corporation Code and under other applicable Georgia Law.

Section 5. "Buffer" shall mean and refer to a natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas.

Section 6. "Builder" shall mean and refer to the Owner of a Lot (i) who is in the business of construction of Residential Units; (ii) who owns such Lot for the purpose of constructing a Residential Unit thereon for sale to a third party, and (iii) who is designated by Declarant as a builder under its builder program. Any person occupying or leasing a Lot for residential purposes shall cease to be considered a Builder with respect to such lot immediately upon occupying any lot.

Section 7. "Buildout" shall mean and refer to the date upon which the first of the following events occur: (i) the date on which there has been a Residential Unit constructed on each Lot contemplated to be in the Community and each Lot in the Community has been conveyed to a Person for residential occupancy; or (ii) a date established by the Declarant, in its sole discretion as indicated by a written instrument filed of record with the clerk of the Superior Court of White County, Georgia.

Section 8. "By-Laws" shall mean and refer to the By-Laws of the Association which govern the administration and operation of the Association, as such document may be amended from time to time.

Section 9. "Certificate of Occupancy" shall mean and refer to any required certification issued by the appropriate government authorities as a prerequisite to the occupancy of any Residential Unit on any portion of the Property.

Section 10. "Common Area" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or otherwise made available for the exclusive use and enjoyment of the Owners. The Common Area shall include, without limitation, any recreational facilities for the Community, including, but not limited to, hiking trails, picnic areas and campfire ring. Nothing herein shall be construed so as to create any obligation for Declarant to convey any property or improvements to the Association.

Section 11. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association and the Community, including reasonable capital reserves, all as may be imposed hereunder or found to be necessary or appropriate by the Board pursuant to this Declaration, the By-Laws and the Articles of Incorporation.

Section 12. "Community" shall mean and refer to the residential development by Declarant on the Property known as THE TRAILS AT LONG MOUNTIAN and on such additions thereto as may be made by Declarant.

Section 13. "Community-Wide Standard" shall mean and refer to the standard generally prevailing in the Community for conduct, maintenance, architectural and design standards and other matters as determined by the Declarant, for so long as the Class B Member continues to exist, and thereafter as determined by the Board. Such determination by the Board must, however, be consistent with the Community-Wide Standard originally established by the Declarant.

Section 14. "Conversion Date" shall have the meaning ascribed to it in Section 3(b) of Article IV of this Declaration.

Section 15. "Declarant" shall mean B&T LAND INVESTMENTS, LLC and his successors, successors in title and assigns, provided the instrument of conveyance to any such successor in title or assign must specifically designate such successor in title or assign as the "Declarant" hereunder. Upon the designation of such successor Declarant, unless otherwise provided in any conveyance by the former Declarant, all rights of the former Declarant in and to such Person entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

Section 16. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for THE TRAILS AT LONG MOUNTAIN; as such document may be amended from time to time; provided no such amendments shall be effective until recorded in the records of the Clerk of the Superior Court of White County, Georgia.

Section 17. "Design Review Board" or "DRB" shall mean and refer to that certain Board as empowered in accordance with Article IX hereof.

Section 18. “First Mortgage” shall mean and refer to a first priority Mortgage.

Section 19. “First Mortgagee” shall mean and refer to the holder of a First Mortgage.

Section 20. “Hiking Trail” shall mean and refer to that portion of the Property that may, in the sole discretion of Declarant, be improved with a path or trail used for the purposes of walking, running and/or hiking, as well as equestrian uses as set forth herein.

Section 21. “Impervious Surface” shall mean and refer to a man-made structure or surface which prevents the infiltration of storm water into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools or patios.

Section 22. “Improvements” shall mean and refer to any Residential Unit, driveways, parking areas, fences, walls, recreational equipment, playhouses, play equipment, polls, steps, landscaping, lighting, signage, excavation, ditches, diversions, beams or any other thing or device that alters the flow to any water and all other structures, improvements or landscaping materials of every kind and type placed, erected, constructed, maintained or permitted on a Lot.

Section 23. “Land-disturbing Activity” means and shall refer to any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing Activity shall not include activities such as ordinary maintenance and landscaping operation, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family residence, and the cutting of firewood for personal use.

Section 24. “Lot” shall mean and refer to a platted portion of the Property, other than the Common Area, intended for single family residential use, created in accordance with Section 3 of Article II hereof.

Section 25. “Majority” shall mean and refer to those eligible votes totaling more than fifty percent (50%) of the total eligible number of votes.

Section 26. “Member” shall mean and refer to a Person that is a member of the Association as provided in this Declaration.

Section 27. “Mortgage” shall mean and refer to a deed to secure debt, deed of trust, mortgage or other similar instrument used for the purpose of conveying or encumbering real property as security for the payment of an obligation.

Section 28. “Mortgagee” shall mean and refer to the holder of a Mortgage.

Section 29. “Owner” shall mean and refer to the record Owner of any Lot which is part of the Property within the Community, but excluding (i) any Person holding an

interest merely as security for the performance or satisfaction of any obligation; (ii) contract purchasers; and (iii) any governmental authority which holds title as a result of a dedication by Declarant. When the term Owner is used, it shall include all Builders, unless otherwise stated. The term "Owner," unless specifically stated, shall not include the Declarant.

Section 30. "Person" shall mean and refer to any natural person, corporation, joint ventures partnership (general or limited), association, trust or other legal entity.

Section 31. "Property" shall mean and refer to that certain real property described in Exhibit "A" attached hereto and made a part hereof by this reference and shall further refer to such Additional Property or part thereof when and if such is annexed by amendment or Supplemental Declaration to this Declaration. Property shall also include such real property as might be owned in fee simple by the Association.

Section 32. "Residential Unit" shall mean and refer to any building, structure, or improvement on any lot intended for use and occupancy as a residence and all appurtenances thereto including, but not limited to, all garages, porches, balconies, accessory structures, decks, overhangs, foundations, extensions and projections therefrom.

Section 33. "Rules and Regulations" shall mean and refer to those rules and regulations promulgated by the board of Directors of the Association pursuant to this Declaration and the By-Laws, as such rules and regulations may be amended from time to time.

Section 34. "Water System" shall mean the water system located within the Development. Water for the system shall be supplied by the White County Water Authority. Maintenance of the system shall be the responsibility of the White County Water Authority. There shall be a fee associated with every lot due and payable to the White County Water Authority for maintenance of the water system and power to the pump.

ARTICLE II

DEVELOPMENT

Section 1. Development of Property. All of the Property and any right, title or interest therein shall be owned, held, leased, sold and conveyed by Declarant, any record Owner and any subsequent Owner of all or any part thereof, subject to this Declaration and the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration. All Lots within the Property (i) shall be and are hereby restricted exclusively to single-family residential use, (ii) shall be developed and built upon only for detached single-family dwelling purposes, and (iii) shall be subject to the terms set forth in this Declaration. Until Buildout, Declarant shall have the right, but not the obligation, to make improvements and changes to the Common Area and to all Lots owned by Declarant, including, without limitation,

installation of any Improvements in and to the Common Area, changes in the location or boundaries of any Lots owned by Declarant or of the Common Area, and installation of any water, sewer and other utility and drainage systems and facilities.

Section 2. Development of Additional Property. Declarant hereby reserves the right, option and privilege (but not the obligation) to be exercised in its sole discretion, to submit and develop Residential Units and, from time to time, to submit Additional Property to the provisions of this Declaration. This option, right and privilege may be exercised only by Declarant in accordance with the terms, conditions and limitations set forth in Article VII, below.

Section 3. Designation of Lots. Declarant shall have the unilateral right and power to subdivide and/or reconfigure all or any portion of the Property owned by Declarant into Lots, without the joinder or consent of any other Person. The Declarant shall exercise such right and power from time to time by causing an appropriate plat or plats to be prepared for the Lot or Lots which Declarant desires to designate as such and by filing such plat or plats for public record in the Office of the Clerk of the Superior Court of White County, Georgia.

Section 4. Zoning. Declarant shall have the right and power, from time to time, to change the zoning of any portion of the Property as the owner thereof or, if not the owner, with the written consent of the owner thereof, in such manner as Declarant deems appropriate for the overall development of the Property. Owner other than Declarant shall apply for any change in zoning, including variances, of any portion of the Property owned by such Owner unless such zoning changes are approved in writing by Declarant prior to the Conversion Date or by the Board after the Conversion Date. Any such zoning change shall not affect the use restrictions contained in this Declaration which shall control over any uses permitted by such zoning changes; provided, however, nothing contained in this Declaration shall give or be deemed to give either to Declarant or any Owner the right or power to use any portion of the Property in a manner which would violate applicable zoning ordinances, rules or regulations.

ARTICLE III

PROPERTY RIGHTS

Section 1. General. Each Lot shall, for all purposes, constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration may be conveyed, transferred and encumbered the same as other real property. The ownership of each Lot shall include, and there shall pass with title to each such Lot as an appurtenance thereto, whether or not separately described, all rights of a Member in the Association and all of the right and interest of use in and to the Common Area as set forth herein. The Declarant, the Association and their respective employees, agents, successors and assigns shall have the right at all reasonable times to enter upon all parts of each easement area transferred pursuant to this Article III for any of the purposes for which such easement area is reserved, without being deemed to have committed a trespass or wrongful act solely by

reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Declaration.

Section 2. Easement of Enjoyment. Each Owner shall have a right and easement of ingress and egress and use and enjoyment in and to the Common Area, subject to the terms of this Declaration. Such right and easement may be exercised by each Owner and their respective family, licensees, guests and invitees, subject to the Rules and Regulations as may be adopted by the Board from time to time. An Owner may assign to a tenant of his Lot all rights of access to and use of the Common Area so that such tenant, his family and guests shall be entitled to access to and use of the common Area on the same basis as the assignor and his family and guests. The foregoing right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following easements, reservations, rights and provisions, which are expressly reserved hereby:

(a) the right of the Board to charge reasonable admission and other fees for the use of any portion of the Common Area, including, without limitation, the hiking trails, campfire ring and other recreation areas; to limit the number of guests who may use the Common Area; to allow Persons who are not Members of the Association to use the common Area on a regular or temporary basis and to charge or not charge a user fee therefore; and to provide for the exclusive use and enjoyment of specific portions of the Common Area at certain designated times by an Owner, his family, tenants, guests, licensees and invitees;

(b) the right of the Association to suspend the voting rights of an Owner and the right to use the Common Area for any period during which (i) any assessment which is hereby provided for remains unpaid and (ii) any infraction of the terms of the Declaration, the By-Laws, or the Rules and Regulations remains uncorrected or uncured and for an additional period thereafter not to exceed thirty (30) days;

(c) the right of the Association to borrow money (i) for the purpose of improving the Common Area or any portion thereof, (ii) for acquiring additional Common Area, (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Area, or (iv) for providing the services authorized herein, and, subject to the provisions herein, to give as security for the payment of any such loan a Mortgage against the Common Area; provided, however, that the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any and all rights, interests, options, licenses, easements and privileges herein reserved or established for the benefit of Declarant and provided, further, that after the Conversion Date, no more than Ten Thousand and No/100 Dollars (\$10,000.00) may be borrowed by the Association unless such indebtedness has been approved by members representing a Majority of the total Association vote and Declarant, until Buildout;

(d) the right of the Association to grant and accept easements as provided herein and to dedicate or transfer all or any portion of the Common Area to White County, Georgia or to any other public agency or authority, public service district,

public or private utility, or other Person provided that any such transfer must be approved by the members representing a Majority of the total Association vote and by the Declarant until Buildout; provided, however, Declarant shall have the unilateral right, prior to Buildout, to dedicate, transfer or grant property, permits, licenses, or easements for utilities, roads and other purposes reasonably necessary or useful for the property development, maintenance or operation of the Property;

(e) the right of the Declarant or, after Buildout, the Association with the approval of Members representing a Majority of the total Association vote, to alter, change, redefine or redescribe the use of any portion of the Common Area;

(f) the rights and easements reserved herein for the benefit of the Declarant and the Association;

(g) the right of the Declarant or, after Buildout, the Association with the approval of Members representing a Majority of the total Association vote, to alter, change, redefine or redescribe the use of any portion of the Common Area;

(h) use of alcohol within the Common Areas shall be prohibited.

Section 3. Reserved Easements. Declarant hereby reserves, in addition to the other easements in this Declaration, the perpetual, alienable and transferable easement and right, for the benefit of the Declarant and its successors and assigns and, subject to regulation by the Declarant, for the benefit of Builders, to enter and travel upon over and across the community, including the Common Area, for the purpose of completion and repair of Improvements within the Property or Additional Property including construction, alteration, maintenance or repair of Improvements and Residential Units on Lots, and for all reasonable purposes to further assist and enhance the marketing and construction and sale of the Property, Lots or Residential Units, together with the easement in and to the Community, inclusive of the Common Area and Lots, for the maintenance of signs, sales offices, construction offices, business offices, and such other facilities the Declarant, in its sole opinion, may deem required, convenient, necessary or incidental to the completion, improvement and/or marketing and sale of Lots, Residential Units or the Community until Buildout. Any damage to any Lot, Residential Unit or any portion of the Community occurring during the use of the foregoing easement or rights shall be repaired by the Person who caused such damage.

Section 4. Easement for Association. There is hereby reserved for the benefit of the Association, its officers, board members, agents and employees, including, but not limited to any manager employed by the Association and any employees of any such manager, the general right and easement to enter upon any Lot or portion thereof in the performance of its respective duties. Except in the event of emergencies, this right and easement is to be exercised only during normal business hours and, whenever practical, only upon advance notice and with the permission of the Owner of the Lot directly affected thereby.

Section 5. Easement for Maintenance. There is hereby reserved for the benefit of the Declarant, the Association, and their respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any Lot for the purpose of mowing, removing, clearing, cutting or pruning

landscape, grass, underbrush, weeds, trees, stumps or other unsightly growth and removing trash, or any other undesirable material, and to exercise any other rights of maintenance provided below, so as to maintain the Community-Wide Standard and reasonable standards of health, fire, safety and aesthetic appearance within the Property; provided that such easement shall not impose any duty or obligation upon the Declarant or the Association to perform any such action.

Section 6. Alterations to Lots and Common Area. There is hereby reserved in Declarant the right to alter, modify or realign the boundaries or configuration of the Common Area or any Lot owned by Declarant including, but not limited to, the right to alter the size, shape, slope and terrain of such lots and the Common Area. Any such alteration shall be shown by an amendment to the plat depicting such Lot or Common Area which is recorded in the appropriate land records.

Section 7. Easement of Encroachment. If any portion of the improvements constructed on the Common Area encroaches upon any Lot, as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Improvement on the Common Area, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists; provided, however, if any Improvement on the Common Area is knowingly and willfully constructed, reconstructed or repaired so as to encroach, respectively, on a Lot to an extent greater than ten (10) feet, no such easement shall exist.

Section 8. Construction and Sale Period. Despite any provision contained in this Declaration to the contrary, it shall be expressly permissible for the Declarant, its successors and assigns and any Builder approved by Declarant to maintain and carry on upon such portion of the Property as the Declarant may deem necessary, including but not limited to, the Common Area, such activities as the Declarant, in its sole discretion, may reasonably be required, convenient, necessary or incidental to construction of any improvement or sale and marketing of any of the Property, including, without limitation, business offices, signs, model homes, and sales offices, until Buildout. The right to maintain and carry on such facilities and activities shall include specifically the right to use Lots and Residential Units owned by Declarant or Builder as models and sales offices and to authorize sales and construction personnel to travel upon and enter the Common Area.

Section 9. Easements for Utilities, Etc. There is hereby reserved to the Declarant and, after the Conversion Date, to the Association upon approval by Members representing a Majority of the total Association vote, and with the written consent of the Declarant until Buildout, to grant blanket easements upon, across, over and under all of the Property, including Lots, for ingress, egress, installation, replacement, repairing and maintaining of master television antenna or cable systems, security and similar systems, walkways and all utilities, including, but not limited to, water, sewer, telephone, gas, electrical, storm sewers, and drainage systems; provided this easement shall not unreasonably impair the ability of any Owner to construct or install Residential Units on any Lot or to cause physical, nonrepairable damage to an Residential Unit as might exist on any such Lot. To the

extent possible, all utility lines and facilities serving the Community and located therein shall be located underground. By virtue of any such easement, it shall be expressly permissible for the holder of the easement, with respect to the portion of the Property so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes or shrubbery, (iii) to grade, excavate or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and facilities; provided, however, that the holder of any such easement shall take reasonable actions to repair any damages caused during the exercise of any rights granted under such easement. Regardless of any reserved easement, the cost of extending any and all utilities from the utilities' designated connection point to the dwelling or any other facility requiring utility service shall be the responsibility of the individual property owner. No guarantee is made regarding the availability of DSL service within the development.

Section 10. Easement for Law Enforcement/Fire Protection. Declarant hereby grants to White County, Georgia or such other governmental authority or agency as shall have from time to time jurisdiction over the Property with respect to law encroachment and fire protection, the perpetual, alienable and transferable right and easement upon, over and across all of the Community, including all Lots and Common Area, for purposes of performing such duties and activities related to law enforcement and fire protection as shall be required or appropriate from time to time by such governmental authorities under applicable law.

Section 11. Easement for Walks, Trails, Signs and Perimeter Walls. It is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the perpetual, transferable, and alienable right and easement upon, over and across those strips of land eleven (11) feet in width located along and adjacent to the exterior boundaries of all Lots, such strips to be bounded by the exterior boundaries adjacent to streets and roads and by lines in the interior of such Lots which are eleven (11) feet from and parallel to such exterior boundaries, for the installation, maintenance and use of sidewalks, traffic directional signals, street lights, sales signs, promotional signs, and related improvements; provided that Declarant shall have no obligation to construct any such improvements. There is further reserved for the benefit of the Declarant, the Association, and their respective successors and assigns, the transferable, alienable and perpetual rights and easement upon, over and across those strips of land fifteen (15) feet in width located along those boundaries of all Lots that constitute a part of the perimeter boundary of the Property, such easement to be used for the purpose of constructing, installing, replacing, and maintaining a perimeter wall or fence around the perimeter boundary of the property, provided that neither the Declarant nor the Association shall have any obligation to construct any such perimeter wall or fence.

Section 12. Easement for Hiking/Equestrian Trail. It is hereby reserved for the benefit of Declarant, the Association, and the Owners of the Lots and their respective successors and assigns, the alienable, transferable and perpetual right and

easement upon, and across those strips of land Fifteen feet in width, as shown in the Subdivision Plat recorded in plat book 59, page 115 et. seq., White County Records. These Hiking/Equestrian trails shall be available for use by Declarant and all Owners from ½ hour before sunrise to ½ hour after sunset. Permitted uses shall include the right of Declarant to conduct commercial horse riding operations. No camping on or adjacent to the hiking trails shall be permitted. The use of trails for the purposes of walking dogs shall be further limited by the terms of Article XI, section 10. No vehicles or other equipment of any kind may be used or operated on the hiking trails at any time, except for use by maintenance crews, Declarant and Declarant's permittees and assigns.

Section 13. Easement for Landscape. It is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the perpetual, transferable and alienable right and easement upon, over and across those strips of lands thirty (30) feet in width located along the exterior boundaries of certain Lots within the streets and roads, for the installation and maintenance of trees, bushes, shrubbery and other landscaping. No fence, wall or other structure may be built within this easement area except by the Declarant, the Association and their respective successors and assigns, provided that neither the Declarant nor the Association shall have any obligation to construct any such fence, wall or other structure.

Section 14. Ponds. Ponds constructed by Declarant within the Property and on adjoining property are NOT Common Area. Owners shall have no rights to the use of or access to the ponds and no fishing rights within the ponds.

Section 15. Private Driveway Easements. There are designated on the recorded Subdivision Plat several driveway easements. These easements are for the benefit of the adjoining Lot Owners only and shall not create the right of use or access in any other Owner within the Property. Use by anyone other than adjoining owners is strictly prohibited.

Section 16. Roadways. All roadways within the development have been dedicated to White County, Georgia, and shall be the responsibility of the County and not Declarant or owners for maintenance and repair.

Section 17. Indemnity/Hold Harmless. Owners shall be prohibited from going on or using any portion of the property of Declarant, not specifically authorized herein. Owners shall hereby hold harmless and indemnify Declarant for any and all injuries or damages arising out of or related to any such prohibited use.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

Section 1. Membership. Subject to Sections of this Article, every person, except a Builder, who is the record Owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of and have membership in the

Association. Membership shall be appurtenant to and may not be separated from ownership of any such Lot, and ownership of a Lot which is subject to this Declaration shall be the sole qualification for such membership. In the event that fee title to such a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. The foregoing is not intended to include any person who has an interest in a Lot merely as security for the performance of an obligation, and the giving of a Mortgage in a lot shall not terminate the grantor's membership in the Association. **There shall be an annual fee associated with membership of Three Hundred & No/100 Dollars (\$300.00) per lot, payable annually by any Owner of a Lot, except Declarant.** The membership interest in any Lot owned by a Builder shall remain in the Declarant until such time as the Lot is sold and conveyed to a third party Owner.

Section 2. Multiple Owners. No Owner, whether one or more persons, shall have more than one membership per Lot; provided, however, multiple use rights for multiple Owners of a Lot shall exist subject, however, to the right of the Board to regulate and limit use by multiple Owners. Each Owner, by acceptance of a deed or other conveyance of a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the submission from time to time of additional lots as set forth herein. The rights and privileges of membership, including the right to vote, may be exercised by a member, the Member's spouse or other family member.

Section 3. Voting. The Association shall have two classes of voting members, Class A and Class B.

(a) **Class A.** Class A Members shall be all owners, with the exception of the Class B Member, if any. On any issue brought before the Members, Class A members shall be entitled to cast one vote for each Lot in which they hold the interest required for membership by Section 1, above. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and if one of such multiple Owners exercises the vote without opposition by any other of such multiple Owners at the time such vote is exercised, the vote shall be as so exercised. In the event that more than one of such multiple Owners seeks to exercise the vote, the vote appurtenant to such Lot shall be suspended.

(b) **Class B.** The Class B Member shall be the Declarant. Prior to the Conversion Date, the Class B Member shall be the Declarant. Prior to the Conversion Date, the Class B Member shall be entitled to cast votes equal to three (3) times the total number of the then existing Class A votes. The Class B membership shall terminate upon the earlier of (which shall be known as the Conversion Date):

(i) ninety (90) days after the Declarant has sold the last lot belonging to Declarant, inclusive of Lots not yet subdivided pursuant to Section 3, Article II, above, having been conveyed to Owners other than the Declarant, affiliates of Declarant, or Builders;

(ii) twenty (20) years after the date this Declaration was recorded; or

(iii) the date on which the Declarant, in its sole discretion, chooses to terminate the Class B membership by filing of record with the Clerk of the Superior

Court of White County, Georgia a written notice of such termination (hereinafter the "Conversion Date.").

From and after the conversion Date, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot in which it holds the interest required for membership under Section 1 above.

Section 4. Declarant Control. Notwithstanding any other provision to the contrary in this Declaration, the Articles of Incorporation or By-Laws, Declarant retains the authority and right to appoint and remove any member of the Board of Directors and any officer of the Association until the Conversion Date. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that the Declarant shall have the authority to appoint and remove members of the Board of Directors and officers of the Association in accordance with the foregoing provisions of this Section.

ARTICLE V

ASSOCIATION POWERS AND RESPONSIBILITIES

A. IN GENERAL.

Section 1. Common Area. The Association, subject to rights, easements and privileges set forth in this Declaration, shall be responsible for the management and control of the Common Area and all improvements thereon, and shall keep the Common Area in good repair and in a clean and attractive condition. The Association shall maintain, operate and preserve the Common Area for the good and benefit of the Community and the holders of easements herein provided for or contemplated. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible real or personal property. Notwithstanding the foregoing, prior to the Conversion Date, the Association shall not, without the prior written consent of Declarant, (i) dispose of any real property, (ii) dispose of any tangible or intangible personal property with a value in excess of One Thousand and No/100 Dollars (\$1,000.00), (iii) borrow money in excess of Ten Thousand and No/100 Dollars (\$10,000.00), or (iv) pledge, mortgage or hypothecate all or any portion of the Common Area.

Section 2. Services. The Association may pay for the services of any person or entity to manage its affairs or any part thereof and any other personnel as the Association's Board of Directors shall determine to be necessary or desirable for the proper operation of the Community. Such personnel may be furnished or employed directly by the Association or by any person or entity with which it contracts. The Association may obtain and pay for legal, accounting and any other professional services necessary or desirable in connection with the operation of the Community or the enforcement of this Declaration, the By-Laws and Rules and Regulations. The Association may, but shall not be required, to arrange as an Association expense to furnish trash collection, security, cable television and other common services to each Lot within the Community. All costs and expenses incident to any of the foregoing shall be a Common Expense.

Section 3. Power to Contract. The Association may, acting through its Board of Directors, contract with any other residential or commercial association or neighborhood adjacent to the Community to provide services and/or perform services on behalf of such other association or neighborhood. The Association may, acting through its Board of Directors, contract with any governmental division, department or agency for the provision of services to the Association or its Members.

Section 4. Rules and Regulations. The Association, acting through its Board of Directors, may promulgate Rules and Regulations governing the use and occupancy of the Property, including the Lots, the Hiking Trail and the Common Area, and all improvements located thereon, and governing the operation of the Community. The Rules and Regulations shall not, however, diminish, alter or affect the rights of use, easements, permits, privileges or licenses provided to Declarant or its successor and assigns. Copies of all Rules and Regulations and any changes thereto, must be made available by the Association to all Owners and their families, tenants, guests, licensees, invitees and agents. The Owner of each lot shall be responsible for the conduct of his family, tenants, guests, licensees, invitees and agents and shall ensure that all of the foregoing individuals comply with the terms of this Declaration, the By-Laws and Rules and Regulations.

Section 5. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, Articles of Incorporation or Rules and Regulations of the Association, and every other right and privilege reasonably necessary to be implied from the existence of any such right or privilege or reasonably necessary to effectuate any such right or privilege. To the extent not otherwise required by Georgia law, this Declaration, the By-Laws or the Articles of Incorporation, the powers granted to the Association shall be exercised by the Board of Directors, acting through the duly elected officers of the Association, without any consent or action on the part of the members.

B. MAINTENANCE.

Section 1. Association Responsibility. The Association shall maintain and keep in good repair the Common Area, and the Hiking Trail, the cost of which shall be assessed as a part of the Common Expenses, as determined by the Board of Directors in accordance with this Declaration. Maintenance by the Association shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Area. The Association shall not be liable for any injury or damage to any person or property (a) caused by the elements, (b) caused by any Owner or any third party, or by their respective guests, invitees, licensees, successors or assigns, (c) resulting from any rain or surface water which may leak or flow from any portion of the Common Area, the Hiking Trail or (d) caused by the failure of the Association to maintain the Common Area or the Hiking Trail, unless such failure is caused by willful misconduct or gross negligence of the Association. The Association shall not be liable to any Owner for any loss or damage, by theft or otherwise, of any property of such Owner or his respective guests, invitees, licensees, successors or assigns. No diminution or abatement of assessment shall be claimed or allowed by

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

Section 2. Owner's Responsibility. Each Owner shall maintain or cause to be maintained, his Lot and all Improvements thereon, including his Residential Unit, in good, clean and attractive condition and repair, subject to this Declaration and in a manner which is consistent with the Community-Wide Standard. Such maintenance shall include, without limitation, prompt removal of all litter, trash, refuse and waste, reasonable maintenance, repair and replacement of all his Improvements and all exterior portions of his Residential Unit, , keeping driveways in good repair, complying with all governmental health and police requirements, and repair of exterior damage to all Improvements, including the Residential Unit on his Lot.

In the event the Board of Directors determines that (i) any Owner has failed or refused to properly discharge his obligations with regard to the maintenance and repair for which he is responsible hereunder, or (ii) the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused by the willful or negligent act of an Owner or his family, tenants, guests, licensees or invitees, the Association, except in the event of an emergency situation, may give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement, at such Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary and shall give the Owner ten (10) days within which to complete such maintenance, repair or replacement, or, in the event of such maintenance, repair or replacement not capable of completion within a ten (10) day period, to commence such work within such ten (10) day period and to complete such work within a reasonable time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement at the sole cost and expense of the Owner, and all costs and expenses incurred by the Association shall become part of the assessment for which such Owner is personally liable and shall become a lien against such Owner's Lot.

C. INSURANCE AND CASUALTY OR LIABILITY LOSSES.

Section 1. Insurance. The Association's Board of Directors shall have the authority to obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall also obtain a public liability policy applicable to the Common Area covering the Association, its officers, directors, members and agents. The public liability insurance shall have coverage in the amount of at least One Million and No/100 dollars (\$1,000,000.00) per

occurrence for bodily injury or property damage and Two Million and No/100 Dollars (\$2,000,000.00) of aggregate coverage. The cost of all such insurance coverage shall be a part of the Common Expenses of the Association. Each insurance policy may contain a reasonable deductible, which shall be paid by the Association.

All such insurance coverage obtained by the Association shall be written in the name of the Association for the benefit of all Owners. All policies shall be written by a company licensed to do business in Georgia, having at least an A rating as established by A.M. Best Company, Inco or the most nearly equivalent rating. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if reasonably available. The Board of Directors shall be required to make every reasonable effort to secure insurance policies that provide a waiver of subrogation by the insurer as to any claims against the Board of Directors, the Owners and their respective family, tenants, guests, invitees, licensees, and agents and a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association.

In addition to other insurance required by this Section, the Board shall obtain, as a Common Expense, workers compensation insurance, if and to the extent necessary, and a fidelity policy or bond on officers, directors, employees and other persons handling or responsible for the Association's funds. The amount of all such coverage shall be determined by the Board of Directors, using its best business judgment.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed in payment of any repair or reconstruction covered by such insurance. Any proceeds remaining after defraying such cost of repair and reconstruction, or in the event no repair or reconstruction is made after making such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association.

Section 3. Damage and Destruction.

(a) Immediately after the damage or destruction by fire or other casualty of all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors shall proceed with the filing and adjustment of all claims arising under such insurance and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction means repairing and restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Declarant and after the Conversion Date, at least seventy five percent (75%) of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If reliable and detailed estimates of the cost of the repair or reconstruction or if the amount of insurance proceeds available as a result of such damage or destruction is not available within such sixty

(60) day period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed beyond sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the Common Area affected by such damage or destruction shall be restored to its natural state and maintained as an undeveloped portion of the Common Area.

Section 4. Insufficient Insurance Proceeds. If the damage or destruction for which the insurance proceeds are paid are not sufficient to defray the cost of the required repair or reconstruction, and if the Board determines that the funds in the capital reserve accounts are not sufficient to cover such insurance deficiency, then the Board of Directors may, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners, in an equal amount, and such special assessment shall be used to complete the required repair on reconstruction.

Section 5. Damage to Lots. By virtue of taking title to a Lot, each Owner covenants and agrees to carry all risk casualty insurance on all Improvements, including Residential Units, constructed or placed on his Lot. Each Owner further covenants and agrees that in the event of a partial loss, damage or destruction resulting in less than total destruction of any Improvement located on any Lot, such Owner shall promptly proceed to repair or reconstruct the damage in a manner consistent with the aesthetic appearance and quality of the original construction and with the Community-Wide Standard. In the event that any Improvement, including any Residential Unit, is totally destroyed or rendered uninhabitable or unusable, the Owner shall repair or rebuild such Improvement, including the Residential Unit, to substantially the same condition as it existed prior to such damage and in accordance with all applicable standards, restrictions and provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such repair and reconstruction shall be commenced promptly following such damage and shall be carried through diligently to conclusion within a reasonable time.

ARTICLE VI

CONDEMNATION

If all or any part of the Common Area shall be taken (or conveyed in lieu of and under the threat of condemnation) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association, for the benefit of all Owners. If the taking involves a portion of the Common Area on which improvements have been constructed and the taking occurs prior to the Conversion Date, the Declarant shall have the right, in its sole discretion, to decide whether the Association shall restore or replace such improvements on the remaining Common Area. If the taking involves a portion of

the Common Area on which improvements have been constructed and such taking occurs after the Conversion Date, then the Association shall, if possible, restore or replace such improvements so taken on the remaining Common Area unless seventy five percent (75%) of the Members of the Association vote at a meeting duly called not to restore or replace such improvements. If the improvements are to be repaired or restored, the funds received by the Association shall be disbursed in the same manner as funds are disbursed for casualty damage or destruction as provided above. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such awarded funds or remaking funds shall be deposited to the benefit of the Association.

ARTICLE VII

ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Unilateral Annexation by Declarant. As the owner thereof or, if not the owner, with the written consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time to subject Additional Property to the provisions of this Declaration and the jurisdiction of the Association by filing of record and amendment to this Declaration describing the Additional Property being annexed. Any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein. Any property so annexed into the Community shall thereafter be a part of the Property for all purposes under this Declaration. The Declarant may unilaterally amend this Declaration to reflect the different character of any Additional Property so annexed. The rights reserved unto Declarant to subject Additional Property to this Declaration shall not impose any obligation upon Declarant to subject any Additional Property to this Declaration or to the jurisdiction of the Association.

Section 2. Other Annexation. Subject to the consent of the owner thereof and, until Buildout has occurred, with the written consent of the Declarant, upon affirmative vote or written consent of Members representing a Majority of the total Association vote, the Association may annex real property to the provisions of this Declaration to become part of the Common Area and the jurisdiction of the Association by filing of record an amendment to the Declaration describing the property being annexed. Any such amendment to the Declaration shall be signed by the president and the secretary of the Association, and any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein.

Section 3. Withdrawal of Property. So long as the Conversion Date has not yet occurred, Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent or joinder of any Person, for the purpose of removing certain portions of the Property then owed by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community desired to be effected by the Declarant.

ARTICLE VIII

ASSESSMENTS

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Lots in the Property, including the maintenance of real and personal property, all as may be specifically authorized from time to time hereunder and by the Board of Directors.

Section 2. Creation of Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, in accordance with the provisions hereof, from and after the commencement date established in Section 9, below, (a) general assessments; (b) special assessments established as herein provided; (c) specific assessments against any particular Lot established pursuant to the terms of this Declaration; and (d) transfer assessments imposed in accordance with this Declaration. All such assessments, together with late charges, simple interest at the rate of eighteen percent (18%) per annum, costs of collection and reasonable attorney's fees actually incurred in an amount not less than fifteen percent (15%) of the assessments and interest due and owing, shall be a charge on and a continuing lien against each Lot against which each assessment is made. Each such assessment, together with the late fees, interests, court costs and attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment became due and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, any First Mortgagee who obtains a title to a Lot pursuant to the remedies provided in a First Mortgage will not be liable for any unpaid assessments which accrued prior to the acquisition of title to the Lot by the Mortgagee. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for Owners who are delinquent in the payment of such assessments. Unless otherwise provided by the Board, assessments shall be paid in annual installments.

Section 3. Computation of General Assessments. It shall be the duty of the Board to prepare a budget covering the estimated cost of operating the Association during the coming year. The budget may include a capital reserve contribution in accordance with a capital budget that may be separately prepared by the Board. The Board shall cause a copy of the budget and the general assessment to be levied therefrom to be mailed to each Member at least thirty (30) days prior to the date on which the budget will become effective. The budget and general assessment established therefrom shall be and become effective unless a written statement of disapproval executed by Members representing at least a Majority of the total Association vote is delivered to the Board no later than seven (7) days prior to the effective date of the proposed budget. Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any

reason to so determine the budget for the succeeding year, then and until such time as a budget shall have been determined, the budget and assessments in effect for the current year shall continue for the succeeding year.

Section 4. Special Assessments. In addition to other assessments authorized herein, the Board may in its discretion levy special assessments in any year for the purpose of paying the costs of unexpected maintenance, repairs or replacement of the Common Area or the cost of other unanticipated expenses, needs or obligation of the Association incurred or projected to be incurred in the performance of its obligations in this Declaration. No membership vote shall be necessary prior to the imposition of a special assessment; provided that until the Conversion Date has occurred, no special assessment may be adopted without the consent of the Declarant.

Section 5. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may specifically assess Lots for the following Association expenses, which shall include, by way of example and not limitation, the cost of the maintenance of any private road, except for expenses incurred for the maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

- (a) Any Common Expense benefiting less than all of the Lots shall be specifically assessed equitably among the Lots so benefited, as determined by the Board of Directors;
- (b) Any Common Expenses occasioned by the conduct of less than all of the Owners or their family, guests, tenants, licensees, or invitees, including, but not limited to, any assessment levied pursuant to Article V, Section B 2, shall be specially assessed against the Owner of such Lots whose conduct, or the conduct of such Owners' family, guests, tenants, licensees, or invitees, occasioned any such Common Expenses; or
- (c) Any Common Expenses significantly disproportionately benefiting all of the Lots shall be assessed equitably among all of the Lots in the Community as determined by the Board of Directors.

Section 6. Transfer Assessments. Upon each and every transfer or conveyance of a Lot, following the initial transfer or conveyance of such Lot by Declarant, to any person other than the spouse of an Owner or conveyance or to a trust if the Owner or his or her spouse are the beneficiaries thereof, the transferee or grantee becoming the Owner of the Lot at each such conveyance shall be obligated to pay to the Association, in addition to all other assessments levied under this Declaration, simultaneously upon such conveyance a non-refundable assessment in the amount of the then current year's annual assessment (hereinafter the "Transfer Assessment"). All Transfer Assessments collected by the Association shall be deposited by the Association in a capital reserve account which shall be for the

purpose of funding capital costs required to repair or replace improvements which are a part of the Common Area. The Transfer Assessment, together with any late fees, interest, court costs and attorneys' fees, shall be the personal obligation of the person who was the Owner of such Lot immediately preceding the transfer or conveyance, who shall be jointly and severally liable for such portion thereof as may be due and payable by the transferee or grantee at the time of the transfer or conveyance; provided, however, any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in a First Mortgage shall not be liable for the Transfer Assessment. Transfer of a Lot from a Builder to initial owner of a Lot shall not be subject to the Transfer Assessment. The Transfer Assessment shall, from the time it becomes due and payable, be a charge against and continuing lien upon the Lot in favor of the Association shall be granted all other remedies relating to such non-payment as provided to the Association in the Declaration for non-payment of assessments. The Transfer Assessment shall be collected in the same manner provided in the Declaration for the collection of all assessments.

Section 7. Lien for Assessments. All assessments against any Lot pursuant to this Declaration, together with late charges, interests, costs and attorneys' fees as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances except for the lien for ad valorem taxes, the lien of any First Mortgage covering the Lot, and the lien of any Mortgagee recorded prior to the recording of this Declaration. The recording of this Declaration shall constitute record notice of the existence of the lien and the priority of the lien. All Persons acquiring liens or encumbrances after this Declaration shall have been recorded, shall be deemed to consent that such liens and encumbrances, except as otherwise provided herein, shall be inferior to the lien created by this Declaration. A lien may be created by the recording of a written instrument setting forth the Owner and description of the property subject to the lien and the amount of said lien.

Section 8. Nonpayment of Assessments. Any assessment levied pursuant to this Declaration which is not paid within ten (10) days after it is due shall be delinquent and shall also include a late charge established by the Board of Directors, accrue simple interest at the rate of eighteen percent (18%) per annum, and include all costs of collection, including reasonable attorney's fees in an amount not less than fifteen percent (15%) of the principal and interest due. Not less than ten (10) days after notice is sent by certified mail, return receipt requested, to the delinquent Owner at the address of the Lot, or at such other address designated in writing by such Owner, the lien in favor of the Association may be foreclosed by the Association by suit, judgment and foreclosure in the same manner as other liens for the improvement of real property. The notice shall specify the amount of the assessment then due and payable, together with all late charges, interest and costs of collection, including attorney's fees. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey such Lot.

Except as stated herein, no Owner may waive or otherwise exempt himself or itself from liability for the assessments provided herein, including, but not limited to, non-use of the Common Areas or abandonment of a Lot. No diminution or

abatement of any assessment or setoff shall be claimed or allowed by reason of any failure of the Association or the Board to take some action or perform some function required to be taken or performed by the Association or the Board hereunder, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance or with any order or directive of any governmental authority, it being acknowledged that the obligation to pay assessments is a separate and independent covenant on the part of each Owner.

Section 9. Commencement of Assessments. Transfer Assessments shall be due and payable for any Lot as provided herein from and after the recording of this Declaration. All other assessments shall commence January 1st of each calendar year; provided that neither the Declarant nor any Builder shall have any assessment levied against a Lot owned by it pursuant to this Declaration unless and until a Residential Unit is constructed on a Lot owned by the Declarant or a Builder and such Residential Unit is occupied. Until the Conversion Date, the Declarant may pay in cash or in kind, the difference between the amount of general assessment assessed on all Lots each fiscal year and the amount of actual expenditures required to operate the Association during each fiscal year, exclusive of any capital reserve contributions.

Section 10. Fiscal Year. The fiscal year of the Association shall begin on January 1st of each year and shall end on December 31st of the same year.

ARTICLE IX

ARCHITECTURAL STANDARDS

Section 1. Architectural Design Guidelines. The Declarant has established a written set of Architectural Design Guidelines which shall control the nature of all improvements to the property. Design Review Board Standards are attached hereto and incorporated in Exhibit "B."

Section 2. Creation of Design Review Board. The Declarant shall establish and maintain a Design Review Board ("DRB") consisting of at least three (3) and no more than five (5) members. Until the Conversion Date, Declarant shall have the exclusive right to appoint all members of the DRB and all members of the DRB may be removed by Declarant, with or without cause. After the Conversion Date, the Board shall have the exclusive right and authority at any time, and from time to time, to appoint and remove members of the DRB, with or without cause.

Section 3. Function of DRB. The DRB shall have exclusive jurisdiction over all original construction on any portion of the Property. No Improvements shall be erected, constructed, placed, altered, remodeled, maintained or permitted to remain on any portion of the Property, including on any Lot, until plans and specifications, in such form and detail as the DRB may deem necessary, shall have been submitted (i) to the DRB and approved by it in writing, unless such Improvement is developed, constructed or altered by Declarant, affiliates of Declarant or a Builder, in which case the Declarant must approve such Improvement, and (ii) with respect to land

use alterations within the watershed drainage area, to the White County Planning Commission and approved by it in writing. The DRB may charge a non-refundable fee not to exceed \$150.00 to cover the administrative expense of its review and comment and may also charge a refundable deposit not to exceed \$500.00 in order to ensure that all aspects of the approval by the DRB are adhered to or to correct any and all damages to any other portion of the Property caused by Owner as a result of such construction, such fees to be payable to the DRB. Additionally, the DRB shall have the authority to select and employ professional consultants to assist it in discharging its duties and the cost of such consultants shall be paid by the Owner of any Lot for which plans and specifications have been submitted for approval prior to such plans and specifications being considered for approval by the DRB. The DRB shall have the right to adopt reasonable regulations, standards and procedures with respect to construction, additions or alterations as to any portion of the Property and the same shall be enforceable as if set forth herein. The DRB shall make its regulations, standards and procedures available to Owners, Builders and developers who seek to engage in development, improvement or construction upon all or any portion of the Property and shall conduct its operations in accordance therewith. In the event Declarant establishes a Builder program whereby only approved Builders may construct Improvements in the Community, such approved Builders shall comply with any and all regulations, standards and procedures promulgated by the DRB.

Section 4. Modifications Committee. After the date on which seventy-five percent (75%) of the Lots as are contemplated to be a part of the Community on the master plan thereof, which at the time of recordation of the Declaration is approximately fifty (50) have been conveyed to Owners other than the Declarant, affiliates of Declarant or Builders, the Declarant may form a modifications committee of not less than three (3) nor more than five (5) members (hereinafter "Modifications Committee"), who shall be Members of the Association. The Modifications Committee shall have the authority of the DRB, and the DRB shall relinquish such authority, concerning the erection, construction, placement, alteration, remodeling, or maintenance of any Improvement on any Lot owned by Persons other than Declarant, affiliates of Declarant or Builders. The Modifications Committee may charge a non-refundable reasonable fee not to exceed \$150.00 to cover the administrative expense of its review and comment and may also charge a refundable deposit not to exceed \$500.00 in order to ensure that all aspects of the approval by the Modifications Committee are adhered to, such fees to be payable to the Modifications Committee members. Declarant shall evidence the formation of a Modifications Committee by filing of record with the Clerk of the Superior Court of White County, Georgia a written notice that a Modifications Committee for the Association has been formed. The Modifications Committee shall be governed by and shall act consistent with all of the rights, obligations, terms, provisions and guideline concerning and applicable to the DRB set forth in this Article. After the Conversion Date, the Modifications Committee shall automatically terminate and cease to exist, and all of the rights and powers granted to the Modifications Committee hereunder shall automatically revert back to the DRB.

Section 5. Plans and Specifications.

(a) The DRB shall have the right to approve or disapprove any submitted plans or specifications that are not in compliance with this Declaration, if they are incomplete or if the DRB reasonably determines that such plans and specifications are not consistent with the Community-Wide Standard considering among other things, the following: (i) architectural character and nature, shape, color, size, material, location and kind of all proposed improvements, taking in consideration the aesthetic quality of any Residential Unit with respect to height, form, proportion, volume, siding and exterior materials; (ii) adequacy of lot dimensions for proposed Improvements, (iii) conformity and harmony of exterior design with neighboring Lots and Improvements; (iv) relation of topography, grade and finished ground elevations to that of neighboring Lots and Improvements; (v) screening of mechanical and other installations; (vi) functional appropriateness with respect to vehicle handling, siting of buildings (both in relationship to one another and in relationship to buildings, existing or proposed, located on other Lots), drainage, utility service systems and lighting; (vii) extent and quality of landscaped areas; or (viii) compliance with the Community-Wide Standard.

(b) Prior to the commencement of construction of Improvements on any Lot, the Owner of such Lot shall submit detailed information in writing regarding the proposed Improvements, including site plans and two (2) full sets of final construction drawings and specifications (which shall be sealed and certified by a duly licensed architect or engineer if so required by the DRB (hereinafter the "Plans"), showing or stating all aspects of the proposed Improvements, including but not limited to, the following: (i) location of all structures, street rights-of-way and setback lines; (ii) location of all walks, driveways and curb lines; (iii) all landscaping including location, height, spread, type and number trees and shrubs and location and type of all ground cover and material, and existing trees and limits of clearing and grading; (iv) location, height, intensity and fixture type of all exterior lighting; (v) locations, size and type of all fencing; (vi) architectural floor plans, elevation, wall sections and details of the Residential Unit; (vii) building material and color information, including samples if requested; and (viii) size and square footage and height of the Residential Units and all other Improvements.

(c) Should the DRB fail either to approve or disapprove the Plans within thirty (30) days after submission in accordance with the terms of this Declaration, it shall be conclusively presumed that the DRB has approved the Plans. Approval of any Plans with regard to a Lot shall not be deemed to be a waiver of the DRB's right, in its discretion, to disapprove similar plans and specification, or any features or elements included therein, for any other Lot.

(d) If construction has not commenced within one (1) year from the date the Plans are approved, then the approval given pursuant to this Article shall be deemed to be automatically revoked by the DRB, unless the DRB extends the time for commencing construction. In any event, all work covered by such approval shall

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