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Sheila Studdard Clerk of Court

BK **3741** PG **161-236**

AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CANOE CLUB

(formerly known as Waterlace)

Upon recording, please return to:

Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
Attention: DRM

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Exhibit

Subject Matter

“A”

Land Initially Submitted

“B”

Additional Property

“C”

Amended and Restated By-laws of Canoe Club Community Association, Inc.

AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CANOE CLUB

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CANOE CLUB ("Declaration") is made as of the date set forth on the signature page hereof by SELAF Fayette Communities, LLC, a Georgia limited liability partnership ("Declarant" as further defined below).

WHEREAS, Euram-Macauley One, LLC, a Georgia limited liability company ("Euram") executed and recorded that certain Declaration of Covenants, Conditions and Restrictions for Waterlace recorded in Deed Book 3055, Page 47, *et seq.*, of the Fayette County, Georgia records ("Original Declaration");

WHEREAS, the Declarant rights under the Original Declaration were assigned by Euram to SELAF Fayette Communities, LLC, a Georgia limited liability company, by that certain Assignment of Declarant's Rights recorded in Deed Book 3634, Page 23, *et seq.*, of the Fayette County, Georgia records;

WHEREAS, Declarant desires to amend the Original Declaration pursuant to Section 14.2(a) thereof, which provides that until Declarant may unilaterally amend the Original Declaration for any purpose provided the amendment has no material adverse affect upon any right of any Owner; and

WHEREAS, this Declaration does not amend the Original Declaration in a manner that has any material adverse affect upon any right of any Owner;

WHEREAS, the By-Laws of Waterlace Community Association, Inc. ("Original Bylaws"), were attached to and recorded as Exhibit "C" to the Original Declaration;

WHEREAS, Declarant desires to amend the Original By-Laws pursuant to Section 6.6(a) thereof, which provides that Declarant may unilaterally amend the Original By-Laws during the Development Period for any purpose provided the amendment has no material adverse affect upon any right of any Owner; and

WHEREAS, the Amended and Restated By-Laws for Canoe Club Community Association, Inc. ("By-Laws") attached as Exhibit "C" to this Declaration do not amend the Original By-Laws in a manner that has any material adverse affect upon any right of any Owner; and

NOW, THEREFORE, the Original Declaration and all exhibits thereto (including the Original By-Laws), are hereby stricken in their entirety and this Declaration is simultaneously substituted therefore.

This Declaration imposes upon the Community mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Community and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Community. In furtherance of such plan, this Declaration provides for the creation of Canoe Club 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 on Exhibit "A" and any Additional Property subjected to this Declaration by Supplemental Declaration 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 Community, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community.

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

ARTICLE 1: DEFINITIONS

The terms in this Declaration and in 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" attached hereto and by this reference made a part thereof and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

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

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

1.4 "Articles of Incorporation" or "Articles": The Articles of Incorporation of Canoe Club Community Association, Inc., as filed with the Secretary of State of the State of Georgia, as they may be amended.

1.5 "Association": Canoe Club Community Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

1.6 "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and serving as the board of directors under Georgia corporate law.

1.7 "Builder": Any Person who purchases one (1) or more Lots for the purpose of constructing improvements thereon for later sale to consumers or who purchases one (1) or more parcels of land within the Community for further subdivision, development and/or resale in the ordinary course of such Person's business or who enters into a construction contract with an Owner of a Lot for the construction of a residential dwelling. 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.

1.8 “By-Laws”: The Amended and Restated By-Laws of Canoe Club Community Association, Inc., attached hereto as Exhibit “C,” as they may be amended.

1.9 “Canoe Club”: That certain residential community located in Fayette County, Georgia and commonly known and referred to as Canoe Club.

1.10 “Cart Path Use Restrictions”: Use restrictions, rules and procedures for the golf cart paths located within the Community.

1.11 “Common Area”: All real and personal property, including, without limitation, any easements and licenses, which the Association owns, leases or holds possessory or use rights in for the common use, benefit, and enjoyment of the Owners. The term also shall include any Exclusive Common Area, as defined below.

1.12 “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.

1.13 “Community”: The real property described on Exhibit “A” as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 7.

1.14 “Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing throughout the Community. Such standard shall initially be established by Declarant and may be more specifically determined by the Board of Directors and the ARB.

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

1.16 “Declarant”: SELAF Fayette Communities, LLC, a Georgia limited liability company, or any successor, successor-in-title, or assign who holds or takes title to any portion of the property described on Exhibits “A” or “B” for the purpose of development and/or sale and who is designated as Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, however, there shall be only one (1) Person entitled to exercise the rights and powers of the “Declarant” hereunder at any time.

1.17 “Design Guidelines”: The design, architectural and construction guidelines and application and review procedures applicable to all or any portion of the Community promulgated and administered pursuant to Article 9.

1.18 “Detention Facility”: Any area within the Community serving as a detention structure or facility, including, but not limited to lakes, berms, swales or any facility designated as a “detention pond” or a “proposed detention facility” on a recorded plat of all or any portion of the Community.

1.19 “Development Period”: The period of time during which 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. Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument in the Public Records.

1.20 “Exclusive Common Area”: A portion of the Common Area intended for the exclusive use or primary benefit of one (1) or more, but less than all, Lots, as more particularly described in Article 2.

1.21 “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.

1.22 “Governing Documents”: The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Design Guidelines, the rules of the Association, the Lake Use Restrictions, and all additional covenants governing any portion of the Community or any of the above, as each may be supplemented and amended from time to time.

1.23 “Lake(s)”: Those certain bodies of water or any portion thereof located within the Community and subject to the Lake Use Restrictions.

1.24 “Lake Use Restrictions”: Use restrictions, rules and procedures for the Lakes promulgated by the Association.

1.25 “Lot”: A portion of the Community, 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, single-family detached houses on separately platted lots, as well as vacant land intended for development as such, but shall not include property owned by the Association or property dedicated to the public.

In the case of an unplatted parcel of land, the parcel shall be deemed to be a single Lot until such time as a subdivision plat is filed with respect to 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.

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

1.27 “Master Plan”: The land use plan or development plan for “Canoe Club,” as such plan may be amended from time to time, which plan includes the property described on Exhibit “A” and all or a portion of the Additional 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.

1.28 “Member”: A Person subject to membership in the Association pursuant to Section 3.2.

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

1.30 “Mortgagee”: A beneficiary or holder of a Mortgage.

1.31 “Owner”: One (1) or more Persons who hold the record title to any Lot, including Declarant and any Builders, 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 contract of sale, 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 (1) Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.

1.32 “Person”: A natural person, corporation, partnership, limited liability company, fiduciary acting on behalf of another person or any other legal entity, including, but not limited to, an Owner, Builder and Declarant or any entity related thereto.

1.33 “Public Records”: The Clerk of the Superior Court of Fayette County, Georgia or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

1.34 “Special Assessments”: An assessment levied in accordance with Section 8.4.

1.35 “Specific Assessments”: An assessment levied in accordance with Section 8.5.

1.36 “Street Trees”: Any trees which lie within ten (10) feet of any street within the Community and are installed pursuant to the street tree plan adopted by Declarant.

1.37 “Supplemental Declaration”: An instrument filed in the Public Records that subjects Additional Property to this Declaration 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 non-exclusive 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 the following:

- (a) 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 Association to rent, lease or reserve any portion of the Common Area to any Owner for the exclusive use of such Owner and his or her respective lessees, invitees, and guests upon such conditions as may be established by the Board;
- (e) the right of the Board to suspend the right of an Owner to use any recreational and social facilities within the Common Area and Exclusive Common Area pursuant to Section 4.3;
- (f) the right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;

(g) the right of the Board 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 right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area, subject to any approval requirements set forth in the Governing Documents;

(j) the rights of certain Owners to the exclusive use, access and enjoyment of those portions of the Common Area designated "Exclusive Common Areas," as more particularly described in Section 2.3; and

(k) the right of Declarant to conduct activities and establish facilities within the Community as provided in Article 13.

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 to the lessee of such Lot; provided, however, the Owner shall remain responsible for payment of all assessments and other charges.

2.2 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 Community ("Private Streets"), whether or not such Private Streets are Common Area or whether or not such Private Streets are located on individual Lots, 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; 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;

(b) The right of the Declarant to dedicate all or any part of Private Streets;

(c) 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

(d) 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.

2.3 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. By way of illustration and not limitation, Exclusive Common Areas may include shared driveways, roads, landscaped medians and cul-de-sacs. 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 as a Specific Assessment. This Section 2.3 is in no way meant to limit the use of Common Areas intended for the use and benefit of all Members of the Association.

During the Development Period, 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 Declarant from later assigning use of the same Exclusive Common Area to additional Lots during the Development Period. Following the termination of the Development Period, a portion of the Common Area may be assigned as Exclusive Common Area of particular Lots and Exclusive Common Area may be reassigned upon approval of the Board and the vote of Members holding a Majority of the total Class "A" votes in the Association; including, if applicable, a Majority of the Class "A" votes to which the Exclusive Common Area is assigned, if previously assigned, and to which the Exclusive Common Area is to be assigned or reassigned. Any reassignment of an Exclusive Common Area shall be set forth in a Supplemental Declaration executed by Declarant and/or the Board, as appropriate, or shall be shown on a revised subdivision plat relating to such Exclusive Common Area.

The Association may, upon approval of a Majority of the Class "A" votes to which any Exclusive Common Area is assigned, permit all Members of the Association to use all or a portion of such Exclusive Common Area upon payment of reasonable use fees, which fees shall be used to offset the Specific Assessments attributable to such Exclusive Common Area.

2.4 Lakes. The Owners, their family members, lessees, social invitees, and licensees shall have a right and non-exclusive easement of use, access, and enjoyment in and to, over and across the Lakes or any portion thereof located within the Community. The rights and non-exclusive easements granted herein are appurtenant to the title to each Lot, subject to those conditions applicable to the use of the Lakes set forth in this Declaration and in the Lake Use Restrictions. Any Owner may extend the Owner's right of use and enjoyment to the members of the Owner's family, lessees, social invitees and licensees, as applicable. Each Owner acknowledges and agrees to strictly abide by the Lake Use Restrictions, if any, promulgated by the Association.

2.5 Sidewalks, Trails and Cart Paths. The Owners, their family members, lessees, social invitees, and licensees shall have a right and non-exclusive easement of pedestrian use, access, and enjoyment in and to, over and across any areas designated as "sidewalks," "trails," "cart paths" or "golf cart paths" on any recorded subdivision plat of the Community and such sidewalks, trails and cart paths which may exist but are not shown on the recorded subdivision plat, regardless of whether such sidewalks or trails are located on Lots or are designated as Common Area. The rights and non-exclusive easements granted herein are appurtenant to the title to each Lot, subject to those conditions applicable to the use of the Common Areas set forth in Section 2.1. Any Owner may extend the Owner's right of use and enjoyment to the members of the Owner's family, lessees, social invitees and licensees, as applicable.

2.6 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 Section shall not prohibit the Board from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.7 Condemnation. The Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in

such matters. Whenever any part of the Common Area shall be taken by or conveyed under threat of condemnation to any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance. The Board may convey Common Area under threat of condemnation only if approved by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, the written consent of Declarant. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

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, Members holding at least sixty-seven percent (67%) of the total Class "A" vote of the Association and, during the Development Period, Declarant 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(e) 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 may be used by the Association for such purposes as the Board shall determine.

2.8 View Impairment. Neither Declarant, any Builder nor the Association guarantees or represents that any view from Lots over and across the Common Area, including any Lakes will be preserved without impairment. The Association shall not be obligated to prune or thin trees or other landscaping. The Association shall have the right, in its sole discretion, to add trees and other Landscaping or to install improvements or barriers (both natural and artificial) to the Common Area and Lakes from time to time. Any such additions or changes may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Each Owner, by acceptance of a deed, acknowledges that any view from the Lot as of the date of the purchase of the Lot may be impaired or obstructed by the natural growth of existing landscaping, the installation of additional trees, other landscaping or other types of improvements or barriers (both natural and artificial) on the Common Area and Lakes.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. There shall be only one (1) membership per Lot. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileged 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 an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association.

3.2 Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Each Class "A" Member shall have one (1) equal vote for each Lot in which he or she holds the interest required for membership under Section 3.1, provided, however, there shall be only one

(1) vote per Lot and no vote shall be exercised for any property which is exempt from assessment under Section 8.9. 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 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 until the first to occur of the following:

(i) when one hundred percent (100%) of the total number of Lots permitted by the Master Plan for the property described on Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Persons other than Declarant or Builders;

(ii) December 31, 2020; or

(iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

At such time, the Class "B" membership shall terminate, and Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns. After termination of the Class "B" membership, Declarant shall have a right to disapprove actions of the Board, the ARB, and committees as provided in the Declaration.

(c) Additional Classes of Membership. 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. 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.

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 Community 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 may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant and its designees, with 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, stream, creek or other body of water that may be conveyed. Upon written request of Declarant, the Association shall reconvey to Declarant any portion of the Community 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, provided that the reconveyance has no material adverse effect upon the rights of the Owners.

The Association agrees that the Common Area, including all improvements thereon, shall be conveyed in its "where is, as is" condition and without recourse, and Declarant disclaims and makes no representations, warranties or other agreements express or implied with respect thereto, including, without limitation, representations or warranties of merchantability or fitness for the ordinary or any particular purpose, and representations or warranties regarding the conditions, design, construction, accuracy, completeness, adequacy of the size or capacity in relation to utilization or the future economic performance or operations of the Common Area. No claim shall be made by the Association or any Owner relating to the condition, operation, or completeness of the Common Area or for incidental or consequential damages arising therefrom. Declarant will transfer and assign to the Association, without recourse, all warranties which it receives from manufacturers and suppliers relating to any of the Common Area which exist and are assignable.

4.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation, the following:

- (a) imposing monetary fines which shall constitute a lien upon the Lot of the violator;
- (b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (c) suspending an Owner's right to vote;
- (d) suspending any Person's right to use any recreational facilities or other Common Area and any part of the Exclusive Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot; and
- (e) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) Days delinquent in paying any assessment or other charge owed to the Association.

In the event that any occupant, guest or invitee of a Lot violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such occupant, guest or invitee and/or the Owner of the Lot that the violator is occupying or visiting. If a fine is imposed, the fine may 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.

In addition, the Board, or the, covenants committee if established, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, 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) without the necessity of compliance with the procedures set forth in the By-Laws. The Association may levy Specific Assessments to cover all costs incurred in exercising self-help and in bringing a Lot or Owner into compliance with the terms of the Governing Documents.

The Association may also elect to enforce any provisions of the Governing Documents 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 or remedy taken by the Association to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys' fees and court costs, incurred in such action, regardless of whether suit is filed and including any appeals.

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 laws and ordinances, if applicable, and permit local and other governments to enforce laws and ordinances on the Community 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 Indemnification. The Association shall indemnify every officer, director, ARB member and committee member against all damages, liabilities, and expenses, including reasonable attorneys fees, 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, ARB members and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors, ARB members, and 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, ARB members or committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, ARB member and committee member harmless from any and all liability to

others are not 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, ARB member or 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.

4.6 Dedication of or Grant of Easements on Common Area. The Association may dedicate or grant easements across portions of the Common Area to Fayette County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity, or to any public or private utility company.

4.7 Security. Each Owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than they otherwise might be. Neither the Association, the original Declarant, any successor Declarant shall in any way be considered insurers or guarantors of security within the Community, 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. No representation or warranty is made that any security system or measure, cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. No representation or warranty is made that the lighting facilities or systems (including the placement thereof) will adequately illuminate or attempt to adequately illuminate all of the Common Areas, or that such facilities or systems will be designed with safety measures in mind. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers or guarantors of safety and security within the Community and that each Person using the Community 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.

4.8 Trails. Declarant reserves for itself, its successors and assigns, and the Association, the right to designate certain areas within the Community, including the Common Area, to be used as recreational bike and pedestrian pathways and trails ("trail system") and as recreational golf cart paths ("cart paths"). Each Owner acknowledges, understands and covenants to inform the occupants of such Owner's Lot that the Community may contain a trail system and cart paths and that there may be certain inconveniences and loss of privacy associated with the ownership of Lots adjacent to such trail system resulting from the use of the trail system by Declarant, the Association, its Members, their tenants, occupants, guests and invitees.

4.9 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 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. In addition, the Board shall be authorized to charge use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Association shall be further permitted to require Owners to utilize services delivered by a provider designated by the Association. By way of example, but not limitation, the Association shall have the right, but not the obligation, to designate one garbage collection company to provide service for all Lots within the Community. 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 landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, Internet, intranet, and other computer related services, security, caretaker, utilities, 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 can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

4.10 Rezoning. No Owner or any other Person may apply or join in an application to amend, vary or modify the zoning ordinance applicable to or rezone or apply for any zoning variance or waiver as to all or any portion of the Community without the prior written consent of Declarant. Each Person that acquires any interest in the Community acknowledges that Canoe Club is a master planned community, the development of which is likely to extend over many years, and agrees not to protest or challenge (a) changes in uses or density, or (b) changes in the Master Plan, Declarant may apply for such rezoning as to any portion of the Community owned by it at any time.

4.11 Lakes. Neither the Association, the original Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of use of the Lakes for any purpose by Owners, their invitees, licensees, and tenants, Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, Board of Directors, ARB and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Lakes shall do so only as permitted under the Lake Use Restrictions and applicable governmental laws, ordinances, rules and regulations. Each Person assumes all risks of personal injury, and loss or damage to property, including Lots, resulting from or associated with use of the Lakes. In addition, the Association shall not be responsible for maintaining, increasing or decreasing the water level within any Lake or other water body or removing vegetation from any Lake or other water body. Lakes, detention or retention ponds, or other wetlands in the Community, may be designed as water management areas and are not necessarily designed as recreational or aesthetic features. Due to fluctuations in ground water elevations within the immediate area, the water level of lakes and waterways will rise and fall. Neither the Declarant nor the Association has control over such water elevations, shore features or treatments, landscaping or any other matters related to water features in the Community.

4.12 Dams. Neither the Association, the original Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of or caused by the dams associated with the Lakes. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, Board of Directors, ARB and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Community is assuming the risks associated with the use of a Community with dams which form Lakes. Each Person assumes all risks of personal injury, and loss or damage to property, including Lots, resulting from or associated with failure of the dams. Each Owner acknowledges that the dams are currently classified as category 2 dams according to applicable Georgia law, rules and regulations, but such classification is subject to change at any time by the applicable governmental authority. Each Owner further acknowledges and agrees that in the event one or both of the dams are reclassified as a category 1 dam, then the Association will incur additional costs and expenses due to additional regulatory requirements associated with category 1 dams. As a matter of precaution, the Association shall maintain a dam reserve as provided for in Section 8.11 for such costs.

ARTICLE 5: MAINTENANCE

5.1 Association’s Responsibility

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

- (i) all Common Area;
- (ii) all Street Trees (according to the Street Tree program, if any, required by the Design Guidelines);
- (iii) all Private Streets within the Community;
- (iv) all landscaping and other flora, parks, ponds, streams, creeks, structures, and improvements, including any entry features, traffic and directional signage, community signs, parking areas, sidewalks, bike and pedestrian pathways/trails, golf cart paths, clubhouse, tennis courts and swimming pools situated upon the Common Area;
- (v) the Lakes (provided that the Association may leave the Lakes in their natural state without further obligation for maintenance);
- (vi) all furnishings, equipment and other personal property of the Association;
- (vii) all community docks and other general access to the Lakes;
- (viii) any landscaping and other flora, street trees, parks, bike and pedestrian pathways/trails, sidewalks, buffers, entry features, structures and improvements within public rights-of-way within or abutting the Community or upon such other public land adjacent to the Community as deemed necessary in the discretion of the Board;
- (ix) such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;
- (x) all ponds, Lakes, streams, creeks, and/or wetlands located within the Community which serve as part of the drainage and storm water retention system for the Community, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith;
- (xi) any Detention Facilities, including all storm water collection systems located outside of the public right-of-way, regardless of whether such facilities are situated upon the Common Area or within a Lot;
- (xii) for so long as may be required by any applicable local laws or regulations, any bridges located within the Community; and
- (xiii) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, Private Streets, property dedicated to the public 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 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 during the Development Period Declarant agree in writing to discontinue such operation.

(c) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is assumed by or assigned to an Owner; or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Bond determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of 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 the Governing Documents, 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 assessed as a Specific Assessment solely 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) In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, Declarant may, upon not less than ten (10) Days' notice and opportunity to cure such failure, 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, sprinkler and irrigation systems, landscaping and other flora, and other improvements on 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. Each Owner shall also maintain the driveway and mailbox serving his or her Lot and maintain and irrigate all landscaping located in the right-of-way immediately adjacent to the Owner's Lot (including irrigation of street trees); provided, however, the Association shall maintain, repair and replace street trees as provided in Section 5.1. In addition to any other enforcement rights, if an Owner fails properly to perform 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 in accordance with Section 8.5(e). 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 under this Section shall not constitute a trespass.

Each Owner shall maintain his or her septic system serving his or her Lot. In the event that two (2) or more Lots share a common septic system, then such Owners of such Lots shall be responsible for the maintenance and repair of such septic system and the costs thereof shall be allocated equally among such Owners.

5.3 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 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 it has been negligent in the performance of its maintenance responsibilities.

5.4 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 (2) 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.

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 insuring the Association and its Members, employees, agents, or contractors while acting on its behalf, for occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Common Areas and other portions of the Area of Common Responsibility which the Association has the responsibility to maintain. 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 rates 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 (1/6th) 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.

In the event that any portion of the Common Area is or shall become located in an area identified by the Federal Emergency Management Agency ("FEMA") as an area having special flood hazards, a "blanket" policy of flood insurance on the Common Area must be maintained in the amount of one hundred percent (100%) of current "replacement cost" of all affected improvements and other insurable property or the maximum limit of coverage available, whichever is less.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment, except that premiums for insurance on Exclusive Common Areas may be assessed as a Specific Assessment to the particular Lot(s) benefited unless the Board of Directors reasonably determines that other treatment of the premiums is more appropriate. In the event of an insured loss, the deductible shall be treated as a Common Expense and assessed 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 resulted from the negligence or willful misconduct of one (1) 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 Lot(s) pursuant to Section 8.5.

(b) Policy Requirements. The Association shall arrange for periodic reviews of the sufficiency of insurance coverage by one (1) or more qualified Persons, at least one (1) of whom must be familiar with insurable replacement costs in the Fayette County, Georgia area.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and to each Member upon written request. The policies may attain 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).

(i) All insurance coverage obtained by the Board shall:

(1) 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;

(2) 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 its Members;

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

(4) contain an inflation guard endorsement;

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

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

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

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

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

(3) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) 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;

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

(5) a cross liability provision; and

(6) 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. In the event of any insured loss covered by insurance held by the Association, only the Board or its duly authorized agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair reconstruction. Repair or reconstruction, as

used in this subsection, means repairing or restoring the property to substantially the condition existing 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 the Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and during the Development Period the Declarant, decide within sixty (60) Days after the loss either (i) not to repair or reconstruct or (ii) to construct alternative improvements.

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 sixty (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.

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 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 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 value of all insurable improvements on his or her Lot, less a reasonable deductible unless the Association carries such insurance (which it may, but is 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 8.5.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures or landscaping on or comprising his or her Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure or landscaping consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. Alternatively, the Owner shall clear the Lot of all debris and ruins 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.

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 them shall be liable to any Member or any member of a 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 Community, 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. 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 the 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 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 holding 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 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 property being annexed, and by Declarant, if Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the Community from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not Declarant. If the property is Common Area, the Association shall execute a written consent to such withdrawal.

7.4 Additional Covenants and Easements. Declarant may unilaterally subject any portion of the Community to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners. 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 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 for such purposes as deemed appropriate in Declarant's sole discretion, including but not limited to modifications 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 the following three (3) types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Lots; (b) Special Assessments as described in Section 8.4; and (c) Specific Assessments as described in Section 8.5. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay these assessments.

All assessments and other charges, 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 or charge is made until paid, as more particularly provided in Section 8.6. Each such assessment or charge, 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 shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a written statement signed by an Association officer or designee setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

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 (2) or more installments. Unless the Board otherwise provides, the General 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 or her 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 (15th) day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment of his or her 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 Declarant or other entities for payment of Common Expenses.

8.2 Computation of General Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.3. For so long as the Class “B” membership exists, Common Expenses shall not include any expenses incurred for initial development, original construction, installation of infrastructure, original, capital improvements, or other original construction costs unless approved by Member holding a Majority of the total Class “A” votes of the Association and the Class “B” Member. General Assessments shall be levied equally against all Lots subject to assessment. The assessment rate 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 any reserves. In determining the level of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years, any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year.

During the Development Period, Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or by providing services and materials. Any such anticipated payment or provision by Declarant shall be treated as a loan unless otherwise designated by Declarant in writing and shall be disclosed as a line item in the Common Expense budget. Payments by Declarant in any year shall under no circumstances obligate Declarant to continue such payments in future years unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) Days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class “A” votes in the Association and, during the Development Period, by Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget 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 the date of the notice of 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 in effect for the immediately preceding year 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 thirty (30) Days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3 Reserve Budget. The Board may, in its sole discretion, annually prepare a reserve budget which takes 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. The Board shall include in the general budget reserve amounts sufficient to meet the projected needs of the Association.

8.4 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 shall be levied and allocated equally among all Lots. Any Special Assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, by Declarant. 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 the date of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 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, or providing benefits, items, or services to the Lot(s) or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security, caretaker, utilities, and similar services and facilities), 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 (1) or more Lots; and

(c) to cover all 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 Section 4.3 shall constitute Specific Assessments.

8.6 Lien for Assessments. The Association shall have a lien against each Lot to secure payment of 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. 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 non-judicial foreclosure.

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 allocated to the Lot owned 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. 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 remain the personal obligation of the owner of the Lot prior to the foreclosure, and, unless and until collected from such prior owner, shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.7, 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 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,

8.7 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date which the Lot is conveyed to a Person other than a Builder or Declarant or the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. With respect to any Lot acquired by a Builder from the Declarant, assessments for such Lot shall commence upon the earlier of the following: (a) actual occupancy of the dwelling on such Lot, excluding any period that such dwelling is being used exclusively as a model home; or (b) twenty-four (24) months after the date of conveyance of such Lot to the Builder; provided, however, the Declarant may extend the commencement date of the assessments for any Lot in Declarant's sole discretion. Notwithstanding anything contained herein to the contrary, a Builder holding any Lot for twenty-four (24) months after purchase shall be obligated to pay the annual assessment, Capital Reserve Fee and Dam Reserve Fee for such Lot, commencing upon the twenty-fourth (24th) month anniversary of the Builder's acquisition of the Lot. The first annual General Assessment 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 and shall be due and payable at closing or, with respect to Builders, upon demand of the Association.

8.8 Failure to Assess. Failure of the Board to establish 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 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.

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

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

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

8.10 Capitalization of Association. Upon acquisition of record title to a Lot by the first Owner thereof and each subsequent Owner of a Lot other than the Declarant, a Declarant-Related Entity or Builder or upon occupancy of a Lot by a Person other than the Declarant, Declarant-Related Entity or Builder, a contribution shall be made by or on behalf of the purchaser or occupant to the capital reserves of the Association in an amount equal to the annual General Assessment per Lot for that year (the "Capital Reserve Fee"). This Capital Reserve Fee 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 Capital Reserve Fee shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot to the first Owner and each subsequent closing, or if the obligation to make the Capital Reserve Fee arises by virtue of occupancy of a Lot or by a Builder holding a Lot for twenty-four (24) months after purchase pursuant to Section 8.7, the Capital Reserve Fee shall be paid immediately upon demand by the Association. The Capital Reserve Fee shall be used by the Association to cover capital additions, capital improvements, capital replacements, and major maintenance type expenses. The Capital Reserve Fees shall be maintained in separate bank accounts and not commingled with funds used for operations of the Association. For the period of time from the commencement of operations of the Association through the expiration of the Class "B" membership, the Capital Reserve Fees may be used to fund deficits, if any, arising from the operations of the Association. Subsequent to the expiration of the Class "B" membership, the Capital Reserve Fees may not be used to fund operations for any reason.

Notwithstanding the foregoing, the contributions set forth in this Section shall not be due and payable for the following transactions (the "Excepted Transactions"):

- (a) The transfer of a Lot, or portion thereof, to the spouse of the Owner or to a direct lineal descendant of the Owner;
- (b) the transfer of a Lot, or portion thereof, to a trust whose beneficiaries are solely the spouse and/or direct lineal descendants of the Owner,
- (c) the transfer of a Lot, or portion thereof, to an entity in which the Owner owns, directly, or indirectly, not less than 50.1% of the ownership interests in such entity;
- (d) the transfer of a Lot, or portion thereof, to an entity that owns, directly or indirectly, not less than 50.1% of the ownership interests in Owner;
- (e) a Mortgagee acquiring title to a Lot, or portion thereof, pursuant to a foreclosure action or a conveyance in lieu of foreclosure;
- (f) any transfer for which the Declarant, in its sole discretion, waives in writing the required contribution; or
- (g) any transfer for which the Association, in its sole discretion, waives in writing the required contribution.

The transferring Owner shall give the Association at least thirty (30) days prior written notice of any transfer which is an Excepted Transaction with sufficient documentation to establish that the transfer is an Excepted Transaction.

If the transfer of a Lot, or portion thereof, is deemed in that particular instance to be an Excepted Transaction, the subsequent transfer of that Lot, or portion thereof, shall again be subject to the contribution unless such subsequent transfer independently qualifies as a separate Excepted Transaction in accordance with this Section.

8.11 Capitalization of Dam Reserves. Upon acquisition of record title to a Lot by the first Owner thereof and each subsequent Owner of a Lot other than the Declarant, a Declarant-Related Entity or Builder or upon occupancy of a Lot by a Person other than the Declarant, Declarant-Related Entity or Builder, a contribution shall be made by or on behalf of the purchaser or occupant to the capital reserves of the Association and designated for the dams in an amount equal to the annual General Assessment per

Lot for that year (the "Dam Reserve Fee"). This Dam Reserve Fee 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 Dam Reserve Fee shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot to the first Owner and each subsequent closing, or if the obligation to make the Dam Reserve Fee arises by virtue of occupancy of a Lot or by a Builder holding a Lot for twenty-four (24) months after purchase pursuant to Section 8.7, the Dam Reserve Fee shall be paid immediately upon demand by the Association. The Dam Reserve Fee shall be used by the Association to cover capital additions, capital improvements, capital replacements, and major maintenance type expenses associated with the dams within the Community and any potential costs which may result if either dam is reclassified as a category I dam by the applicable governmental authority. The Dam Reserve Fees shall be maintained in a separate bank account and not commingled with funds used for operations of the Association. Subsequent to ten (10) years after the recording of this Declaration, the amount of the Dam Reserve Fee may be modified by a vote of a majority of the Board if the Board has determined with reasonable certainty that neither dam will be reclassified as a category I dam by the applicable governmental authorities and the amount of Dam Reserve Fees then existing in the Dam Reserve Fee bank account is sufficient to cover capital additions, capital improvements, capital replacements, and major maintenance type expenses associated with the dams in the ordinary course of time.

Notwithstanding the foregoing, the contributions set forth in this Section shall not be due and payable for the following transactions (the "Excepted Transactions"):

- (a) the transfer of a Lot, or portion thereof, to the spouse of the Owner or to a direct lineal descendant of the Owner;
- (b) the transfer of a Lot, or portion thereof, to a trust whose beneficiaries are solely the spouse and/or direct lineal descendants of the Owner;
- (c) the transfer of a Lot, or portion thereof, to an entity in which the Owner owns, directly, or indirectly, not less than 50.1% of the ownership interests in such entity;
- (d) the transfer of a Lot, or portion thereof, to an entity that owns, directly or indirectly, not less than 50.1% of the ownership interests in Owner;
- (e) a Mortgagee acquiring title to a Lot, or portion thereof, pursuant to a foreclosure action or a conveyance in lieu of foreclosure;
- (f) any transfer for which the Declarant, in its sole discretion, waives in writing the required contribution; or
- (g) any transfer for which the Association, in its sole discretion, waives in writing the required contribution.

The transferring Owner shall give the Association at least thirty (30) days prior written notice of any transfer which is an Excepted Transaction with sufficient documentation to establish that the transfer is an Excepted Transaction.

If the transfer of a Lot, or portion thereof, is deemed in that particular instance to be an Excepted Transaction, the subsequent transfer of that Lot, or portion thereof, shall again be subject to the contribution unless such subsequent transfer independently qualifies as a separate Excepted Transaction in accordance with this Section.

8.12 Contributions by Declarant. In accordance with Section 8.2, the Declarant may support the Association by funding operating deficits during the Development Period. Such funding shall be treated as a loan unless otherwise designated by the Declarant. Unless otherwise determined by Declarant in its sole discretion, Declarant shall be repaid for such loan from the operating account of the Association, or from the working capital contributions collected at the sale of Lots, but not from capital reserves. Regardless of whether the Declarant recoups any other deficit amounts, it is not the intention of the Declarant to forfeit refundable reserves or deposits paid by Declarant, nor to pay for deficits created by the nonpayment of assessments by other Owners. It is also not the intention of Declarant to pay for expenses which are otherwise covered in the annual budget of the Association, but which, due to the requirement of an advance payment, create temporary or seasonal deficits. Accordingly, Declarant shall be reimbursed for all amounts paid by Declarant in the funding of deficits caused by the nonpayment of assessments by Owners which, if not sooner paid, shall be paid to Declarant at the time the unpaid assessment is collected. In addition, if not sooner paid, Declarant shall be reimbursed for any refundable deposit upon the Association's receipt of the same.

All deficits shall be collectible by Declarant at any time from the working capital contributions or from excess funds not designated for capital reserves. The Declarant shall have the right to pursue the collection of any unpaid assessments on behalf of the Association, as well as the right to act on behalf of the Association (if necessary) in obtaining refunds of all deposits paid for by Declarant. The Board of Directors, specifically including members of the Board appointed by the Declarant, shall be authorized to execute a promissory note or notes on behalf of the Association to evidence the repayment obligation of the Association; provided however, the failure to execute such a note shall in no way diminish such obligation.

ARTICLE 9: ARCHITECTURAL STANDARDS

9.1 General. No exterior structure or improvement, as described in Section 9.5, shall be placed, erected, installed or made upon any Lot or any other portion of the Community except in compliance with this Article, and with the prior written approval of the appropriate reviewing body under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

All dwellings constructed on any portion of the Community shall be designed by and built in accordance with the plans and specifications of a licensed architect or other qualified building designer, unless otherwise approved by the ARB in its solo discretion.

This Article shall not apply to the activities of Declarant, or to improvements to the Common Area by or on behalf of the Association. This Article may not be amended during the Development Period without Declarant's written consent,

9.2 Architectural Review. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Community acknowledges that, as the developer of the Community, Declarant has a substantial interest in ensuring that all structures and improvements within the Community enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell or lease any portion of the Community or the Additional Property. Therefore, Declarant may, on its behalf, establish an Architectural Review Board ("ARB") to be responsible for administration of the Design Guidelines and review of all applications for construction and modifications under this Article. In addition, the Board may establish the MC as set forth below. The ARB and the MC are sometimes collectively referred to herein as the reviewing bodies. The reviewing bodies shall consist of one (1) or more Persons who may, but are not required 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 reviewing bodies 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 in having any application reviewed by architects, engineers or other professionals. In addition, the reviewing bodies may require deposits while construction is pending on any Lot to ensure completion without damage to the Community.

(a) Architectural Review Board. The ARB shall have exclusive jurisdiction over all construction on any portion of the Community. Until one hundred percent (100%) of the Community have been developed and conveyed to Owners other than Builders and Declarant and initial construction on each Lot has been completed in accordance with the Design Guidelines, Declarant retains the right to appoint all members of the ARB who shall serve at Declarant's discretion. Notwithstanding the foregoing, the Declarant's right to appoint the members of the ARB shall continue for so long as the Declarant owns any property shown on the Master Plan. 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. Notwithstanding anything to the contrary contained herein, Declarant's right to appoint the members of the ARB shall continue for so long as Declarant, any principal of Declarant, any member or manager of Declarant or any entity in which Declarant or Declarant's primary principal has a substantial equity interest and majority control, owns any property shown on the Master Plan.

(b) Modifications Committee. The Board of Directors may establish a Modifications Committee ("MC"), the members of which shall be appointed by and serve at the discretion of the Board. If established, the MC shall have jurisdiction over modifications, additions, or alterations of Lots, including existing structures and landscaping, after completion of initial construction on the Lot. The ARB shall have the right to veto any action taken by the MC which the ARB determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the ARB. Upon expiration of Declarant's right to appoint the members of the ARB, the MC may be eliminated and its duties assumed by the ARB.

9.3 Guidelines and Procedures.

(a) Design Guidelines. Declarant shall prepare the initial Design Guidelines for the Community. The Design Guidelines may contain general provisions applicable to all of the Community, as well as specific provisions which vary according to land use and from one (1) portion of the Community 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 Community adjacent to or visible from any Lake, pond, river, stream, creek or other body of water. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the reviewing bodies in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the reviewing bodies and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt the Design Guidelines and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only. There shall be no limitation on the scope of amendments to the Design Guidelines except that no amendment shall require the modification or removal of any structure previously approved once the approved construction or modification has commenced. The ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The ARB shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Community.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the ARB. Any architectural guidelines and standards adopted by the MC may be more restrictive than the Design Guidelines, but under no circumstances shall they be inconsistent with the Design Guidelines.

(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 appropriate reviewing body for review and approval (or disapproval). In addition, information concerning 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 reviewing bodies may consider 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, among other considerations. Decisions may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

Each application to the ARB shall be deemed to contain a representation and warranty by the Owner that use of the plans submitted does not violate any copyright associated with the plans. Neither the submission of the plans to the ARB, nor the distribution and review of the plans by the ARB shall be construed as publication in violation of the designer's copyright, if any. Each Owner submitting plans to the ARB shall hold the members of the ARB, the Association and Declarant harmless and shall indemnify said parties against any and all damages, liabilities, and expenses incurred in connection with the review process of this Declaration.

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 may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time. The ARB shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and whether proposed improvements are consistent with Design Guidelines.

In the event that the ARB or MC fails to approve or to disapprove any application within sixty (60) Days after submission of all information and materials reasonably requested, the application shall be deemed approved. 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 9.8.

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. Any Owner may remodel, paint or redecorate the interior of structures on his or her Lot without approval; however, modifications to the interior of screened porches, patios, windows and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) Delinquent Assessments and Other Charges. Notwithstanding the provisions of subsection (b) above, any application for the approval of plans and specifications as set forth in this Article shall be deemed to be disapproved unless and until any and all delinquent assessments and other

charges permitted by this Declaration have been paid current by the Owner submitting such plans and specifications for approval.

Subsequent to the approval of plans and specifications pursuant to this Article, if the Owner shall become delinquent in the payment of assessments or other charges permitted by this Declaration at any time during the prosecution of the approved work, the Owner shall be deemed to be in violation of such approval and shall be subject to any means of enforcement set forth in Section 9.10 and Section 4.3.

9.4 Builder Approval. In order to ensure that appropriate standards of construction are maintained throughout the Community, all Builders must be approved by the ARB as a member of the Canoe Club Builder Program prior to engaging in any construction activities within the Community. Approval of a Builder in the Canoe Club Builder Program may be conditioned upon terms as determined by the ARB and Declarant, including, without limitation, requiring an agreement with the ARB to maintain certain insurance coverages required by the ARB, the payment of construction deposits to ensure completion of a project without damage to the Community, and the payment of fees determined by the ARB from time to time. Approval of Builders may not be construed as a recommendation of a specific Builder by the ARB or the Declarant, nor a guarantee or endorsement of the work of such Builder. The criteria and requirements established by the ARB for approval of Builders 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 Builder. Owner's selection of a Builder shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such Builder. 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.

9.5 Specific Guidelines and Restrictions.

(a) Exterior Structures and Improvements. Exterior structures and improvements shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; installation or replacement of hardscape, such as driveways, walkways, terraces, patios, walls or parking areas; mailboxes; basketball hoops; swing sets and similar sports and play equipment; clotheslines; garbage (sand; wood piles; swimming pools; docks and other floating structures; gazebos or playhouses; window air-conditioning units or fans; hot tubs; wells; solar panels; antennas; hedges, walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; and planting or removal of landscaping materials.

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

(i) Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the appropriate reviewing body, 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; and (3) not more than one (1) "for sale" or "for lease" sign designed by the ARB which meets the requirements set forth in the Design Guidelines. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or occupant within any portion of the Community, 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 reviewing body's sole discretion).

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 signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by Declarant or its duly authorized agent as may be necessary or convenient for the marketing and development of the Community.

(ii) Landscaping. Within thirty (30) days after issuance of a certificate of occupancy for a completed home, all of the yard of such Lot visible from the street must be landscaped in accordance with the approved plans, unless a delay is approved in writing by the ARB. No Person shall alter the topography or landscaping so as to change the drainage or water flow therefrom.

(iii) Tree Removal. In addition to, and not in lieu of, any governmental law, rule, regulation or ordinance regulation the removal of trees, no trees that are more than four (4) inches in diameter measured from a point two (2) feet above the ground and no flowering tree, shrub, evergreen, or natural ground cover shall be removed without the prior written consent of the appropriate reviewing body; provided, however, any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a sidewalk, a residence, or a driveway, or any diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons may be removed without the written consent of the appropriate reviewing body. The appropriate reviewing body may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed. In addition, Owners may not prune or remove trees planted in accordance with the street tree program implemented by Declarant in the Design Guidelines.

(iv) Lighting. Exterior lighting visible from the street shall not be permitted except for the following: (1) approved lighting as originally installed on a Lot; (2) one (1) approved decorative post light; (3) pathway lighting; (4) street lights in conformity with an established street lighting program for the Community; (5) seasonal decorative lights during the usual and common season; (6) front house illumination of model homes; or (7) any additional lighting as may be approved by the appropriate reviewing body. 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.

(v) Temporary or Detached Structures. Except as may be permitted by the ARB during initial Construction, or the MC thereafter, no temporary house, dwelling, garage or outbuilding shall be placed or erected on any Lot. Except as provided in Section 10.7, 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.

(vi) Accessory Structures. With the approval of the ARB, detached accessory structures may be placed on a Lot to be used for a playhouse, recreational and playground equipment, tool shed, swimming pool, tennis court, dog house, garage or other approved use. A garage may also be an attached accessory structure. Such accessory structures shall conform in exterior design and quality to the dwelling on the Lot. With the exception of a garage that is attached to a dwelling and except as may be provided otherwise by the ARB, an accessory structure placed on a Lot shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot or in a location approved by the ARB. All accessory structures shall be located within side and rear setback lines as may be required by the ARB or by applicable zoning law, whichever is more restrictive. In addition, the Design Guidelines may impose stricter requirements on the Focal Point Lots as defined in the Design Guidelines.

(vii) Antennas and Satellite Dishes. No transmission antenna, except for customer-end antennas that receive and transmit fixed wireless signals, may be erected anywhere on the Community without written approval of the ARB. No direct broadcast satellite ("DES") antenna or multi-

channel multi-point distribution service (“MMDS”) larger than one meter (39.37”) in diameter shall be placed, allowed or maintained upon any portion of the Community, including, but not limited to any Lot. DBS and MMDS antennas one (1) meter or less in diameter and television broadcast service antennas may be installed only in accordance with Federal Communications Commission (“FCC”) rules and any requirements of the ARB and the Association that are consistent with the rules of the FCC, as they may be amended from time to time. Such items shall be installed in the least conspicuous location available on the Lot which permits reception of an acceptable signal. Except as otherwise provided by this subsection, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Community, whether attached to a structure or otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

(viii) 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.

(ix) Standard Mailboxes. All dwellings within the Community shall have standard mailboxes conforming to postal regulations and the guidelines for such mailboxes adopted by the ARB. 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 unapproved mailbox in a reasonable manner; all costs for same shall be paid by Owner of such Lot, and all claims for damages caused by the ARB are waived.

(x) Docks. No personal docks are allowed. Only docks maintained by the Association shall be allowed on the Lakes.

9.6 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 appropriate reviewing body at the time the project is approved by the reviewing body.

For the purposes of this Declaration and in particular 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 certificate of occupancy has been issued for a dwelling on the Lot by the appropriate jurisdiction.

9.7 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.

9.8 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 rules and regulations adopted by the ARB. 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 approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.9 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Community 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 neither Declarant, the Association, the Board, the ARB nor the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners. Neither Declarant, the Association, the Board, the ARB or MC or any committee, or member of any of the foregoing shall be held liable 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 4.5.

9.10 Enforcement. Declarant, any member of the ARB, the MC 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 notice from the ARB or MC, Owners shall, at their own cost and expense, cure any violation or nonconformance or remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to cure or remove and restore the property as required, any authorized agent of Declarant, the ARB, MC or the Board shall have the right to enter the property, cure or 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 shall not constitute a trespass. In addition, the Board may enforce the decisions of Declarant, the ARB and the MC by any means of enforcement described in Section 4.3. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment pursuant to Section 8.5.

Unless otherwise specified in writing by the reviewing body 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. If, after commencement, any Person fails to 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 pursuant to Section 8.5.

Neither the ARB, MC nor any member of the foregoing nor the Association, Declarant, or their members, officers or directors shall be held liable to any Person for exercising the rights granted by this Article. 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 and MC.

ARTICLE 10: USE RESTRICTIONS

10.1 General. This Article sets out certain use restrictions with which all Owners and occupants of any Lot must comply. The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, sales offices for Declarant and/or

Builders, an information center and/or a sales office for any real estate broker retained by 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 Declarant or the Association and related parking facilities) consistent with this Declaration, any Supplemental Declaration and applicable zoning ordinances.

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 Community. 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 Members holding a Majority of the total Class "A" votes in the Association, and, during the Development Period, the written consent of Declarant.

10.3 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.

10.4 Leasing. Lots may be leased for residential purposes only. All leases shall be in writing and for a term of at least one (1) year. No lease shall be for less than the entire Lot. All leases shall require, without limitation, that the tenant acknowledges receipt of copies of the Governing Documents. 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. The term "lease" shall include all leases, rental agreements and other agreements for occupancy, whether or not consideration is paid therefore in the form of money.

10.5 Residential Use. 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 use 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 all zoning and licensing requirements for the Community; (c) the activity does not involve regular visitation of the Lot by clients, customers, employees, suppliers, or other invitees or door-to-door solicitation of residents of the Community; (d) the activity does not increase traffic or include frequent deliveries within the Community; and (e) the activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board. There shall be no solicitation by any person in the Community for charity, food delivery or for any cause whatsoever.

No other business, trade, or similar activity shall be conducted upon a Lot without the prior written consent of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than, the provider's family, and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (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 Declarant or a Builder approved by Declarant with respect to its development and sale of the Community or its use of any Lots which it owns within the Community.

No garage sale, moving sale, rummage sale, auction or similar activity shall be conducted upon a Lot without the prior written consent of the Board and compliance with any rules adopted by the Board.

10.6 Occupancy of Unfinished Dwellings. No dwelling erected upon any Lot shall be occupied in any manner before commencement of construction or while in the course of construction, nor at any time prior to the dwelling being fully completed.

10.7 Vehicles.

(a) Overnight parking of vehicles (including, without limitation, golf carts) shall be permitted only in driveways of the residence or the garage.

(b) The following vehicles are strictly prohibited from being parked, stored, or allowed to remain on the streets of the Community or outside on any Lot: abandoned vehicles, disabled vehicles, stored vehicles, boats, boat trailers, campers, trailers (except as permitted by the Board or the Design Guidelines), and/or vehicles primarily used for commercial purposes over three-quarter (3/4) tons in maximum rated load capacity. Notwithstanding the above, commercial vehicles over three-quarter (3/4) tons of manufacturer's rated load capacity shall be allowed temporarily on the Lots during normal business hours for the purpose of serving any residence; provided that no such vehicle shall be authorized to remain on any Lot overnight or for any purpose.

(c) For the purposes of this Section, the terms used herein are defined as follows:

(i) An "abandoned vehicle" shall mean a vehicle that is both obviously inoperable or does not have a current operating license and remains parked in one place for fourteen (14) consecutive days;

(ii) A "disabled vehicle" shall mean any vehicle either not in current operating condition or without a current operating license; and

(iii) A "stored vehicle" shall mean any vehicle other than an abandoned vehicle which remains parked for thirty (30) consecutive days or which is put on blocks or covered with a tarpaulin and remains on blocks or covered with a tarpaulin for more than forty-eight (48) hours without the prior written consent of the ARB.

(d) No automobile, moving van, delivery truck, or other vehicle shall be parked, driven across, or driven onto any portion of a Lot except for driveways and garages.

(e) Except for emergencies, no repairs to vehicles may be made outside on any Lot or any other portion of the Community or any street or road within, adjoining or adjacent to the Community.

(f) No tractors, vehicles having in excess of six wheels, trailers, or containers primarily used for commercial purposes shall be stored, allowed to remain, or continuously parked on the Community.

(g) No car washing will be allowed on the streets of the Community.

(h) No mobile home; camper, recreational vehicle (RV), trailer, tent, storage building, shed, shack, carport, or other outbuilding shall be placed or erected upon any Lot nor shall any

of the same be utilized as a residence on any portion of the Community at any time either temporarily or permanently without the consent of the ARB.

10.8 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 2.2 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.

10.9 Use of Common Area. No Person shall, by virtue of this Declaration, have any right to prune or otherwise alter any landscaping located on the Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on any part of the Common Area without the prior written consent of the Association. With the prior written approval of the Board of Directors, and subject to any restrictions imposed by the Board, any Owner may reserve portions of the Common Area for use for a period of time as set by the Board. Any such Owner who reserves a portion of the Common Area as provided herein shall assume, on behalf of such Owner and such Owner's guests, occupants and family, all risks associated with the use of the Common Area and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

10.10 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. Pets may not be tied outside without constant supervision. "Usual and common household pets" include birds and fish, but do not include wild, exotic, or bizarre animals such as, but not limited to, pigs, snakes, reptiles, rodents, or animals of similar import. No animals shall be kept, bred or maintained for commercial purposes without prior written Board approval. All pets shall be reasonably controlled by the owner whenever outside a dwelling and shall be kept in such a manner as to not become a nuisance by barking or other acts. All Owners and occupants must strictly comply with all applicable laws and ordinances concerning pets. Non-compliance may result in the pickup of animals by the appropriate governmental authorities. The owners of the pet shall be responsible for all of the pet's actions. Pets shall not be permitted in any Lake, pond, stream, creek or other body of water. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Community or to nearby property or destructive of wildlife, such animal shall be removed from the Community. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3. This provision shall not be construed to interfere with any provision under the Americans with Disabilities Act or any similar applicable federal, state or local law, ordinance or regulation. Service animals in active use shall be permitted on the Community.

10.11 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 portion of the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might, in the sole discretion of the Board, disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any portion of the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as

may diminish or destroy the enjoyment of the Community. 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 shut off automatically.

No Owners shall do any work which would jeopardize the soundness or safety of the Community or any structure erected thereon, would reduce the value thereof, or would impair any easement or hereditament thereto. No damage to or waste of the exterior of any building constructed upon any Lot shall be permitted by any Owner or any family member or invitee of any Owner, and each Owner shall indemnify and hold Declarant and other Owners harmless against all loss to Declarant or other Owners resulting from any such damage or waste caused by such Owner or such Owner's family or invitees.

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

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 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 Lake, pond, Detention Facility, drainage ditch or stream within the Community, except that fertilizers may be applied to landscaping on Lots provided care is taken to minimize runoff.

Each Owner shall maintain its Lot in a neat and orderly condition throughout initial construction of a residential dwelling and not allow trash or debris from its activities to be carried by the wind or otherwise scattered within the Community. 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 community clear of silt, construction materials and trash from its activities at all times. 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 policed prior to each weekend, and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed. In addition, Owners shall remove trash and debris from the Lot upon reasonable notice by Declarant in preparation for special events.

10.13 Combustible Liquid. There shall be no storage of gasoline, kerosene, 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, grills, and similar tools or equipment and except as may be permitted under the Design Guidelines or approved in writing by the ARB. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment. No exterior fires whatsoever, except barbecue fires contained in proper receptacles, shall be permitted within the Community (except as permitted by the applicable governmental authority during construction).

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

10.15 Subdivision. No Lot shall be subdivided or its boundary lines changed after a subdivision plat including such Lot has been approved and filed in the Public Records without Declarant's prior written consent during the Development Period, and the prior written consent of the ARB thereafter. Declarant reserves the right to regulate density within the Community as set forth in Section 9.4. In addition, no home shall be subdivided or partitioned to create housing for more than a single family. Declarant, however, hereby expressly reserves the right to re-plat any Lot or Lots which it owns. Any such division, boundary line change, or re-platting shall not be in violation of the applicable subdivision and zoning regulations, if any.

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

10.17 Drainage and Grading.

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

(b) 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.

(c) 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 Community 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 Declarant bears any responsibility for remedial actions to any Lot.

(d) Use of any areas designated as "drainage easement areas" on any recorded subdivision plat of the Community, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas, and the right of 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.

(e) No Person shall alter the grading of any Lot without prior approval pursuant to Article 9 of this Declaration. Declarant hereby reserves for itself and the Association a perpetual easement across the Community for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent.

(f) All Persons shall comply with any and all applicable erosion control ordinances and regulations in construction of improvements on any Lot and in conducting any activity within non disturbance buffer zones.

(g) 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, specifically O.C.G.A. § 25-9-6, which is also referred to as the "Call-Before-You-Dig" law.

10.18 Irrigation. Owners shall not install irrigation systems which draw upon ground or surface waters nor from any Detention Facility, Lake, pond, stream, creek or other body of water within the Community, However, Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility.

10.19 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 Declarant shall have such rights as provided in Article 11.

10.20 Lakes, Ponds and Other Water Bodies. All Lakes, ponds, and streams within the Community, if any, shall be used only in accordance with the Lake Use Restrictions promulgated by Declarant and the Association. Fishing and certain non-gasoline powered water vehicles shall be permitted within the Lakes, subject to the Lake Use Restrictions and proper licensing permits as may be required by any governmental entity. Swimming and other active uses of the Lakes shall be strictly governed by the Lake Use Restrictions, which may be amended from time to time in the discretion of Declarant and the Association. Except as designated by Declarant, no trails or pathways shall be established along the perimeter of any Lake or pond. Access to the Lakes shall be limited to those areas designated, operated and maintained by the Association for the benefit of the Owners. There is reserved to all Owners and occupants of Lots, their families and guests, a perpetual easement to use the Lakes for such purposes as are permitted in this Declaration and the Lake Use Restrictions. No Person may use the Lakes 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 its maintenance responsibilities. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of the Lakes.

10.21 Preservation of the Lakes. It is the intent of this provision to provide for the preservation of the Lakes in their clean and pristine condition and for the continued use of the Lakes for recreational purposes. To this end, no Owner shall take any action, including but not limited to, polluting the Lakes, adding chemicals or detergent to the Lakes, placing debris in the Lakes, or taking or failing to take any action which would detrimentally affect the condition of the Lakes or the ability of other Owners to continue to use the Lakes for recreational purposes. Each Owner covenants to and agrees with the other Owners that he or she will take no action to increase the amount of siltation entering the Lakes or to reduce or raise the level of the Lakes. Owners, as well as their families, tenants, guests, invitees, and pets, shall be obligated to refrain from any actions which would erode or damage the shoreline of any Lake.

10.22 Lakefront Lots. Unless an exception is authorized in writing by the ARB, all use restrictions, rules and regulations, and Design Guidelines applicable to the front yards of Lots shall also be applicable to the back yards of Lots which are bounded by the Lake.

10.23 Cart Paths. All golf cart paths shall be used only in accordance with Cart Path Use Restrictions promulgated by Declarant and the Association. Operators of golf carts shall have a valid driver's license. Access to the golf cart paths shall be limited to those areas designated, operated and maintained by the Association for the benefit of the Owners. There is reserved to all Owners and occupants of Lots, their families and guests, a perpetual easement to use the golf cart paths for such purposes as are permitted in this Declaration and the Cart Path Use Restrictions. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of golf cart paths.

ARTICLE 11: EASEMENTS

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of Declarant, the Association, the Members, 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 and between each Lot and any adjacent Common Area, 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) to a distance of not more than three (3) feet, 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) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself during the Development Period, for 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 Community (but not through a structure, existing or proposed) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital satellite or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, cart paths, pathways and trails; Lakes, ponds, streams, creeks and other bodies of water, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, septic, sewer, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Community, as necessary, to exercise the easements described above.

Declarant may assign to the local water supplier, sewer service provider, electric company, telephone company, natural gas supplier, Internet service provider or cable television/satellite service provider or any utility sub-metering company the easements set forth herein across the Community for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) Declarant reserves, creates, establishes, promulgates and declares for itself during the Development Period and its designees non-exclusive, perpetual, reciprocal, appurtenant easements, and 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. Nothing contained herein shall obligate the Declarant, the Association or the Board to pursue legal recourse against any Person damaging a Lot or any portion thereof as a result of the exercise of this easement. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot, and except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

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

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements, for itself and the Association and their respective representatives, successors and assigns, contractors and agents over, across, under, through and upon each Lot for the following 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 Community;

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

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

11.4 Easements to Serve Additional Property. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself and its duly authorized successors and assigns, including, without limitation, successors-in-title, 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 Easements for Entry.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Association to enter upon any Lot for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

(b) Declarant hereby reserves for itself and grants to the Association, to the relatives or descendants of any deceased person in any cemetery or burial ground that is located within the boundary of the Community, and to any persons seeking access to any cemetery or burial ground for

academic or historical purposes, a nonexclusive, perpetual easement of ingress and egress over such portions of the Common Area as are necessary for such access.

11.6 Easements for Maintenance and Enforcement.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant rights and easements for the Association to enter all portions of the Community, including each Lot but excluding the interior of any residential dwelling, to (1) perform its maintenance responsibilities under Article 5, and (ii) 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.

(b) The Association may also enter a Lot, excluding the interior of any residential dwelling, to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys fees, may be assessed against the violator as a Specific Assessment.

(c) Entry under this Section shall not constitute a trespass, and prior notice to the Owner shall not be required except as provided in Section 5.2.

11.7 Easement for Trail, Cart Path and Preserve Access. Declarant hereby grants to the Owners a perpetual, non-exclusive easement over and across any areas designated as "trails", "paths", "cart paths", "golf cart paths", "preserve", "open space" or "green space" on any recorded subdivision plat of the Community. Use of such trails or paths shall be governed by reasonable rules and regulations promulgated by the Association.

11.8 Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves, creates, establishes, promulgates and declares for itself and its successors, assigns, and designees and the Association the non-exclusive, perpetual, appurtenant right and easement, but not the obligation, to enter upon the Detention Facilities, Lakes, ponds, streams, and wetlands located within the Area of Common Responsibility to (a) install, keep, maintain, and replace pumps and irrigation systems in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) draw water from such sources for purposes or irrigation; (c) construct, maintain, and repair any bulkhead, wall, dam, or other structure, if any, retaining water; and (d) remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration, Declarant, the Association, and their designees shall have an access easement over and across any of the Community abutting or containing any portion of any Detention Facility, Lake, pond, stream, or wetland to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves, creates, establishes, promulgates and declares for itself and its successors, assigns and designees, and the Association the non-exclusive, perpetual, appurtenant right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within twenty (20) feet of any Detention Facilities, Lake beds, ponds, streams and wetlands in order to (a) temporarily flood and back water upon and maintain water over such portions of the Community; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the Detention Facilities, Lakes, ponds, streams, and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such Detention Facilities, Lakes, ponds, streams, and wetlands; (d) disturb existing landscaping; and (e) pile dirt and plant materials. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. All affected areas shall be restored to a neat and attractive

condition to the extent practical, as soon as reasonably possible after completion of any construction or maintenance activities authorized in this Declaration. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

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

11.9 Easement for Lateral Support. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Area, every Lot, and any improvement which contributes to the lateral support of another portion of the Common Area or of another Lot for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.10 Easement for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, non-exclusive appurtenant easement over the Common Area for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional 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.

11.11 Landscape Easements and Tree Preservation. There are hereby reserved to Declarant (so long as Declarant owns any property described on Exhibits "A" or "B" to this Declaration), the Association and the designees of each, non-exclusive easements for access, installation pruning and other maintenance, removal and replacement of street trees and landscaping over those portions of the Community lying adjacent to all roadways and consisting of a strip of land thirty (30) feet in width and running the entire length of, and on both sides of, all roadways ("Landscape Easement") and over such other portions of the Community. Such easement shall include the right to disturb existing landscaping within the Landscape Easement, to dig holes and to temporarily pile dirt and plant material upon the Landscape Easement, provided the area is restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of the activities authorized hereunder. Nothing herein shall obligate Declarant or the Association to undertake any of the activities which such easement authorizes. Except as may otherwise be provided in any written agreement executed by Declarant, Declarant may, but shall not be obligated to, install street trees and landscaping within such public rights-of-way and/or these Landscape Easements at its option, at such times and in such number and locations as it may deem appropriate in its sole discretion. These Landscape Easement areas shall not be disturbed by any Owner without prior approval in accordance with Article 9.

11.12 Easement for Greenbelt Maintenance.

(a) Declarant reserves for itself and its successors, assigns, and designees the non-exclusive right and easement, but not the obligation, to enter upon greenbelts, buffer zones and non-disturbance areas located within the Area of Common Responsibility to remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. Declarant's rights and easements provided in this Section shall be automatically transferred to the Association at the expiration

of the Development Period or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. Declarant, the Association, and their designees shall have an access easement over and across any of the Community abutting or containing any portion of greenbelt, buffer zone or non-disturbance area to the extent reasonably necessary to exercise their rights under this Section.

(b) Encroachment of structures into, over, or across greenbelts, buffer zones and non-disturbance areas shown on any recorded subdivision plat of the Community is strictly prohibited. Landscaping in these areas is subject to removal in the reasonable discretion of Declarant in the ordinary course of maintenance of these areas. Any landscaping permitted shall be installed in conformance with provisions herein. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements.

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

11.13 Easement for Use of Lakes. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal easements for the Owners, their families, invitees and guests, to use the pool elevation of the Lake (but not the shoreline) for such purposes as are permitted in this Declaration and the Lake Use Restrictions and in a manner as will not be a nuisance to the other Owners within the Community. All Owners acknowledge that the term "Lake" or "Lakes" as defined herein refers only to those portions of the bodies of water which are located within the Community and which are subject to this Declaration, Neither Declarant nor the Association represent or guarantee that the Owners are entitled to or may use any portion of these bodies of water that are located outside the boundaries of the Community.

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

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

ARTICLE 12: MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Community. The provisions of this 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 Community 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, Bylaws, 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 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 or assignment shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. Upon any such transfer or assignment, Declarant shall be automatically released from any and all liability arising with respect to such transferred or assigned rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Public Records.

13.2 Development and Sales. Declarant and others authorized by Declarant may maintain and carry on the Community such activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the development of the Community 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. Declarant and others authorized by Declarant shall have easements over the Community for access, ingress and conducting such activities.

In addition, Declarant and others authorized by Declarant may establish within the Community, including any clubhouse, such facilities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the development of the Community and/or the construction or sale of Lots, including, but not limited to, business offices, signs, model units, 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 Declarant's sole discretion. Declarant and others authorized by Declarant shall have easements over the Community 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. 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 similar instrument affecting any portion of the Community 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 written consent signed by Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

13.5 Right of Declarant to Disapprove Actions. Until two (2) years following the termination of the Class "B" membership, 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 Declarant, would tend to impair rights of Declarant, or Builders under the Governing Documents, or interfere with development of, construction on or marketing of any portion of the Community, or diminish the level of services being provided by the Association, This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to Declarant in the Governing Documents:

(a) 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 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. Declarant may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) Declarant shall be given the opportunity at any such meeting to join in or to have its representatives of 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. Declarant, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) 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 and the time period set forth in subsection (d) below has expired.

(d) Declarant, acting through any 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 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. 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.

13.6 Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Design Guidelines shall be effective without prior notice to and the written consent of Declarant, during the Development Period. This Article may not be amended without the written consent of Declarant. The rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE 14: GENERAL PROVISIONS

14.1 Duration.

(a) Unless terminated as provided in Section 14.1(b), the provisions of this Declaration shall run with, bind the Community and remain in effect perpetually to the extent permitted by law; provided, however, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land for so long as permitted by Georgia law. To the extent that Georgia law limits the period during which covenants may run with the land, then to the extent consistent with such law, 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 ride 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, this Declaration may be terminated within the first twenty (20) years after the date of recording by an instrument signed by Owners of at least ninety percent (90%) of the total Lots within the Community, which instrument is recorded in the Public Records; provided, however, regardless of the provisions of Georgia law, this Declaration may not be terminated during the Development Period without the prior written consent of Declarant. After twenty (20) years from the date of recording, this Declaration may be terminated only by an instrument signed by 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 Declarant, if Declarant owns any portion of the Community, which instrument complies with the requirements of O.C.G.A. § 44-5-60(d) and is recorded in the Public Records within two (2) years prior to the expiration of the twenty (20) year period. 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.

14.2 Amendment.

(a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, 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 U. S. Department of Veteran Affairs, the U. S. Department of Housing and Urban Development, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent in writing. In addition, during the Development Period, Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner. The failure of an amendment to apply uniformly to all Lots shall not constitute a material adverse effect upon the rights of any Owner.

(b) By the Board. The Board shall be authorized to amend this Declaration without the consent of the Members (i) for the purpose of submitting the Community to the Georgia Property Owner's Association Act, O.C.G.A. § 44-3-220, et seq. (1994) and conforming this Declaration to any mandatory provisions thereof, (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, and (iii) for the purposes of bringing any provision contained herein into compliance with the Fair Housing Amendments Act of 1988, as more fully set forth in Section 14.4.

(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, and, during the Development Period, the written consent of Declarant.

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

(d) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration, No amendment may remove, revoke or modify any right or privilege of Declarant or the Class "B" Member without the written consent of 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.

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

14.4 Fair Housing Amendments Act. The provisions of the Governing Documents shall be subordinate to the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601, *et seq.* (“FHAA”), and shall be applied so as to comply with the FHAA. In the event that there is a conflict between or among the Governing Documents and the FHAA, the FHAA shall prevail. Notwithstanding anything to the contrary contained herein, in the event that any provision of this Declaration conflicts with the FHAA, the Board of Directors, without the consent of the Members or of Declarant, shall have the unilateral right to amend this Declaration for the purpose of bringing this Declaration into compliance with the FHAA, Furthermore, notwithstanding Section 23 hereof, the Board shall have the unilateral right to assign portions of the Common Area as Exclusive Common Area or to reassign Common Area previously assigned as Exclusive Common Area to one (1) or more Lots should such action be required in order to make a reasonable accommodation under the FHAA.

14.5 Dispute Resolution. It is the intent of the Association and Declarant to encourage the amicable resolution of disputes involving the Community and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Community, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents 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.

14.6 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by Members holding at least eighty percent (80%) 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 the Governing Documents (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 or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. 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.

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

14.8 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 Community. 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 or reserved in this Declaration.

14.9 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional recorded covenants restrictions, and declarations applicable to any portion of the Community, and the Association may, but shall not be required to, enforce the covenants, restrictions and declarations; provided, however, in the event of a conflict between or among this Declaration and such covenants, restrictions or declarations, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, the Governing Documents shall prevail. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants, restrictions and declarations applicable to any portion of the Community from containing additional covenants, 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.

14.10 Use of the "Canoe Club" Name and Logo. No Person shall use the words "Canoe Club" or the logo for "Canoe Club" or any derivative in any printed or promotional material without Declarant's prior written consent; however, Owners may use the words "Canoe Club" in printed or promotional matter where such terms are used solely to specify that particular property is located within Canoe Club, and the Association and any other community association located in Canoe Club and Declarant shall each be entitled to use the words "Canoe Club" in their names.

14.11 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, Declarant, 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.

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


14.13 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 Section 14.2. Exhibit "C" is attached for informational purposes and may be amended as provided therein.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this 9th day of March 2011.

DECLARANT:

Signed, sealed and delivered in the

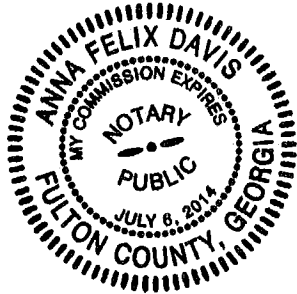


Unofficial Witness



Notary Public

[NOTARY SEAL]



SELAF FAYETTE COMMUNITIES, LLC,
a Georgia limited liability company

By: Southeast LandCo Acquisition Fund, LLC,
a Delaware limited liability company,
its managing member

By: Reynolds Capital Group LLC,
an Ohio limited liability company,
its managing members

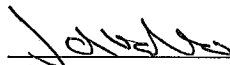
By:  [SEAL]
Name: DAVID VALLO
Title: MANAGING DIRECTOR

Exhibit "A"

Land Initially Submitted

All that tract or parcel of land lying and being in Land Lots 5, 6, 7, 26, 27, 28 and 38 of the District of Fayette County, Georgia, and being more particularly described as follows:

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^

COMMENCE at an iron pin found at the corner common to Land Lots 27, 28, 37 and 38; thence run along the line common to Land Lots 37 and 38 North 89°45'39" West a distance of 1508.42 feet to an iron pin found on the line common to Land Lots 37 and 38; thence leave the line common to Land Lots 37 and 38 and run North 01°18'41" East a distance of 1799.13 feet to a point; thence run South 75°07'39" East a distance of 311.86 feet to a point; thence run South 81°26'36" East a distance of 86.68 feet to a point; thence run South 88°19'45" East a distance of 89.12 feet to a point; thence run South 88°54'05" East a distance of 201.62 feet to a point; thence run North 72°18'15" East a distance of 37.53 feet to a point; thence run North 70°27'25" East a distance of 165.27 feet to a point; thence run North 55°07'35" East a distance of 165.87 feet to a point; thence run North 33°22'35" East a distance of 30.60 feet to a point; thence run North 06°22'25" East a distance of 53.62 feet to a point; thence run North 05°48'55" East a distance of 71.25 feet to a point; thence run North 00°29'35" West a distance of 138.85 feet to an iron pin found; thence run North 11°30'25" East a distance of 35.00 feet to a point; thence run North 10°07'02" East a distance of 744.90 feet to an iron pin found on the line common to Land Lots 38 and 39; thence run along the line common to Land Lots 38 and 39 North 89°02'29" East a distance of 348.76 feet to an axle found at the corner common to Land Lots 26, 27, 38 and 39; thence run along the line common to Land Lots 26 and 39 North 02°12'17" East a distance of 63.16 feet to an iron pin found; thence leave the line common to Land Lots 26 and 39 and run South 88°26'44" East a distance of 705.48 feet to a point; thence run North 00°16'07" West a distance of 646.82 feet to a point; thence run South 89°26'13" East a distance of 345.86 feet to a point; thence run South 26°47'36" East a distance of 230.79 feet to a point located on the top of bank of Lake Edith; thence run southeasterly, southerly and northeasterly along the top of bank of Lake Edith, along the centerline of a creek, and along the centerline of a ditch 1,986.7 feet plus, or minus to a point on the centerline of Huiet Road (30-foot wide prescriptive easement [measured from centerline ditch to centerline ditch]) (the following courses and distances describe the traverse line along the top of bank of lake, the centerline of the creek, and the centerline of the ditch: South 02°01'05" West a distance of 51.07 feet to a point; South 43°10'40" East a distance of 304.80 feet to a point; North 55°04'10" East a distance of 225.99 feet to a point; South 75°13'48" East a distance of 123.74 feet to a point; South 82°02'51" East a distance of 146.54' feet to a point; North 30°08'39" East a distance of 177.10 feet to a point; North 68°03'14" East a distance of 250.57 feet to a point; North 78°56'58" East a distance of 168.24 feet to a point; South 80°18'52" East a distance of 110.12 feet to a point and South 43°04'38" East a distance of 185.56 feet); thence run along the centerline of Huiet Road North 55°39'24" East a distance of 54.03 feet to a point; thence continue to run along and coincident with the centerline of Huiet Road along the arc of a curve to the left, an arc distance of 264.60 feet to a point (said curve having a radius of 340.52 feet, being subtended by a chord bearing North 33°23'47" East, a chord distance of 257.99 feet); thence continue to run along and coincident with the centerline of Huiet Road North 11°08'10" East a distance of 96.66 feet to a point; thence continue to run along and coincident with the centerline of Huiet Road North 08°18'59" East a distance of 71.65 feet to a point; thence continue to run along and coincident with the centerline of Huiet Road North 10°46'15" East a distance of 40.36 feet to a point located at the intersection of the centerline of Huiet Road and the southern right-of-way line of Huiet Road (an 80-foot right-of-way width); thence leave the centerline of Huiet Road and run along and coincident with the southern right-of-way line of Huiet Road South 79°13'45" East 40.00 feet to a point located at the intersection of the southern and eastern right-of-way lines of Huiet Road; thence leave the southern right-of-way line of Huiet Road and run northerly along the easterly right-of-way line of Huiet Road the following courses and distances: North 10°46'15" East a distance of 207.57 feet to a point; along the arc of a curve to the right an arc distance of 185.71 feet to a

point (said curve having a radius of 538.69 feet, being subtended by a chord bearing North 20°38'49" East, a chord distance of 184.79 feet); North 30°31'22" East a distance of 47.64 feet to a point; and along the arc of a curve to the right an arc distance of 119.09 feet to a point (said curve having a radius of 444.79 feet, being subtended by a chord bearing North 38°91'35" East, a chord distance of 118.73 feet); thence leave the easterly right-of-way line of Huiet Road and run South 88°05'55" East a distance of 152.05 feet to an iron pin found located on the line common to Land Lots 7 and 26; thence run along the line common to Land Lots 7 and 26 North 01°07'43" West a distance of 119.25 feet to a point located on the easterly right-of-way line of Huiet Road; thence run northerly along the easterly right-of-way line of Huiet Road the following courses and distances: along the arc of a curve to the left an arc distance of 138.84 feet to a point (said curve having a radius of 222.62 feet, being subtended by a chord bearing North 27°31'34" East, a chord distance of 136.60 feet); along the arc of a curve to the left an arc distance of 176.51 feet to a point (said curve having a radius of 1387.35 feet, being subtended by a chord bearing North, 05°26'09" East, a chord distance of 176.39 feet); North 01°47'28" East a distance of 133.66 feet to a point; North 01°12'13" East a distance of 215.57 feet to a point; and North 00°46'43" East a distance of 201.60 feet to a point located at the intersection of the easterly right-of-way line of Huiet Road and the southerly right-of-way line of Lester Road (40 feet from centerline at said point); thence run along and coincident with the southerly right-of-way line of Lester Road the following courses and distances: South 68°44'55" East a distance of 177.26 feet to a point; along the arc of a curve to the left an arc distance of 268.65 feet to a point (said curve having a radius of 1966.75 feet, being subtended by a chord bearing South 72°39'43" East, a chord distance of 268.44 feet); South 76°34'30" East a distance of 196.29 feet to a point; South 75°22'24" East a distance of 335.15 feet to a point; South 75°10'41" East a distance of 288.93 feet to a point; and South 73°15'58" East a distance of 128.94 feet to a point; thence leave the southerly right-of-way line of Lester Road and run South 00°52'18" West a distance of 2026.48 feet to an iron pin found located on the line common to Land Lots 6 and 7; thence run along and coincident with the line common to Land Lots 6 and 7 South 88°46'42" East a distance of 121.34 feet to a concrete monument found thence leave the line common to Land Lots 6 and 7 and run South 01°11'55" West, along the western boundary line of certain real property now or formerly known as Stonebriar Phase Two (P.B. 33 PG. 106), Stonebriar West (P.B. 35 PG. 167), and Stonebriar West (P.B. 35 PG. 168), a distance of 2903.62 feet to a concrete monument found located on the line common to Land Lots 5 and 6; thence run along and coincident with the line common to Land Lots 5 and 6 North 88°49'27" West a distance of 210.57 feet to an iron pin found; thence leave the line common to Land Lots 5 and 6 and run South 00°10'18" East a distance of 1797.87 feet to a point located on the northern right-of-way line of Davis Road (60-foot right-of-way width); thence run along and coincident with the northern right-of-way line of Davis Road the following courses and distances: North 81°00'21" West a distance of 1.14 feet to a point; North 79°32'27" West a distance of 124.66 feet to a point; along the arc of a curve to the left, an arc distance of 126.39 feet to a point (said curve having a radius of 1100.57 feet, being subtended by a chord bearing North 82°49'51" West, a chord distance of 126.32 feet); North 86°07'14" West a distance of 104.81 feet to a point; North 87°45'28" West a distance of 96.96 feet to a point; along the arc of a curve to the right, an arc distance of 116.25 feet to a point (said curve having a radius of 616.76 feet, being subtended by a chord bearing North 74°45'41" West, a chord distance of 116.08 feet); North 69°21'42" West a distance of 349.25 feet to a point; North 71°56'22" West a distance of 258.41 feet to a point; North 72°55'40" West a distance of 178.32 feet to a point; North 75°43'50" West a distance of 87.25 feet to a point; North 72°59'46" West a distance of 215.16 feet to a point; along the arc of a curve to the left, an arc distance of 206.11 feet to a point (said curve having a radius of 1357.35 feet, being subtended by a chord bearing North 77°20'46" West, a chord distance of 205.91 feet); North 81°41'46" West a distance of 94.30 feet to a point; North 79°44'14" West a distance of 277.46 feet to a point; North 81°41'01" West a distance of 99.35 feet to a point; North 79°52'53" West a distance of 175.71 feet to a point; along the arc of a curve to the left, an arc distance of 166.31 feet to a point (said curve having a radius of 711.28 feet, being subtended by a chord bearing North 86°34'47" West, a chord distance, of 165.93 feet); South 86°43'19" West a distance of 66.97 feet to a point; South 85°29'03" West a distance of 111.20 feet to a point; South 81°33'46" West a distance of 91.31 feet to a point; South 78°13'07" West a distance of

96.37 feet to a point; and South 72°13'52" West a distance of 43.89 feet to a point; thence leave the northern right-of-way line of Davis Road and run North 00°50'22" East a distance of 1034.75 feet to an iron pin found; thence run North 88°59'50" West a distance of 1461.65 feet to a point; thence run North 01°06'14" West a distance of 270.20 feet to an iron pin found, said iron pin found being THE TRUE POINT OF BEGINNING.

The tract or parcel of land herein described contains 601.79 acres, more or less (includes area within Huiet Drive - 1.18 ac. and Huiet Road - 3.375 ac. and also includes area in Cemetery 2 - 237 ac.), and is shown on, and described according to, that certain Boundary Survey for Euram-Macauley One, LLC, The Macauley Companies, Inc., and Chicago Title Insurance Company, prepared by Lowe Engineers, LLC, Carol Anne Martin, G.R.L.S. #2544, dated September 6, 2005, last revised October 25, 2005, which Boundary Survey is incorporated herein by reference.

LESS AND EXCEPT FROM THE ABOVE-DESCRIBED 601.79 ACRE TRACT OR PARCEL OF LAND THE FOLLOWING:

All that tract or parcel of land lying and being in Land Lot 28 of the 7th District of Fayette County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, commence at a point on the northern right-of-way line of Davis Road (60-foot right-of-way width) at the intersection of the eastern boundary line of the above-described property with said northern right-of-way line of Davis Road; thence run along and coincident with the northern right-of-way line of Davis Road the following courses and distances: North 81°00'21" West a distance of 1.14 feet to a point; North 79°32'27" West a distance of 124.66 feet to a point; along the arc of a curve to the left, an arc distance of 126.39 feet to a point (said curve having a radius of 1100.57 feet, being subtended by a chord bearing North 82°49'51" West, a chord distance of 126.32 feet); North 86°07'14" West a distance of 104.81 feet to a point; North 87°45'28" West a distance of 96.96 feet to a point; along the arc of a curve to the right, an arc distance of 116.25 feet to a point (said curve having a radius of 616.76 feet, being subtended by a chord bearing North 74°45'41" West, a chord distance of 116.08 feet); North 69°21'42" West a distance of 349.25 feet to a point; North 71°56'22" West a distance of 258.41 feet to a point; North 72°55'40" West a distance of 178.32 feet to a point; North 75°43'50" West a distance of 87.25 feet to a point; North 72°59'46" West a distance of 215.16 feet to a point; along the arc of a curve to the left, an arc distance of 206.11 feet to a point (said curve having a radius of 1357.35 feet, being subtended by a chord bearing North 77°20'46" West, a chord distance of 205.91 feet); and North 81°41'46" West a distance of 42.70 feet to a point, which marks the TRUE POINT OF BEGINNING; FROM THE TRUE POINT OF BEGINNING, AS THUS ESTABLISHED, continuing along the northern right-of-way line of Davis Road, the following courses and distances: North 81°41'46" West a distance of 51.60 feet to a point; and North 79°44'14" West a distance of 245.43 feet to a point; thence leaving said northern right-of-way line and running North 10°15'46" East, a distance of 377.44 feet to a point; running thence South 79°44'14" East, a distance of 297.00 feet to a point; running thence South 10°15'44" West, a distance of 377.44 feet to a point on the northern right-of-way line of Davis Road, which marks the TRUE POINT OF BEGINNING.

The tract or parcel of land herein described contains 2.37 acres and is shown as "Cemetery 2" on, and described according to, that certain Boundary Survey for Euram-Macauley One, LLC, The Macauley Companies, Inc. and Chicago Title Insurance Company, prepared by Lowe Engineers, LLC, Carol Anne Martin, G.R.L.S. #2544, dated September 6, 2005, last revised October 25, 2005, which Boundary Survey is incorporated herein by reference.

EXHIBIT "B"

Additional Property

All those tracts or parcels of land lying and being within one (1) mile of the perimeter boundary of the land described in Exhibit "A" and located in Fayette County, Georgia.

EXHIBIT "C"

**AMENDED AND RESTATED BY-LAWS OF
CANOE CLUB COMMUNITY ASSOCIATION, INC.**

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AMENDED AND RESTATED BY-LAWS
OF
CANOE CLUB COMMUNITY ASSOCIATION, INC.

ARTICLE 1: NAME, PRINCIPAL OFFICE AND DEFINITIONS

1.1 Name. The name of the corporation is Canoe Club Community Association, Inc. (the "Association"), a Georgia nonprofit corporation.

1.2 Principal Office. The initial principal office of the Association shall be located in Fulton County, Georgia. The Association may have such other offices, either within or outside the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3 Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Canoe Club filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2: MEMBERSHIP, MEETINGS, NOTICE, QUORUM, VOTING

2.1 Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference. The Declarant may establish additional classes of membership as set forth in the Declaration.

2.2 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Community or as convenient to the Community as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3 Annual Meetings. The first meeting of the Members of the Association, whether regular or special, shall be held within one (1) year from the date of incorporation of the Association. Subsequent regular meetings shall be held annually on a date and at a time set by the Board.

2.4 Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting within thirty (30) days if so directed by resolution of the Board or upon a petition signed by Members holding at least twenty percent (20%) of the total Class "A" votes in the Association or upon written request of the Declarant.

2.5 Notice of Meetings. Written notice stating the place, day, time, and purpose of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting. No business shall be transacted at a meeting except as stated in the notice; provided however, if Members holding at least twenty percent

(20%) of the Class "A" votes are present at an annual meeting, in person or by proxy, matters in addition to those set forth in the notice of the meeting may be voted upon without further notice to the Members.

2.6 Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof, unless a specific objection as to the lack of proper notice is given at the time the meeting is called to order. Attendance at a meeting shall also be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) or more than twenty (20) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.5.

2.8 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access.

2.9 List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the address of the Member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Georgia law.

2.10 Proxies. At all meetings of the Members, each Member may cast its votes in person (if a corporation, partnership, limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Georgia law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. Every proxy shall be in writing specifying the Lot(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Lot for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11 Quorum. The presence, in person or by proxy, of Members holding ten percent (10%) of the Class "A" votes entitled to be cast shall constitute a quorum at all meetings of the Association. If a quorum is present at a duly called or held Meeting, business may be continued until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

2.12 Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13 Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Association may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Georgia. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

ARTICLE 3: BOARD OF DIRECTORS; NUMBER, POWERS, MEETINGS

A. Composition and Selection.

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be eligible Members or residents; provided however, no Owner and resident representing the same Lot may serve on the Board at the same time. No Owner or resident shall be eligible to serve as a director if any assessment for such Owner's or resident's Lot is delinquent. A "resident" for purposes of these By-Laws shall mean any natural person eighteen (18) years of age or older whose principal place of residence is a Lot within the Community. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided that, no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as representatives of the Class "B" Member or the Declarant.

3.2 Number of Directors. The Board shall consist of three (3) to five (5) directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three (3) directors appointed by the Class "B" Member as provided in Section 3.3. The Board shall increase to five (5) directors upon termination of the Class "B" Membership as provided in Section 3.5.

3.3 Directors During Class "B" Membership. For so long as the Class "B" membership exists, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member, Directors appointed by or serving as representatives of the Class "B" Member or the Declarant shall not be subject to the qualifications for directors set forth in Section 3.1.

3.4 Nomination and Election Procedures.

(a) Nomination of Directors. Except with respect to directors appointed by the Class "B" Member, directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Directors appointed

by or serving as representatives of the Class "B" Member or the Declarant shall not be subject to these nomination requirements.

(b) Election Procedures. Each Member may cast the vote(s) assigned to the Member's Lot(s) for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5 Election and Term of Office. Notwithstanding any other provision of these By-Laws, not later than the first annual meeting after the termination of Class "B" membership, the directors appointed by the Declarant shall resign, and the Association shall hold an election at which the Class "A" Members shall be entitled to elect five (5) directors. Three (3) directors shall serve a term of two (2) years, and two (2) directors shall serve a term of one (1) year, as such directors determine among themselves. Upon the expiration of the term of office of each director elected by the Class "A" Members, the Class "A" Members shall elect a successor to serve a term of two (2) years. Directors shall hold office until their respective successors have been elected.

3.6 Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by the Class "A" Members holding at least two-thirds (2/3) of the total Class "A" votes allocated to Lots, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Class "A" Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) Days delinquent (or is the resident of a Lot that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected director or the adoption of a Board resolution increasing the number of directors, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members may elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

B. Meetings.

3.7 Organizational Meetings. Within thirty (30) Days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

3.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one (1) such meeting shall be held during each year.

3.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two (2) directors.

3.10 Notice. Notice of a regular meeting shall be communicated to directors not less than four (4) Days prior to the meeting. Notice of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) electronic mail or email using internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, electronic mail, or e-mail shall be deemed communicated when delivered, telephoned, telecopied, electronically mailed, e-mailed, or given to the telegraph company.

3.11 Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.12 Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.13 Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) Days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

3.14 Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members holding a Majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for

expenses incurred on behalf of the Association upon approval of a Majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a Majority of the Board of Directors, excluding the interested director.

3.15 Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings. In the case of a tie vote on a motion or resolution before the Board, the motion or resolution is considered lost.

3.16 Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on an attendee's behalf by a director. In such case, the president may limit the time any individual may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Persons other than directors, to discuss matters of a sensitive nature, including, but not limited to pending or threatened litigation and personnel matters.

3.17 Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.18 Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or Georgia law do not direct to be done and exercised exclusively by the membership generally.

3.19 Duties. The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual capital budget with such budget based upon projected capital reserve balances at the beginning of the year, projected Capital Reserve Fees to be collected during the year, projected capital expenditures during the year, and projected capital reserve balances at the end of the year;

(b) preparing and adopting, in accordance with the Declaration, an annual dam reserve capital budget, with such budget based upon projected dam capital reserve balances at the beginning of the year, projected Dam Reserve Fees to be collected during the year, projected dam reserve expenditures during the year, and projected dam reserve balances at the end of the year;

(c) establishing annually, at least sixty (60) days before the beginning of each fiscal year, the amount of the annual assessment, the related Capital Reserve Fees that shall be 100% of the annual assessment for such year, and Dam Reserve Fees to be collected at the closing of each Lot transferred during the upcoming fiscal year;

(d) levying and collecting such assessments from the Owners;

- (e) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (f) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (g) making and amending rules in accordance with the Declaration;
- (h) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds for capital or dam improvements may be deposited, in the directors' best business judgment, in depositories other than banks;
- (i) opening of a separate bank account for operating expenses on behalf of the Association and designating the signatories required;
- (j) opening of a separate bank amount for the capital reserves of the Association and designating the signatories required;
- (k) opening of a separate bank account for the dam reserves of the Association and designating the signatories required;
- (l) contracting for repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;
- (m) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association in accordance with the Governing Documents;
- (n) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (o) paying the costs of all services rendered to the Association;
- (p) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (q) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (r) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Community;
- (s) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required or permitted under Georgia law or the Governing Documents; and

(t) assisting in the resolution of disputes between Owners and others without litigation as set forth in the Declaration.

3.20 Management. The Board shall employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21 Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) an annual financial report shall be made available to all Members within one hundred twenty (120) Days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed, compiled, or internal basis, as the Board determines.

3.22 Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of Members holding at least sixty-seven percent (67%) of the total votes allocated to Lots prior to borrowing such money.

3.23 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, within and outside the Community.

3.24 Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed pursuant to Article 5, within fifteen (15) Days of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) Days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) Day period, Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) Day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator. The Board may, but shall not be obligated to adopt a schedule of sanctions for violations of the Governing Documents.

(b) Hearing. If a hearing is requested within the allotted fifteen (15) Day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

(c) Appeal. If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within fifteen (15) Days after the hearing date.

ARTICLE 4: OFFICERS

4.1 Officers. The officers of the Association shall be a president, secretary, and treasurer. The president and secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one (1) or more vice presidents, one (1) or more assistant secretaries and one (1) or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each election of new directors. Such officers shall serve until their successors are elected.

4.3 Removal and Vacancies. The Board may remove any officer at any time in its sole discretion with or without cause and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

4.4 Powers and Damages. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The secretary shall be responsible for preparing minutes of meetings of the Association and the Board and for authenticating records of the Association.

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Execution of Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

ARTICLE 5: COMMITTEES

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. Unless otherwise provided by the Board, committee members shall be eligible Members or residents; provided however, no Class "A" Member may have more than one (1) representative on a committee at any time. No committee appointed by the Board shall be empowered to take any affirmative action or to bind the Board or the Association without the consent of the Board.

5.2 Covenants Committee. In addition to any other committees which the Board may establish pursuant to the Declaration, these By-Laws and, specifically, Section 5.1, the Board may appoint a covenants committee. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions, the Board may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these By-Laws.

ARTICLE 6: MISCELLANEOUS

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2 Parliamentary Rules. Except as may be modified by Board resolution, *Robert's Rules of Order Newly Revised* (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, or these By-Laws.

6.3 Conflicts. If there are conflicts between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to such Person's interest in a Lot: the Declaration, By-Laws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association, which may include the office of the Association's management agent, if any, or at such other place within the Community as the Board shall designate during normal business hours.

(b) Rules for Inspection. The Board may establish rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

6.5 Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated writing and filed with the secretary or, if no such address has been designated, at the address of the Lot of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

6.6 Amendment.

(a) By Declarant. Until termination of the Class "B" membership, the Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these By-Laws 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 U.S. Department of Veterans Affairs (“VA”), the U.S. Department of Housing and Urban Development (“HUD”), the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; to make, purchase, insure or guarantee Mortgage loans on the Lots; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. The failure of an amendment to apply uniformly to all Lots shall not constitute a material adverse effect upon the rights of any Owner. In addition, during the Development Period, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By the Board. The Board shall be authorized to amend these By-Laws without the consent of the Members (i) for the purpose of submitting the Community to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* (1994) and conforming these By-Laws to any mandatory provisions thereof, (ii) to correct scrivener's errors and other mistakes of fact, provided that any amendments under this provision have no material adverse effect on the rights of the Members; and (iii) for the purpose of bringing any provision contained herein into compliance with the Fair Housing Amendments Act of 1988, as more fully set forth in Section 15.4 of the Declaration. During the Development period, any such amendments shall require the written consent of the Declarant.

(c) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding at least two-thirds (2/3) of the total Class “A” votes in the Association, and, during the Development Period, the written consent of the Declarant.

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

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

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