

**BY-LAWS**  
**OF**  
**WESBIT LAKES HOMEOWNERS' ASSOCIATION, INC.**

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	
Registered Office	1
ARTICLE II	
Membership In Association	
2.01 Eligibility	1
2.02 Voting Rights	1
2.03 Suspension of Membership and Assessment of Sanctions	2
2.04 Regular Meetings	3
2.05 Special Meetings	4
2.06 Delivery of Notice of Meetings	4
2.07 Waiver of Notice	4
2.08 Voting List	4
2.09 Quorum	4
2.10 Adjournment	4
2.11 Proxy	4
2.12 Consents	4
2.13 Rules of the Meeting	5
ARTICLE III	
Board of Trustees	
3.01 Composition	5
3.02 Term of office	5
3.03 Removal of Trustees	5
3.04 Vacancies	5
3.05 Compensation	6
3.06 Nomination	6
3.07 Elections	6
3.08 Regular Meetings	6
3.09 Special Meetings	6
3.10 Waiver of Notice	6
3.11 Quorum	6
3.12 Conduct of Meetings	6
3.13 Action Without a Meeting	7
3.14 Powers and Duties	7
3.15 Nondelegation	8
3.16 Control by Declarant and Appointment of the Board	8
ARTICLE IV	
Officers	
4.01 Designation	9

4.02 Powers	10
4.03 Term of Office	10
4.04 Vacancies	10
4.05 Compensation	10
4.06 Removal	10
<b>ARTICLE V</b>	
Assessments and Maintenance Charges	
5.01 Annual Budget	10
5.02 Effect of Nonpayment of Assessments	10
<b>ARTICLE VI</b>	
Contractual Powers	
6.01 Management Agreement	11
6.02 Legal and Accounting Services	11
6.03 Conflict of Interest	11
<b>ARTICLE VII</b>	
Committees	
7.01 Standing Committees	12
7.02 Special Committees	12
7.03 Committee Quorum	12
7.04 Vacancies	12
<b>ARTICLE VIII</b>	
Indemnification	
8.01 General	12
8.02 Success on Merits	13
8.03 Expenses in Advance of Disposition	13
8.04 Non-Exclusive Remedy	13
<b>ARTICLE IX</b>	
Use Restrictions and Rule Making	
	13
<b>ARTICLE X</b>	
Distribution of Assets	
	14
<b>ARTICLE XI</b>	
Amendments	
11.01 Notice	14
11.02 Adoption	14
11.03 Proviso	14

**ARTICLE XII**

**Miscellaneous**

12.01 Notices	
12.02 Severability	14
12.03 Captions	15
12.04 Gender and Grammar	15
12.05 Conflict	15
12.06 Notice of Sale, Lease or Mortgage	15

**BY-LAWS OF  
NESBIT LAKES HOMEOWNERS' ASSOCIATION, INC.  
A Nonprofit Corporation  
(the "Master Association")**

These By-Laws are the By-Laws of the Master Association, which is the corporation created by Articles of Incorporation filed with the Secretary of State of Georgia on August 30, 1990, (the "Articles of Incorporation"). All references herein to the "Declaration" shall refer to that certain Declaration of Covenants, Conditions and Restrictions for Nesbit Lakes, recorded at Deed Book 13736, Page 193, Fulton County, Georgia, Records, as amended by First Amendment to Declaration of Covenants, Conditions, and Restrictions for Nesbit Lakes, recorded at Deed Book 11749, page 234, aforesaid records, and all future amendments thereto, and all capitalized undefined terms used herein shall have the meanings assigned thereto by the declaration unless the context clearly otherwise requires. The "development" referred to herein shall mean Nesbit Lakes, Fulton County, Georgia and all Property and improvements located or constructed thereon, and any portion of the Additional Property submitted pursuant to the provisions of the Declaration.

**ARTICLE I  
Registered Office**

The Master Association shall have at all times within the State of Georgia a registered office and a registered agent. The Master Association may have other offices within the state of Georgia as may be determined from time to time by the Board of Trustees (the "Board").

**ARTICLE II  
Membership in Master Association**

**2.01 Eligibility.** Every Owner shall be deemed to have a membership in the Master Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling, and said ownership of a Lot or Dwelling shall be the only qualification for such membership.

**2.02 Voting Rights.** Subject to the following provisions of this section 2.02, the Master Association shall have two classes of voting membership: Class A and Class B.

(a) **Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot or Dwelling owned. Every person who is an Owner, with the exception of the Declarant (except as otherwise set forth herein), shall be a Class A member and shall be entitled to one vote for each Lot owned. When more than one person is a class A member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they among themselves determine and advise the Secretary or an Assistant Secretary of the Master Association prior to any meeting. In the absence of such advice, in the event of disagreement among such persons and an attempt by two or more of them to cast the vote of such Lot, such persons shall not be recognized and

the vote of such Lot shall not be counted. The membership of Class A members shall automatically terminate upon the member's sale of his Lot.

No termination of Class A membership shall affect such member's obligation to pay assessments, as provided for in the Declaration, due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

(b) Class B. The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or;

(ii) when the fifteen (15) year option to add Additional Property to the Development expires.

#### 2.03 Suspension of Membership and Assessment of Sanctions.

(a) Upon the violation of the Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, the Board shall have the power:

(i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot or Dwelling, the Owners or Occupants of which are guilty of such violation;

(ii) to suspend an owner's right to vote in the Master Association; or

(iii) to suspend an owner's right (and the right of such owner's family, guests, and tenants and of the co-owners of such owner and their respective families, guests, and tenants) to use any recreational facilities located in the Common Areas.

The Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such violation by such Owner, his family, guests, or tenants or by his co-owners or the family, guests, or tenants of his co-owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days per violation.

(b) Except with respect to the failure of an owner to pay assessments, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner or other occupant of the Development for violations of the Declaration, the By-Laws, or any rules and regulations of the Master Association, unless and until the following procedure is followed:

(i) Written demand to cease and desist from an alleged violation shall be served upon the owner responsible for such violation specifying:

- (1) The alleged violation;
- (2) The action required to abate the violation; and
- (3) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one; a statement that any further violation of the same provision of the Declaration, the By-Laws, or of the rules and regulations of the Master Association may result in the imposition of sanctions after notice and hearing.

(ii) Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such owner with written notice of a hearing to be held by the Board in Executive session. The notice shall contain:

- (1) The nature of the alleged violation;
- (2) The time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
- (3) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his behalf; and
- (4) The proposed sanction to be imposed.

(iii) The hearing shall be held in executive session of the Board pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard 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, trustee, or other individual who delivered such notice. In addition, the notice requirement shall be deemed satisfied if an alleged violator 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.

2.04 Regular Meetings. The members shall annually hold a regular meeting, one of the purposes of which shall be to elect Trustees. The first regular annual meeting of members may be held, subject to the terms hereof, on any date, at the option of the Board. Subsequent to the first annual meeting, there shall be a regular annual meeting of members held each year within thirty (30) days of the anniversary of the first annual meeting.

Written notice of the annual meeting of the Master Association shall be sent to all members not less than fifteen (15) days nor more than forty-five (45) days in advance of such meetings. Such notice shall also state the purpose of such meeting.

**2.05 Special Meetings.** Special meetings of the members may be called by the President, by a majority of the Board, by fifty percent (50%) or more of Class A members, or by the Class B member. Special meetings shall be called by delivering written notice to all members not less than fifteen (15) days nor more than forty-five (45) days prior to the date of such meeting, stating the date, time, place and purpose of the special meeting.

**2.06 Delivery of Notice of Meetings.** Notice of meetings shall be sent by the Master Association to the owner of the Dwelling at the property address unless otherwise specified by the Owner.

**2.07 Waiver of Notice.** Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after any such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed a waiver by such member of notice of the time, date and place thereof unless such member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed a waiver of notice of all business transacted thereat, unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

**2.08 Voting List.** A list of names and addresses of members entitled to vote shall be maintained at the registered office of the Master Association.

**2.09 QUORUM.** With respect to annual meetings, the presence of members or proxies entitled to cast over fifty percent (50%) of all the votes of the Master Association shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the presence in person or by proxy of members having one-third (1/3) of the total votes of the Master Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Notwithstanding such reduced quorum requirement at a subsequent meeting, minimum of fifty-one percent (51%) of all votes of the Master Association shall be required to disapprove the Master Association's budget.

**2.10 Adjournment.** Any meeting of the members may be adjourned from time to time for periods not exceeding forty-eight (48) hours, by vote of the members holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required.

**2.11 PROXY.** Any member entitled to vote may do so by written proxy duly executed by the member setting forth the meeting at which the proxy is



valid. To be valid, a proxy must be filed with the secretary prior to the opening of the meeting for which it is to be used. Proxies must be dated and may be revoked only by written notice delivered to the Master Association. Presence in person at the meeting for which the proxy is given shall automatically revoke the proxy.

2.12 Consents. Any action required or permitted to be taken at a meeting of members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by the holders of all interests entitled to vote with respect to the subject matter thereof.

2.13 Rules of the Meeting. The Board may prescribe reasonable rules for the conduct of all meetings of the Board and members.

### ARTICLE III Board of Trustees

3.01 Composition. The affairs of the Master Association shall be governed by the Board. The Board shall be composed of at least three (3) but no more than seven (7) persons. The Trustees shall be members; provided, however, that no member or his or her spouse or other member of a member's family may serve on the Board at the same time. The precise number of Trustees shall be fixed from time to time by resolution of the Board.

3.02 Term of Office. The Trustees shall be elected as provided in Section 3.7 of this Article. At the annual meeting next held after the adoption of these By-Laws, there shall be elected one (1) director who shall serve for a term of one (1) year and two (2) Trustees who shall be elected to serve for a term of two (2) years. At each annual meeting thereafter, a number of Trustees equal to that of those whose terms have expired shall be elected for a term of (2) years. At the expiration of any term of two (2) years, any director may be reelected. Each director, except in case of death, resignation, retirement, disqualification or removal, shall serve until the expiration of his term or thereafter until his successor shall have been elected and qualified.

3.03 Removal of Trustees. At any regular or special meeting of the Master Association duly called, any one or more of the Trustees may be removed with or without cause by a majority vote of the members of the Master Association and a successor may then and there be elected to fill the vacancy thus created. Any director whose removal has been proposed by the members shall be given at least ten (10) days written notice of the calling of the meeting and the purpose thereof and shall be given the opportunity to be heard at the meeting.

3.04 Vacancies. Vacancies in the Board caused by any reason, including the addition of a new director or Trustees, but excluding the removal of a director by vote of the members, shall be filled by a vote of the majority of the remaining Trustees, even though less than a quorum, at any meeting of the Board, for the remainder of the term of the director being replaced. Said director shall serve until a successor shall be elected at

the next annual meeting of the members to fill the unexpired portion of the term.

3.05 Compensation. Trustees shall not be compensated unless and to the extent the members of the Master Association authorize such compensation at any meeting duly called for that purpose.

3.06 Nomination. Nomination for election to the Board shall be made by a nominating committee which shall consist of three (3) members appointed by the President to serve from the close of one annual meeting to the close of the succeeding annual meeting. Such appointment shall be announced at the annual meeting. The nominating committee may nominate any number of qualified members, but no less than the number of Trustees to be elected. The nominations shall be made at least twenty-one (21) days prior to the annual meeting and a brief statement about the qualifications of each individual so nominated shall be included in the notice of the annual meeting. Nominations shall also be allowed from the floor of the meeting. Failure to comply with the provisions hereof shall in no way invalidate the election of Trustees so nominated.

3.07 Elections. Trustees to be elected by the members shall be elected, from those nominated, by a majority vote at the annual meeting, a quorum being present.

3.08 Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every calendar quarter. The Board shall meet within ten (10) days after each annual meeting of the members.

3.09 Special Meetings. Special meetings of the Board may be called by the President on three (3) days notice to each director given by mail, in person or by telephone, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board shall be called by the President, Vice-President, Secretary or Treasurer in like manner and on like notice upon the written request of at least a majority of the Trustees.

3.10 Waiver of Notice. Any director may, in writing, waive notice of any meeting of the Board, either before or after such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all Trustees are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

3.11 Quorum. A quorum of Trustees shall be deemed present throughout any Board meeting at which a majority of the Trustees are present at the beginning of such meeting.

3.12 Conduct of Meetings. The President shall preside over all meetings of the Board and the secretary shall keep a minute book recording therein all transactions and proceedings occurring at such meetings. Roberts

Rules of Order (latest edition) shall govern the conduct of the meetings of the Board when not in conflict with these By-Laws.

3.13 Action without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if all of the Trustees consent in writing to such action. Such written consent or consents shall be filed with the minutes of the Board.

3.14. Powers and Duties. The Board shall exercise for the Master Association all powers, duties and authority vested therein by these By-Laws, except for such powers, duties and authority reserved thereby to the members of the Master Association. The Board shall have the following powers, duties and authority to:

- (a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Areas;
- (b) charge reasonable fees in connection with the admission to and use of facilities or services; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;
- (c) suspend, pursuant to Section 2.03, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;
- (d) grant easements or rights of way over Common Areas to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;
- (e) enforce all applicable provisions of valid agreements of the Master Association relating to the Common Areas or any part thereof;
- (f) borrow money for the purpose of carrying out the activities of the Master Association, including the acquisition, construction, improvement, equipping and maintenance of common Areas, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest, any or all of the Master Association's property, including Common Areas and revenues from assessments, user fees and other sources; provided, however, that the Common Areas may not be mortgaged or pledged except upon the affirmative vote of seventy-five percent (75%) of the Owners.
- (g) dedicate or transfer all or any part of the Common Areas or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Master Association and such grantee, including a provision that such property or interest shall cease to be subject to the Declaration or all or any part of the Restrictions while held by an such municipality or other governmental body, agency or authority;
- (h) to appoint an Architectural Standard Committee as required in Article X of the Declaration and to approve such other committees selected

By the President as hereinafter provided and to delegate to such committees the Board's authority to carry out certain duties of the Board;

(i) to determine the fiscal year of the Master Association and to change said fiscal year, from time to time, as the Board deems advisable;

(j) subject to the provisions of Article V hereof, to estimate the amount of, prepare, adopt and distribute the budget for the Master Association not less frequently than annually, to determine the assessment and maintenance fees payable by the members, to provide the manner of assessing and collecting from the members any special assessments, and to levy fines, if any, provided for in the rules and regulations;

(k) to keep detailed and accurate records of all receipts and expenditures affecting the use and operation of the Common Areas;

(l) to act in a representative capacity in relation to matters involving the Common Areas, on behalf of the members, as their interests may appear;

(m) to enforce by legal means the provisions of these By-Laws;

(n) to renew, extend or compromise indebtedness owed to or by the Master Association;

(o) at its discretion, to authorize members to use the Common Areas for private parties and gatherings and, at its discretion, to impose reasonable charges for such private use;

(p) unless otherwise provided herein, to comply with the instructions of the members as expressed in a resolution duly adopted at any annual or special meeting of the Master Association; and,

(q) in addition to, and in furtherance of, the powers referred to in these By-Laws, the Master Association shall (i) have all the powers permitted to be exercised by a nonprofit corporation under the Georgia Nonprofit Corporation Code, as now in force or as hereafter amended, and (ii) have and exercise all powers necessary or convenient to effect any and all of the purposes for which the Master Association is organized, and to do every act not inconsistent with law which may be appropriate to these By-Laws.

**3.15 Nondelegation.** Nothing in this Article or elsewhere in these By-Laws shall be considered to grant to the Board, the Master Association or to the officers of the Master Association any powers or duties which, by law, or by these By-Laws, have been delegated to or reserved by the members.

**3.16 Control by Declarant and Appointment of the Board.** Until such time as Declarant no longer has the right to appoint members to the Board, the Board of the Master Association shall consist of three (3) members. Notwithstanding any other language or provision to the contrary in these By-Laws, in the Articles of Incorporation, or in the Declaration, the Declarant hereby retains the right to appoint two (2) members to the Board and NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, THE DECLARANT shall have the right to appoint or remove any member or members of the Board

of Trustees or any officer or officers of the Master Association until such time as the first of the following events shall occur: (i) the expiration of ten (10) years after the date of the recording of the Declaration; or (ii) the surrender by Declarant of the authority to appoint and remove trustees and officers of the Master Association by an express amendment to this Declaration executed and recorded by Declarant. Each owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in Declarant such authority to appoint and remove trustees and officers of the Master Association. Upon the expiration of the Declarant's right to appoint and remove Trustees of the Master Association pursuant to the provisions of this Section, such right shall automatically pass to the owners, including Declarant, if Declarant then owns one or more Lots. Upon the final expiration of all rights of Declarant to appoint and replace Trustees of the Master Association, a special meeting of the Master Association shall be called. At such special meeting, the owners shall elect a new Board which shall undertake the responsibilities of the Board, and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Master Association, and any agreements or contracts executed by or on behalf of the Master Association during such period which Declarant has in its possession. The Master Association may exercise any other right or privilege given to it expressly by the Declaration or by law and any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IV  
Officers

4.01 Designation. At each regular annual meeting of the Board after the members elect the Board, the Trustees present at such meeting shall elect the following officers of the Master Association by a majority vote:

- (a) a President, who shall be a director and who shall preside over the meetings of the Board and of the members, and who shall be the chief executive officer of the Master Association;
- (b) a Vice-President, who shall be a director and who shall act as an aide to the President and shall perform the duties of the President in the absence or disability of that officer to act;
- (c) a Secretary, who shall keep the minutes of all meetings of the Board and of the members, and who shall be designated as the officer to mail and receive all notices served by or upon the Board or the Master Association and to execute amendments to these By-Laws, and who shall, in general, perform all the duties incident to the office of secretary;
- (d) a Treasurer, who shall be responsible for financial records and books of account and the manner in which such books and records are kept and reported; provided, however, that the duties of the Treasurer may be

performed by an employee or independent contractor retained by the Board; and,

(e) such additional officers as the Board shall see fit to elect.

Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

4.02 Powers. The respective officers shall have the general powers usually vested in such officers; provided, that the Board may delegate any specific powers to any other officer or impose such limitations or restrictions upon the powers of any officer as the Board may see fit.

4.03 Term of office. Each officer shall hold office for the term of one (1) year or until his successor shall have been duly appointed or elected and qualified.

4.04 Vacancies. Vacancies in any office shall be filled by the Board by a majority vote at a special meeting of the Board. Any officer so elected by the Board to fill a vacancy shall hold office for a term equal to the unexpired term of the officer he succeeds.

4.05 Compensation. The officers shall receive no compensation for their services as officers, unless expressly provided for in a resolution duly adopted by the members.

4.06 Removal. Any officer elected by the Board may be removed from office, either with or without cause, by a majority vote of the Board.

#### ARTICLE V

##### Assessments and Maintenance Charges

5.01 Annual Budget. The annual budget of the Master Association shall be prepared pursuant to the requirements of Article 9.03 of the Declaration. Written notice of any meeting called for the purpose of taking any action authorized under Article 9.03 shall be sent to all Members pursuant to section 2.04 hereof. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the presence in person or by proxy of members having one-third (1/3) of the total votes of the Master Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

5.02 Effect of Nonpayment of Assessments. Any Assessment which is not paid when due shall be delinquent. Any assessment delinquent for a period of ten (10) days after the Due Date shall incur a late charge in an amount as may be determined by the Board from time to time and shall also commence to accrue simple interest at the rate of eighteen percent (18%) per annum or at such rate as the Board may from time to time establish, provided, however,

that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. In the event of default in the payment of any one or more installments of an assessment, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an owner shall fail to pay fully any portion of any assessment on or before the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorneys' fees, shall be a binding personal obligation of such owner, as well as a lien on such owner's lot enforceable in accordance with the provisions of the Declaration.

**ARTICLES VI**  
**CONTRACTUAL POWERS**

**6.01 Management Agreement.**

(a) The Master Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Master Association shall deem necessary or desirable for the proper operation of the Development, whether such personnel are furnished or employed directly by the Master Association or by any person or entity with whom or with which it contracts. All costs and expenses incident to the employment of a manager shall be a Common Expense.

(b) During the term of such management agreement, such manager may, if authorized by the Board, exercise all of the powers or duties specifically and exclusively reserved to the trustees, officers, or members of the Master Association by the Declaration or the By-Laws.

(c) Such manager may be an individual, corporation, or other legal entity, as the Board shall determine, and may be bonded in such a manner as the Board may require, with the cost of acquiring any such bond to be a Common Expense.

**6.02 Legal and Accounting Services.** The Master Association may pay for, and the Board may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Declaration, the By-Laws, or the rules and regulations of the Master Association.

**6.03 Conflict of Interest.** No contract or other transaction between the Master Association and any one or more of its Trustees or between the Master Association and any corporation, firm or association in which one or more of the Trustees are also Trustees, or are financially interested, is void or voidable because such Trustees are present at the meeting of the Board or a committee thereof which authorizes or approves the contract or transaction or because the vote or votes of such director are counted toward such authorization or approval, if the circumstances specified in either of the following subparagraphs exists:

(a) the fact of the common trusteeship or financial interest is disclosed or known to the Board or committee and noted in the minutes thereof, and the Board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose, without counting the vote of such Trustee or Trustees; or,

(b) the contract or transaction is just and reasonable as to the Master Association at the time it is authorized or approved.

Such common or interested Trustees may be counted in determining the presence of a quorum at a meeting of the Board or committee thereof which authorizes, approves or ratifies such a contract or transaction.

#### ARTICLE VII Committees

7.01 Standing Committees. At the first meeting of the Board after their election, or as soon thereafter as is practical, the President shall appoint the following committees to consist of as many members as he deems advisable:

- (a) Nominations Committee;
- (b) Finance Committee; and
- (c) Social Committee

The members of such committees shall hold office until the appointment of their successors.

7.02 Special Committees. The President may, at any time, appoint other committees on any subject on which there are no standing committees.

7.03 Committee Quorum. A majority of any committee of the Master Association shall constitute a quorum for the transaction of business, unless any committee shall by a majority vote of its entire membership decide otherwise.

7.04 Vacancies. The various committees shall have the authority to fill vacancies in their membership.

#### ARTICLE VIII Indemnification

8.01 General. The Master Association shall indemnify and hold harmless each of its Trustees and officers, each member of any committee appointed pursuant to the By-Laws of the Master Association, and the Board against contractual and other liabilities to others arising out of contracts made by, or other acts of, such Trustees, Board, officers, or committee members, on behalf of the members, or arising out of their status as Trustees, Board, officers or committee members, unless such contract or act shall have been made fraudulently or with gross negligence or criminal intent. It is intended that the foregoing indemnification shall include indemnification against all costs and expenses (including, but not limited



to, counsel fees, amounts of judgments paid and amounts paid in settlement) reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such director, officer, Board or committee member may be involved by virtue of such persons being or having been such director, officer, Board or committee member; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such person shall have been finally adjudged in such action, suit or proceeding to be liable for gross negligence or fraud in the performance of his duties as such director, officer, Board or committee member, or (b) any matter settled or compromised, unless in the opinion of independent counsel, selected by or in a manner determined by the Board, there is not reasonable ground for such persons being adjudged liable for gross negligence or fraud in the performance of his duties as such director, officer, Board or committee member.

**8.02 Success on Merits.** To the extent that the Board, a director, or officer of the Master Association or member of any committee appointed pursuant to these By-Laws has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 8.01 above, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

**8.03 Expenses in Advance of Disposition.** Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Master Association in advance of the final disposition of such action, suit or proceeding, as authorized in the specific case, upon receipt of an undertaking by or on behalf of the director, officer, Board or committee member to repay such amount unless it shall be ultimately determined that he is entitled to be indemnified by the Master Association as authorized in this Article.

**8.04 Non-Exclusive Remedy.** The indemnification provided by this Article VIII shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of members of the Master Association or disinterested Trustees or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. Such right to indemnification shall continue as to a person or entity who has ceased to be a director, officer or committee member, and shall inure to the benefit of the heirs, executors, administrators, personal representatives, successors and assigns of such person or entity.

#### ARTICLE IX

##### Use Restrictions and Rule Making

The Common Areas shall be used only for those uses and purposes set out in the Articles of Incorporation, the Declaration and in these By-Laws. The Board shall have the authority to make and enforce reasonable rules and regulations governing the conduct within and upon, and the use and enjoyment of the Common Areas, provided that copies of all such rules and regulations

be furnished to all members. The Board shall have the power to impose reasonable fines and to suspend a member's right to vote or to use the Common Areas for violation of any duty imposed under these By-Laws or any rules and regulations duly adopted hereunder.

ARTICLE X  
Distribution of Assets

In the event of the dissolution of the Master Association, the assets thereof shall be distributed to one or more public bodies, corporate or politic, or conveyed to one or more non-profit organizations having purposes similar to those of the Master Association.

ARTICLE XI  
Amendments

These By-Laws may be amended, modified or rescinded, from time to time, in the following manner:

11.01 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which a proposed amendment is to be considered.

11.02 Adoption. Any of these By-Laws may be altered, amended or repealed, or new By-Laws adopted, by the affirmative vote of at least two-thirds (2/3) of the total number of votes in the Master Association.

11.03 Proviso. No amendment may be adopted which would

(a) eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted to a mortgagee, if any, of the Master Association, without the prior written consent of said mortgagee; and,

(b) during any period in which Declarant owns a Lot or Dwelling primarily for the purpose of sale or has the unexpired option under this Declaration to add the Additional Property or any portion thereof to the Development, such amendment must be approved by Declarant.

ARTICLE XII  
Miscellaneous

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

(a) if to an owner, at the address which the owner has designated in writing and filed with the secretary; or,

(b) if to the Master Association, the Board or the Manager, if any, at the following address:

Brooks Communities, Inc.  
6251 Smith Pointe Drive  
Norcross, Georgia 30092

12.02 Severability. The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the remainder of these By-Laws.

12.03 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws or the intent of any provision hereof.

12.04 Gender and Grammar. The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural, whenever the context so requires.

12.05 Conflict. In the event of any conflict between the Articles of Incorporation of the Master Association, the Declaration and these By-Laws, the Declaration shall control.

12.06 Notice of Sale, Lease, or Mortgage. In the event an Owner sells, leases, mortgage, or otherwise disposes of any Lot or Dwelling, the Owner must promptly furnish to the Master Association in writing the name, and address of such purchaser, lessee, mortgagee, or transferee.