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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE BEACON AT OLD PEACHTREE TOWNHOMES



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STATE OF GEORGIA
COUNTY OF GWINNETT

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

THE BEACON AT OLD PEACHTREE TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE BEACON AT OLD PEACHTREE TOWNHOMES, ("Townhome Declaration," as further defined in Article 2 of this Townhome Declaration) , is made on the date set forth below by **Stanley Martin Homes, LLC**, a Delaware limited liability company ("Declarant," as further defined in Article 2 of this Townhome Declaration);

WITNESSETH:

WHEREAS, Declarant is the owner of all of the real property described in Exhibit "A" attached hereto and incorporated herein by reference;

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereto to the provisions of this Townhome Declaration and to provide for the subjecting of other real property to the provisions of this Townhome Declaration;

WHEREAS, Declarant has approved and hereby consents to this Townhome Declaration; and

NOW, THEREFORE, Declarant declares that the real property described in Exhibit "A" to this Townhome Declaration, including the improvements constructed or to be constructed thereon, is subjected to the provisions of this Townhome Declaration, and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, set forth in this Townhome Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Townhome Declaration, and shall be binding on all Persons having any right, title, or interest in all or any portion of the real property subject to this Townhome Declaration, their respective heirs, legal representatives, successors, successors in title, and assigns and shall be for the benefit of all owners of the property subject to this Townhome Declaration.

THIS TOWNHOME DECLARATION DOES NOT AND IS NOT INTENDED TO SUBMIT THE COMMUNITY TO THE TERMS OF THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT, O.C.G.A. §44-3-220, ET SEQ.

THIS TOWNHOME DECLARATION DOES NOT AND IS NOT INTENDED TO SUBMIT THE COMMUNITY TO THE TERMS OF THE GEORGIA CONDOMINIUM ACT, O.C.G.A. § 44-3-70, ET SEQ.



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ARTICLE 1. INTRODUCTION

The covenants set forth herein are intended to regulate and control the operation of The Beacon at Old Peachtree townhomes which are located within The Beacon at Old Peachtree community. By way of general introduction, owners of Townhome Lots within The Beacon at Old Peachtree community shall (i) be subject to this Townhome Declaration and mandatory members of the Townhome Association, and (ii) be subject to the Master Declaration defined herein and be mandatory members of the Master Association defined herein. This Townhome Declaration is subordinate to the Master Declaration.

It is the intent of this Townhome Declaration that the Master Association shall maintain all landscaping within the Community (including the landscaping on Townhome Lots and on property submitted to a sub-association) and all commonly used roads, sidewalks, parking areas and recreational facilities within the Community. As set forth in this Townhome Declaration, the Townhome Association will largely be responsible for maintaining the exterior of the townhomes, insuring the townhomes against property damage in accordance with the terms of this Townhome Declaration and collecting the assessments to be paid to the Master Association.

For ease of operation, assessments owing by Owners of Townhome Lots within the Community will be collected by the Townhome Association so that Owners in these townhome Residences only have to pay one assessment.

In the event of a conflict or inconsistency between this Article 1 and parts of this Townhome Declaration, the other parts of this Townhome Declaration shall control.

ARTICLE 2. DEFINITIONS

The following words, when used in this Townhome Declaration (unless the context shall prohibit), shall have the following meanings:

Section 2.1. Additional Property shall mean and refer to the real property described in Exhibit "B" attached hereto and incorporated herein, which Declarant may, but shall have no obligation to, submit to the Community as provided in this Townhome Declaration.

Section 2.2. Adjacent Properties shall have and refer to the meaning set forth in Section 15.21 of this Townhome Declaration.

Section 2.3. Annual Assessment shall have and refer to the meaning specified in Section 6.2 of this Townhome Declaration and shall constitute the assessments which, pursuant to the provisions of Article 6 of this Townhome Declaration, shall be levied by the Townhome Association against the Townhome Lots each year for the purpose of raising the funds necessary to pay the Common Expenses.

Section 2.4. Architectural Review Committee or ARC shall mean and refer to the committee established to exercise the architectural review powers set forth in Article 7 of this Townhome Declaration, which shall be the Board of Directors unless by resolution the Board appoints a separate Architectural Review Committee. Notwithstanding the foregoing, during the Declarant Control Period, Declarant shall have the right to appoint all members of the Architectural Review Committee.

Section 2.5. Area of Common Responsibility shall mean and refer to the Common Property, together with other areas, if any, which by the terms of this Townhome Declaration or by contract or agreement with any other Person or entity become the responsibility of the Townhome Association.

Section 2.6. Articles or Articles of Incorporation shall mean and refer to the Articles of Incorporation of The Beacon at Old Peachtree Townhome Association, Inc., which have been filed with the Secretary of State of the State of Georgia, as amended.



Section 2.7. Board of Directors or Board shall mean and refer to the appointed or elected body of the Townhome Association, as applicable, having its normal meaning under Georgia corporate law.

Section 2.8. Bylaws shall mean and refer to the Bylaws of The Beacon at Old Peachtree Townhome Association, Inc., attached to this Townhome Declaration as Exhibit "C" and made a part of this Townhome Declaration, as amended.

Section 2.9. Common Expenses shall mean and refer to the expenses anticipated or actually incurred by the Townhome Association in maintaining, repairing, replacing, and operating the Common Property and otherwise for the benefit of all Townhome Lots.

Section 2.10. Common Property shall mean and refer to any and all real and personal property, easements and other interests and land use rights, together with the facilities and improvements located in the Community, which the Townhome Association, now or in the future, owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including areas designated as Common Property by Declarant from time to time, areas designated as "common area", "open space", "open area", or "common property" on a Survey.

Section 2.11. Community shall mean and refer to that certain real property and any easements, conditions and other real property interests therein described in Exhibit "A," attached hereto, and any of the Additional Property that is later submitted to the provisions of this Townhome Declaration.

Section 2.12. Community Instruments shall mean and refer to this Townhome Declaration and all exhibits hereto, including the Bylaws, Articles of Incorporation, the Survey, and any Design Guidelines and Rules and Regulations of the Townhome Association, all as may be supplemented or amended from time to time.

Section 2.13. Community-Wide Standard shall mean and refer to the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Townhome Association. This determination, however, must be consistent with the Community-Wide Standard originally established by Declarant.

Section 2.14. Declarant shall mean and refer to Stanley Martin Homes, LLC, a Delaware limited liability company, and such of its successors-in-title who shall (i) acquire, from a predecessor "Declarant," and for the purpose of development or sale, all or any portion of the real property described in Exhibit "A" hereto or the Additional Property, and (ii) be designated as Declarant in the deed of transfer by which such successors-in-title shall so acquire its interest in such real property, or by written assignment of Declarant rights in an instrument recorded in the Official Records. In all events, there shall only be one "Declarant" at any one time; in no event shall more than one (1) Person have the right to exercise the power and authority of the "Declarant" at any one time. The expiration of the Declarant Control Period shall not terminate or alter the status of the above-referenced entity and its successor-in-title and/or assign, as Declarant hereunder, or divest it of other rights specifically reserved to Declarant herein.

Section 2.15. Declarant Control Period shall mean and refer to the period of time during which Declarant is entitled to appoint and remove the members of the Board of Directors as provided in Section 3.2 of the Bylaws.

Section 2.16. Design Guidelines shall mean and refer to the architectural and design guidelines and application and review procedures for the Community that are adopted by the Architectural Review Committee, as may be amended from time to time, as more specifically addressed in Article 7 herein.

Section 2.17. Domestic Partner shall mean and refer to any adult who cohabitates with an Owner and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Townhome Association's Secretary. A person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.



Section 2.18. Effective Date shall mean and refer to the date of recording in the Official Records.

Section 2.19. Electronic Document shall mean and refer to information created, transmitted, received or stored by electronic means and retrievable in humanly perceivable form including, without limitation, e-mail, web pages, electronic documents, facsimile transmissions.

Section 2.20. Electronic Signature shall mean and refer to a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

Section 2.21. Eligible Mortgage Holder shall mean and refer to those holders of first Mortgages secured by Townhome Lots in the Community who have requested notice of certain items as set forth in this Townhome Declaration.

Section 2.22. Eligible Votes shall mean and refer to those vote(s) as described in Section 1.6 of the Bylaws.

Section 2.23. Exclusive Common Area shall mean and refer to a portion of the Common Property as shown on the Surveys for the Community primarily benefitting one (1) or more, but less than all, Townhome Lot, which shall be for the exclusive use and enjoyment of the Owner or Owners to which it is assigned subject to the other provisions of this Townhome Declaration.

Section 2.24. Exempt Owners shall have the meaning set forth in Section 8.4(h) of the Master Declaration.

Section 2.25. Gas Company shall mean Atlanta Gas Light, and its successors or such other company providing natural gas to the Townhome Lots.

Section 2.26. Georgia Non-profit Corporation Code shall mean and refer to the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101 et seq., as amended.

Section 2.27. Majority shall mean and refer to those Eligible Votes by Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

Section 2.28. Master Association shall mean and refer to The Beacon at Old Peachtree Community Association, Inc., a Georgia nonprofit corporation.

Section 2.29. Master Declaration shall mean and refer to that certain Declaration of Covenants, Conditions, Restrictions and Easements for The Beacon at Old Peachtree recorded on October 15, 2021 in Deed Book 59300, Page 681, et seq., of the Official Records.

Section 2.30. Mortgage shall mean and refer to any mortgage, deed to secure debt, deed of trust, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.

Section 2.31. Mortgagee shall mean and refer to the holder of a Mortgage.

Section 2.32. Occupant shall mean and refer to any natural person (be it an Owner or a tenant or tenant of an Owner) who occupies a Residence for any period of time. Where the context dictates, the term "Occupant" shall also be deemed to include the family members, occasional social guests, tenants, licensees, and invitees of the Occupant.

Section 2.33. Official Records shall mean and refer to the official land records of the Clerk of Superior Court office of Gwinnett County, Georgia.



Section 2.34. Owner or Townhome Owner shall mean and refer to the record owner, whether one (1) or more Persons, of the fee simple title to any Townhome Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

Section 2.35. Permittee shall mean and refer to any Occupant and any officer, agent, employee, licensee, customer, vendor, supplier, guest, invitee or contractor of a Townhome Owner, Occupant or Declarant.

Section 2.36. Person shall mean and refer to any natural person, as well as a corporation, joint venture, partnership (general or limited), limited liability company, association, trust, or other legal entity.

Section 2.37. Power Company shall mean City of Lawrenceville, and its successors or such other company providing electricity to the Townhome Lots.

Section 2.38. Residence shall mean and refer to an improvement situated upon a Townhome Lot intended for independent use and occupancy as a single-family residential attached townhome dwelling. A Townhome Lot and the improvements located thereon shall not become a "Residence" until the Residence has been substantially constructed and a certificate of occupancy has been issued by the appropriate governmental authorities for the residential occupancy of the same.

Section 2.39. Rules and Regulations shall mean and refer to the rules and regulations for the Community adopted by the Board of Directors, as may be amended from time to time.

Section 2.40. Secure Electronic Signature shall mean and refer to an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 2.41. Special Assessment shall have the meaning specified in Section 6.4 of this Townhome Declaration and shall constitute an assessment uniformly levied by the Board against all Townhome Lots to fund an expense of the Townhome Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Townhome Association.

Section 2.42. Specific Assessment shall have the meaning specified in Section 6.5.

Section 2.43. Supplementary Declaration shall mean and refer to an amendment or supplement to this Townhome Declaration, which subjects Additional Property to this Townhome Declaration or imposes additional restrictions and obligations on the Community, or a portion thereof.

Section 2.44. Survey shall mean and refer to the recorded plat of survey for the Community (i.e., the townhomes) recorded in the Official Records, as amended.

Section 2.45. Total Association Vote shall mean and refer to all of the votes attributable to members of the Townhome Association (including votes of Declarant), and the consent of Declarant during the Declarant Control Period.

Section 2.46. Townhome Association shall mean The Beacon at Old Peachtree Townhome Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

Section 2.47. Townhome Association Maintenance shall have and refer to the meaning set forth in Section 9.1 of this Townhome Declaration.

Section 2.48. Townhome Declaration shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for The Beacon at Old Peachtree Townhomes, including the exhibits attached to this Townhome Declaration, as amended and in effect from time to time.



Section 2.49. Townhome Lot shall mean and refer to any plot of land in the Community, whether or not improvements are constructed thereon, on which a Residence may be constructed which constitutes or will constitute, after the construction of improvements, a single-family attached townhome residence site as shown on the Survey and intended for separate ownership.

Section 2.50. Utility Lines shall have the meaning specified in Section 13.11.

ARTICLE 3. PROPERTY SUBJECT TO THIS TOWNHOME DECLARATION

Section 3.1. Submitted Property. The real property which is, by the recording of this Townhome Declaration, subject to the covenants and restrictions set forth in this Townhome Declaration is the real property described in Exhibit "A" attached hereto and incorporated by this reference. For clarification purposes, this Townhome Declaration shall only apply to the Property submitted to this Townhome Declaration (i.e., the townhomes and any Exclusive Common Areas as specifically designated on the Surveys). This Townhome Declaration shall not apply to any single-family detached homes or non-Townhome Lots within the Community. The real property submitted to this Townhome Declaration is also subject to the Master Declaration. The provisions in the Townhome Declaration may be more strict than those set forth in the Master Declaration. However, nothing in the Townhome Declaration shall modify or abridge any of the rights of the Master Association or the covenants contained therein.

Section 3.2. Other Property. Only the real property described in Exhibit "A" is made subject to this Townhome Declaration. However, by one (1) or more Supplementary Declarations, other real property may be subjected to this Townhome Declaration, as provided in Article 14 hereof.

Section 3.3. Conveyance of Common Property by Declarant to the Townhome Association. Declarant may transfer or convey to the Townhome Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Townhome Declaration. Such conveyance shall be accepted by the Townhome Association, and the property shall be Common Property to be maintained by the Townhome Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section 3.3.

Section 3.4. Removal of Improvements on Common Property by Declarant. During the Declarant Control Period, Declarant shall have the right, privilege, and option from time to time to remove, add, reconfigure, relocate, modify, and alter any and all improvements located on the Common Property.

Section 3.5. Partition of the Common Property. The Common Property shall remain undivided, and no Owner or any other Person shall bring any action for partition or division of the whole or any part of the Common Property without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

ARTICLE 4. TOWNHOME ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. Every Person who is the record owner of a fee interest in any Townhome Lot, is subject to this Townhome Declaration shall automatically be a member in the Townhome Association and a member of the Master Association during their period of ownership. Membership shall not include Persons who hold a security interest only and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Townhome Lot. In the event of multiple Owners of a Townhome Lot, votes and rights of use and enjoyment shall be as provided in this Townhome Declaration and in the Bylaws. Membership shall go along with and may not be separated from ownership of any Townhome Lot.

Section 4.2. Voting. Members shall be entitled to one (1) equal vote for each Townhome Lot owned. When more than one (1) Person holds an ownership interest in any Townhome Lot, the vote for such Townhome Lot shall be cast as those Owners decide and instruct the Secretary of the Townhome Association



prior to any meeting. If the Secretary is not instructed, the Townhome Lot's vote shall be suspended in the event more than one (1) Owner of a Townhome Lot attempts to cast it.

ARTICLE 5. TOWNHOME ASSOCIATION RIGHTS AND RESTRICTIONS; VARIANCES

Section 5.1. Townhome Association Rights and Restrictions.

(a) General. The Townhome Association, acting through its Board of Directors, shall have the right and authority, in addition to, and not in limitation of, all other rights it may have, to:

(i) make and to enforce reasonable Rules and Regulations governing the use and operation of the Community, including the Townhome Lots and the Common Property;

(ii) enforce use restrictions, other Townhome Declaration and Bylaws provisions, and Rules and Regulations by imposing reasonable monetary fines, exercising self-help powers, and suspending use and voting privileges and services paid for as a Common Expense, as provided herein. These powers, however, shall not limit any other legal means of enforcing the use restrictions or Townhome Association Rules and Regulations by either the Townhome Association or, in an appropriate case, by an aggrieved Owner;

(iii) grant and accept permits, leases, licenses, utility easements, and other easements necessary for the proper maintenance or operation of the Community under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Community;

(iv) control, manage, operate and, in the Board's discretion, maintain, replace, alter or improve all portions of the Community for which the Townhome Association is assigned maintenance responsibility under this Townhome Declaration, and to pay all taxes or other expenses with respect to same;

(v) represent and act on behalf of the Owners in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of this Townhome Declaration;

(vi) represent the Owners in dealing with governmental entities on matters related to the Common Property;

(vii) permanently or temporarily close any portion of the Common Property (excluding: (A) any portion of the Common Property the use of which is reasonably necessary for access to or from a Townhome Lot, or (B) any portion of the Common Property over, on, upon or which Declarant has an easement) with thirty (30) days' prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) days' after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open the closed Common Property by a Majority of the Total Association Vote, cast at a duly called special or annual meeting;

(viii) enter into Townhome Lots for maintenance, emergency, security, or safety purposes, or otherwise to discharge its powers or responsibilities hereunder, which right may be exercised by the Townhome Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Townhome Lot. For purposes of this Paragraph, an emergency justifying immediate entry into a Townhome Lot shall include, but not be limited to the following situations: a water or other utility leak, fire, strong foul odor, obvious insect



infestation or sounds indicating that a person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this Subsection shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Townhome Lot shall exist; and

(ix) acquire, lease, hold, and dispose of tangible and intangible personal property and real property.

Notwithstanding anything to the contrary stated in the Community Instruments, during the Declarant Control Period, the Townhome Association shall not exercise any authority that would impair the rights of Declarant under this Townhome Declaration or interfere with Declarant's development of, construction on, or marketing of any portion of the Community, or diminish the level of services being provided by the Townhome Association, or pass any increase in any transfer, initiation or administrative fees associated with the transfer of title to a Townhome Lot without the prior written permission of the Declarant.

(b) Litigation. Except as otherwise provided for herein, no judicial or administrative proceeding shall be commenced or prosecuted by the Townhome Association unless approved by a vote of the Owners as hereinafter provided. The Board shall prepare a budget of the total estimated cost of the litigation or proceeding which shall be submitted to the Owners for a vote along with the estimate of the total cost of the litigation or proceeding made by the attorney being retained by the Townhome Association for the litigation or proceeding. No capital contribution or reserve account funds shall be used for funding the costs of litigation or proceedings. The proposed litigation or proceeding, the budget, and the Special Assessment for litigation, must all be approved by a vote of the Owners representing at least two-thirds (2/3) of the Total Association Vote. This Subsection shall not apply, however, to (i) actions involving or relating to the collection of unpaid assessments (including court costs, late fees, interest and attorney's fees) and without limitation, the foreclosure of liens; (ii) actions brought by the Townhome Association to enforce the covenants in this Townhome Declaration and Bylaws, which is an exhibit hereto (including, without limitation, the use restrictions, Rules and Regulations, and architectural standards); (iii) proceedings involving challenges to ad valorem taxation; (iv) counterclaims brought by the Townhome Association in proceedings instituted against it; (v) any land-use or zoning proceedings; (vi) actions brought by the Townhome Association for damages in magistrate court; or (vii) actions for breach of contract brought by the Townhome Association against vendors providing goods and services to the Townhome Association where the Townhome Association has a contract with such vendor. This Subsection shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 5.2. Variances. Notwithstanding anything to the contrary contained in this Townhome Declaration, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Townhome Declaration, the Bylaws, the Rules and Regulations, or any use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community and is not in conflict with the Master Declaration.

ARTICLE 6. ASSESSMENTS

Section 6.1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of administering and operating the Area of Common Responsibility promoting the common benefit and enjoyment of the Owners and Occupants of Townhome Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors and allowing the Townhome Association to fulfill its duties and responsibilities as set forth in Community Instruments.

Section 6.2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Townhome Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Townhome Association: (i) Annual Assessments or charges; (ii) Special Assessments, such assessments to be established and collected as hereinafter provided; and (iii) Specific



Assessments against any particular Townhome Lot which are established pursuant to the terms of this Townhome Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Townhome Declaration. All such assessments, together with late charges, interest not to exceed twelve percent (12%) per annum on the principal amount due, and costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and a continuing lien upon the Townhome Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, shall also be the personal obligation of every Person who is an Owner of the Townhome Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Townhome Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of a grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or by deed in lieu of foreclosure.

The Townhome Association shall, within five (5) days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer or agent of the Townhome Association setting forth whether the assessments on a specified Townhome Lot have been paid. A properly executed certificate of the Townhome Association certifying the status of assessments on a Townhome Lot shall be binding upon the Townhome Association as of the date of issuance.

Annual assessments shall be levied at a uniform rate per Townhome Lot and shall be paid in such manner and on such dates as are fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the Annual Assessment for delinquents. Unless otherwise provided by the Board, assessments shall be paid in annual installments.

Section 6.3. Computation of Annual Assessment. It shall be the duty of the Board to prepare a budget covering, in its sole discretion: (i) the estimated costs of operating the Community during the coming year, or (ii) the estimated costs of operating the Community based on 100% completion of the Community, which may include, if necessary, a capital contribution or reserve in accordance with a capital budget separately prepared. Initiation fees and monies in reserves may be used to pay for any budgetary shortfalls during the time period prior to the Community being 100% complete.

The budget shall include, among other things, the assessment by the Master Association against each Townhome Lot which are being collected by the Townhome Association and paid to the Master Association.

The Annual Assessment to be levied against each Townhome Lot for the coming year shall be set at a level which is reasonably expected to produce total revenue to the Townhome Association equal to the total budgeted Common Expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Townhome Association. In addition, the Board shall take into account the number of Townhome Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Townhome Lots reasonably anticipated to become subject to assessment during the fiscal year. The Board shall cause the proposed budget and assessments to be levied against each Townhome Lot for the following year to be delivered to the members at least thirty (30) days prior to the proposed effective date thereof. The budget and assessment shall become effective unless disapproved at a meeting by a Majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the or the Board of Directors fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 6.4. Special Assessments. In addition to the other assessments authorized herein, the Board may, at any time, levy a Special Assessment against all Owners to cover unbudgeted expenses or expenses in excess of those budgeted, notice of which shall be sent to all Owners. Until one hundred percent (100%) of the Community has been developed and conveyed to Owners, any such Special Assessments must be approved by Declarant.



Section 6.5. Specific Assessments. The Board of Directors shall have the power to specifically assess specific Townhome Lots pursuant to this Section 6.5, in its discretion, as it shall deem appropriate. Failure of the Board to exercise its authority under this Section 6.5 shall not be grounds for any action against the Townhome Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section 6.5 in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section 6.5. Fines levied pursuant to Article 5 of the Bylaws, costs and expenses of self-help pursuant, and the costs of maintenance performed by the Townhome Association which the Owner is responsible for under Article 9 shall be Specific Assessments. The Board may also specifically assess Townhome Lots for the following Townhome Association expenses, except for expenses incurred for routine maintenance and repair of items that are the maintenance responsibility of the Townhome Association:

(i) Any Common Expenses benefitting less than all of the Townhome Lots may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefitted Townhome Lots according to the respective benefit received provided, however, that the cost of maintaining the exterior of the townhome buildings shall be a Common Expense that is not equitably assessed;

(ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Townhome Lots or by the licensees or invitees of any such Townhome Lot(s) may be specifically assessed by the Board of Directors against such Townhome Lot(s) based upon the conduct committed which occasioned any such Common Expenses;

(iii) Any Common Expenses significantly disproportionately benefitting all the Townhome Lots may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefitted Townhome Lots according to the respective benefit received, provided, however, that the cost of maintaining the exterior of the Residence on the Townhome Lot shall be a Common Expense that is not equitably assessed;

(iv) Any maintenance, repair, and replacement expenses of Exclusive Common Area shall be assessed against only the benefitted Townhome Lot(s); and

(v) Other expenses specifically contemplated as Specific Assessments in this Townhome Declaration.

As provided for in the Master Declaration, the maintenance of landscaping, if any, on a Townhome Lot upon which an attached townhome has been constructed shall be performed by the Master Association, and included in the assessments for the Townhome Association being paid to the Master Association.

Section 6.6. Lien for Assessments. All assessments levied against any Townhome Lot, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall be secured by a lien on the Townhome Lot in favor of the Townhome Association from the time the sums become due and payable. The Townhome Association shall have the right, but not the obligation to evidence the existence of the lien by filing a notice of lien in the Official Records. The lien shall be superior to all other liens and encumbrances on the Townhome Lot, except for (i) liens for ad valorem taxes; or (ii) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the Official Records and all amounts advanced under the terms of and secured by the Mortgage.

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

Section 6.7. Effect of Nonpayment of Assessments: Remedies of the Townhome Association. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default, as follows:



(i) If any monthly installment of Annual Assessments or any part thereof is not paid in full by the tenth (10th) day of the month or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of Ten and 00/100 Dollars (\$10.00) or ten percent (10%) of the amount not paid may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum or such higher rate as may be permitted by the applicable law shall accrue from the due date thereof.

(ii) If part payment of assessments and related charges is made, the amount received may be applied first to costs and reasonable attorneys' fees actually incurred, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.

(iii) If assessments, fines or other charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the Annual Assessment and of any Special Assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall thereby lose the privilege of paying the Annual Assessment in monthly installments for that fiscal year, if a monthly installment payment plan is offered by the Townhome Association.

(iv) If assessments and other charges or any part thereof remain unpaid more than thirty (30) days after they become delinquent, the Townhome Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of this Townhome Declaration, the Bylaws, and Georgia law, including reasonable attorneys' fees actually incurred, and suspend the Owner and/or Occupant's right to vote and/or use the Common Property, including the right to bring or park vehicles on the Common Property or have guests bring or park vehicles on the Common Property. However, the Board may not limit pedestrian, medical, fire, police or other health, safety, service or emergency vehicle ingress or egress to or from the Townhome Lot or deny necessary parking of clearly and properly identified handicapped vehicles used by handicapped Owners or Occupants protected by the Fair Housing Amendments Act of 1988. Prior to suspending parking privileges, the Townhome Association shall provide the delinquent Owner or Occupant written notice of its intention to do so, sent by certified mail not less than ten (10) days prior to the date of such suspension.

Section 6.8. Commencement of Assessments. Assessments shall commence as to Townhome Lots when the Board of Directors first determines a budget and levies assessments. Except as otherwise provided for herein, the assessments provided for herein shall commence as to each individual Townhome Lot on the date that such Townhome Lot has been improved with a dwelling for which a Certificate of Occupancy has been issued and has been conveyed to an owner who intends to occupy or lease the dwelling, or, if the dwelling is occupied as a Residence before such conveyance, the date of such occupancy. Any Townhome Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Townhome Declaration whether owned by Declarant or any other person, so long as such Townhome Lot is approved for use as a model home and is not being occupied for residential purposes. Notwithstanding anything to the contrary herein, Declarant shall not be liable or responsible for the payment of any assessments (including Annual Assessments, Special Assessments, and Specific Assessments) on the Townhome Lots it owns.

Section 6.9. Initiation Fee. The purchaser of each Townhome Lot at the closing of the sale or resale of a Townhome Lot improved with a Residence shall pay to the Townhome Association an initiation fee in the amount determined by the Board provided that the same does not exceed one-sixth (1/6) of the Townhome Association's annual budget. The initiation fee shall not be deemed an advance payment of regular or Special Assessments. The Board shall have discretion to increase the initiation fee by resolution of the Board; provided, however, the initiation fee shall not be changed by the Board without Declarant's consent during the Declarant Control Period and shall not exceed the maximum amount set forth above. Notwithstanding anything to the contrary herein, the initiation fee shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of



the grantor; (iii) any grantee to whom a Townhome Lot is conveyed by a will or through the law of intestacy; (iv) any grantee of a Townhome Lot who obtains title pursuant to judicial or nonjudicial foreclosure (or deed in lieu of foreclosure) of any first Mortgage of record or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Townhome Lot); or (v) the Declarant. The initiation fee shall be an assessment, which is the personal obligation of the Owner, and shall constitute a lien, which may be collected as provided in this Article 6. Other than the initiation fee, the Townhome Association shall not charge other fees relating to the transfer of a Townhome Lot or an Owner becoming a new member of the Townhome Association other than any fee to receive a statement of account set forth below.

Section 6.10. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Townhome Lot, or a lender considering a loan to be secured by a Townhome Lot, shall be entitled, upon written request, to a statement from the Townhome Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Townhome Lot. The Townhome Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Townhome Association may require the payment of a reasonable fee as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Townhome Association as to the amount of assessments due on the Townhome Lot as of the date specified therein.

Section 6.11. Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget which shall take into account the number and nature of replaceable assets, including the roads within the Community which are not otherwise maintained on an ongoing basis by a governmental entity, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Townhome Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in Section 6.3 hereof. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

Notwithstanding any other provisions of this Townhome Declaration, during the Declarant Control Period, neither Declarant nor the directors and officers of the Townhome Association shall be required to prepare a capital reserve budget, set any other capital reserve contribution, or otherwise collect amounts for capital reserves.

Section 6.12. Budget Deficits During Declarant Control. During the Declarant Control Period, Declarant may, but shall have no obligation to, (i) advance funds to the Townhome Association in the form of a loan or gift sufficient to satisfy the deficit, if any, between the actual operating expenses of the Townhome Association (but specifically not including an allocation for capital reserves) and the sum of the Annual Assessments, Special Assessments, and Specific Assessments collected by the Townhome Association in any fiscal year, and such advances, if in the form of a loan, shall be evidenced by a promissory note or notes from the Townhome Association in favor of Declarant and shall not be deemed a conflict of interest by the directors and officers appointed by Declarant to execute the promissory note or notes, provided, however, the failure to execute a note shall in no way diminish or eliminate the obligation of the Townhome Association to repay to the Declarant all sums which the Declarant has loaned the Townhome Association, or (ii) cause the Townhome Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Townhome Association shall be given in connection with such loan.

Section 6.13. Relationship of Master Association and Townhome Association. Except for Declarant, all Townhome Owners are required to pay their share of the assessments levied by the Master Association (in which they are also a member) (the "Master Assessments"). These expenses shall be collected by the Townhome Association and forwarded to the Master Association. As such, the assessments each Townhome Owner pays to the Townhome Association shall include the assessment payment owed to the



Master Association. The Townhome Association shall be legally responsible for the collection of the Master Assessments and the payment of the same to the Master Association. The Townhome Association is only responsible for collecting assessments (including, but not limited to, Annual Assessments, Special Assessments, and Specific Assessments) which apply to townhomes within the Community (for example, assessments relating to exterior townhome maintenance, and townhome insurance). In the event the Townhome Association does not pay the Master Association assessments which the Townhome Association is responsible for collecting, the Master Association shall have the same collection rights against the Townhome Association as it has against the Owners of Townhome Lots.

Section 6.14. Relationship of Master Declaration to the Townhome Declaration. the Master Declaration shall be superior to the Townhome Declaration and in the event of a conflict between the two, the Master Declaration shall control. This shall not however be construed to mean that the Townhome Declaration cannot be more restrictive than the Master Declaration, provided, however, that the Townhome Declaration shall not alter or abridge any of the rights of the Master Association or the covenants contained therein.

ARTICLE 7. ARCHITECTURAL STANDARDS

Section 7.1. General. Townhome Owners and the Townhome Association shall comply with the architectural standards more particularly described in Article 7 of the Master Declaration. To the extent that the Townhome Association desires to make a change, addition, alteration or modification to the exterior of the townhomes for which it is responsible for maintaining, it shall first seek written approval of the Master Architectural Review Committee on behalf of the Townhome Owners as if it were the owners of the townhomes and in accordance with Article 7 of the Master Declaration. All architectural review of changes, alterations, additions and modifications to the exterior portions of this townhome Community shall be performed by the Master Association.

ARTICLE 8. USE RESTRICTIONS AND RULES

Section 8.1. General. All Owners shall comply with the Use Restrictions and Rules more particularly described in Article 7 of the Master Declaration. In addition, this Article 8, beginning at Section 8.2, sets out certain use restrictions that must be complied with by all Townhome Owners and Occupants of Townhome Lots. These use restrictions may only be amended in the manner provided in Section 15.3 hereof, regarding amendment of this Townhome Declaration. In addition, the Board may, from time to time, without consent of the Owners, adopt, modify, or delete Rules and Regulations applicable to the Community. These rules shall be distributed to all Owners prior to the date that they are to become effective and after distribution shall be binding upon all Owners and Occupants of Townhome Lots until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the Total Association Vote and the consent of Declarant (during the Declarant Control Period). Notwithstanding the above, during the Declarant Control Period, no Rules and Regulations that materially, adversely affect Declarant, may be adopted, modified, or deleted without Declarant's written consent.

Section 8.2. Occupants Bound. All provisions of the Community Instruments adopted pursuant to the Townhome Declaration that govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants of Townhome Lots and guests and invitees of Occupants or Owners. The Owner shall be responsible for insuring that the Occupant, and the guests, invitees and licensees of the Owner or the Occupant strictly comply with all provisions of the Community Instruments described herein and the Community Instruments described in the Master Declaration. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 8.3. Boundary Line Changes. The boundaries of each Townhome Lot are as shown on the Survey recorded in the Official Records. Certain portions of the Common Property may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and Occupants within a particular section of the Community. Specifically, for example, portions of the front and rear yards of Townhome Lot may be designated as Exclusive Common Area on Surveys. Upon approval of the Board, portions of the Common Property may be assigned as Exclusive Common Area , and Exclusive Common Area



may be reassigned as Common Property. During the Declarant Control Period, Declarant's written consent also is required.

Section 8.4. Leasing. Leasing of Residences in the Community shall be expressly permitted. Notwithstanding any provision to the contrary contained in this Declaration, no additional restrictions on leasing, either by rule, regulation or amendment to this Townhome Declaration shall be adopted without the (a) prior written consent of Townhome Owners of at least eighty percent (80%) of the Townhome Lots being leased at the time voting commences on the amendment or rule or regulation in question, and (b) with respect to amendments to the Declaration only, approval of the requisite votes and written consents to amend the Townhome Declaration as set forth in Section 15.3 of the Townhome Declaration. The Townhome Association and its Board shall not take any action, directly or indirectly that would burden or impair the right of Townhome Owners to lease their Residences. No leasing administration fee, other similar fee, or fee that pertains to or arises out of the leasing of Residences (other than fines against the Owner of a Residence for violations of the rules, regulations and Declaration) shall be adopted, imposed or charged by the Townhome Association. There shall additionally be no restriction on the number of Residences a Townhome Owner may own in the Community for rental purposes.

(a) **Definitions.** The terms "leasing", "lease" or "leased" shall mean the regular, exclusive occupancy of a Townhome Lot and/or Residence by any Person(s) other than the Townhome Owner, for which the Townhome Owner receives any consideration or benefit including, but not limited to, a fee, service, or gratuity, including, but not limited to: (i) any Person who is occupying a Townhome Lot pursuant to a lease-purchase agreement prior to the closing of the acquisition of the Townhome Lot; and (ii) any family member of any Townhome Owner (except for children and parents of at least one of the Townhome Owners) who is exclusively occupying a Townhome Lot which is also not the residence of and occupied by the Townhome Owner thereof. Notwithstanding the foregoing, "Leasing" shall not include occupancy by a roommate or family member of a Townhome Owner who along with the Townhome Owner occupies a Townhome Lot as his or her residence. Nothing herein shall limit the right of the Townhome Owner to enforce the terms of the lease against the tenant nor obligate the Townhome Association to take such enforcement action.

(b) **Notice.** Within ten (10) days of entering into the lease of a Residence, the Townhome Owner shall provide the Board of the Townhome Association with a copy of the lease agreement and the names of the tenants and occupants of the Residence.

(c) **General.**

(i) All leases shall be in writing.

(ii) A Residence may be leased (or subleased or assigned) only in its entirety; no fraction or portion of a Residence may be leased (or subleased or assigned) without prior written approval of the Board of the Townhome Association.

(iii) All leases must be for an initial term of not less than six (6) months, except with written approval of the Board of the Townhome Association, which shall not be unreasonably withheld in cases of undue hardship (but in no event less than thirty (30) days).

(iv) A leased Residence may be subleased or assigned; provided, however, such sublease or assignment shall be for the remainder of the term of the initial lease (or any remaining extension thereof) and in no event shall be for less than thirty (30) days.

(v) Within ten (10) days after the execution a sublease or assignment agreement for a Residence, the Townhome Owner shall provide the Board of the Townhome Association with a copy of the sublease or assignment agreement and the name of the sub-tenant or assignee and all other people occupying the Residence. The Townhome Owner must provide the sub-tenant or assignee copies of the Community Instruments.



(d) Compliance with Community Instruments. The tenant shall comply with all provisions of the Community Instruments and shall control the conduct of all other Occupants and Permittees of the leased Residence in order to ensure such compliance. The Townhome Owner shall cause all Occupants of Townhome Owner's Residence to comply with the Community Instruments, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Residence are fully liable and may be sanctioned for any such violation. If the tenant, or a Person living with the tenant, violates the Community Instruments for which a fine is imposed, notice of the violation shall be given to the Townhome Owner and the tenant, and such fine may be assessed against the tenant in accordance with Article 5 of the Bylaws. If the fine is not paid by the tenant within the time period set by the Board of the Townhome Association, the Townhome Owner shall pay the fine upon notice from the Townhome Association of the tenant's failure to pay the fine. Unpaid fines shall constitute a lien against the Residence.

Any violation of the Community Instruments by the tenant, any Occupant, or any Permittee, is deemed to be a default under the terms of the lease and authorizes the Townhome Owner to terminate the lease without liability and to evict the tenant in accordance with Georgia law. The Townhome Owner hereby delegates and assigns to the Townhome Association, acting through the Board of the Townhome Association, the power and authority of enforcement on a non-exclusive basis against the tenant for breaches resulting from the violation of the Community Instruments, including the power and authority to evict the tenant as attorney-in-fact on behalf and for the benefit of the Townhome Owner, in accordance with the terms of this Townhome Declaration. If the Townhome Association proceeds to evict the tenant, any costs (including reasonable attorneys' fees, court costs, and expenses that are actually incurred) associated with the eviction shall be an assessment and lien against the Townhome Lot of the Townhome Owner in violation.

(e) Liability for Assessments. When a Townhome Owner who is leasing Townhome Owner's Residence fails to pay any annual or Special Assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Townhome Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency. Upon request by the Board of the Townhome Association, tenant shall pay to the Townhome Association all unpaid annual and Special Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by tenant. However, tenant shall not be required to make such payments to the Townhome Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Board's request. All such payments made by tenant shall reduce, by the same amount, tenant's obligation to make monthly rental payments to lessor. If tenant fails to comply with the Board's request to pay assessments or other charges, tenant shall pay to the Townhome Association all amounts authorized under the Townhome Declaration as if tenant were a Townhome Owner. The above provision shall not be construed to release the Townhome Owner from any obligation, including the obligation for assessments, for which the Townhome Owner would otherwise be responsible.

(f) Use of Common Property. A Townhome Owner transfers and assigns to the tenant, for the term of the lease of Townhome Owner's Residence, any and all rights and privileges that the Townhome Owner has to use the Common Property as a result of owning that Residence, including, but not limited to, the use of any and all recreational facilities and other amenities.

(g) Required Lease Provisions. Any lease of a Residence shall be required to contain or incorporate by reference the terms set forth in Subsections (d) and (e) above. If such language is not expressly contained or incorporated by reference therein, then such language shall be incorporated into the lease by the existence of this covenant, and the tenant, by occupancy of the Residence, agrees to the applicability of this covenant and incorporation of the above-referenced language into the lease.

(h) Applicability of Section 8.4. Notwithstanding the above, this Section 8.4 shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after the expiration of the Declarant Control Period), the Townhome Association, or the holder of any first recorded Mortgage on a Residence who becomes the Owner of a Residence through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage (collectively the "Exempt Owners"). Such Exempt Owners shall be permitted to lease a Residence without first obtaining a permit in accordance with this Article 8 and such Residences shall not be considered as being leased in determining the maximum number of Residences that may be leased in accordance with this Article 8. Notwithstanding the foregoing,



Subsections (d) and (e) above shall apply to all such leasing transactions; provided, however, any such leases shall be required to have an initial term of at least thirty (30) days. For the purposes of clarification, this Section 8.4 shall apply to any Person that acquires a Residence from an Exempt Owner (unless such Person is itself an Exempt Owner).

ARTICLE 9. MAINTENANCE; CONVEYANCE OF COMMON PROPERTY TO TOWNHOME ASSOCIATION

Section 9.1. Townhome Association's Responsibility. Except as otherwise maintained by the Master Association, the Townhome Association shall maintain and keep in good repair, and when necessary, replace the Area of Common Responsibility, and insure such portions of the Community against property damage to the extent provided elsewhere herein. The Townhome Association shall be responsible for exterior maintenance of townhomes, including, but not limited to: (i) all roofs, downspouts, gutters, roof decking, sheathing and flashing of Residences; (ii) all exterior building surfaces of Residences (but excluding doors, windows, door and window caulk and hardware, garage doors and locks (except for the periodic painting of the garage doors on a schedule established by the Board of Directors of the Townhome Association); (iii) all driveways, walkways, steps, exposed and accessible portions of decks, patios and patio surfaces, patios, or courtyards, if any, on a Townhome Lot.

Notwithstanding the other provisions to the contrary contained in this Article 9, all landscaping installed by the Declarant or existing on the Townhome Lot at the time the Townhome Lot was first sold by the Declarant, installed by the Master Association, shall be maintained by the Master Association. Notwithstanding the above, the Master Association shall have the exclusive right to approve any and all landscaping that the Owner desires to install or cause to be installed, including, but not limited to, seasonal flowers, on the condition that it be maintained by the Owner. If such plants and landscaping approved on the condition that it be maintained by the Owner is not well maintained, in the sole discretion of the Master Association, then it may be removed by the Master Association at the sole cost, if any, of Owner. For all purposes herein, the terms maintenance, trees and landscaping shall include periodic mulching, pruning, fertilizing, removing of trees and shrubs that may be overgrown, dead, diseased, or a hazard to either fall on the improvements or whose roots may adversely affect the foundation of a Residence.

In addition, the Townhome Association shall have the right, but not the obligation, to maintain other property not owned by the Townhome Association, whether located within or outside the Community, where the Board has determined that such maintenance would benefit the Townhome Association, provided the same is not being maintained by the Master Association. The Townhome Association shall perform all maintenance in a manner consistent with the Community-Wide Standard.

Section 9.2. Owner's Responsibility. Except as provided in Section 9.1 above and unless such maintenance responsibility is otherwise assumed or assigned to the Townhome Association pursuant to this Townhome Declaration or pursuant to the Master Declaration, or any Supplementary Declaration to this Townhome Declaration or to the Master Declaration, (i) all maintenance of the Townhome Lots and all structures, parking areas, landscaping, and other improvements on a Townhome Lot, (ii) all pipes, lines, ducts, conduits or other apparatus which serve only the Townhome Lot, whether located within or without a Townhome Lot's boundaries (including all gas, electricity, water, sewer and air conditioning pipes, lines, ducts, conduits and other apparatus serving only the Townhome Lot, and any hose bibs contained in exterior walls of a dwelling on a Townhome Lot), (iii) waterproofing foundations either above or below grade, and footings, (iv) all doors, including screen and storm doors, hinges, frames and door frames and hardware which are part of the entry system, including caulking and flashing of door frames and operation of the garage doors, (v) lighting fixtures pertaining to a particular Townhome Lot and being located outside an entryway or in a garage, and (vi) window replacement, shall be the sole responsibility of the Owner, who shall maintain such areas in a manner consistent with the Community-Wide Standard and this Townhome Declaration. The regular removal of mold and mildew from any exterior improvements on a Townhome Lot shall be deemed to be part of the Community-Wide Standard applicable to the Community.

In the event that the Board of Directors determines that such areas are not maintained in a manner consistent with the Community-Wide Standard and this Townhome Declaration, except in an emergency



situation, the Board of Directors shall give the Owner written notice of the Townhome Association's intent to provide the necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall state the maintenance, repairs, or replacement deemed necessary. The Owner shall have thirty (30) days after receipt of the notice to complete the maintenance, repair, or replacement. In the event that the maintenance, repair, or replacement is not capable of completion within a thirty (30) day period, the Owner shall begin the work and shall complete it within a reasonable time. If the Board determines that (i) an emergency exists, or (ii) that an Owner has not complied, the Townhome Association may provide the maintenance, repair, or replacement at that Owner's sole cost and expense, and all costs including reasonable attorneys' fees shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Townhome Lot.

Section 9.3. Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Townhome Declaration may vary as the composition of the Board of Directors changes. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article 9. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations by the Board.

Section 9.4. Conveyance of Common Property by Declarant to Townhome Association. Declarant may transfer or convey to the Townhome Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Townhome Declaration. Such conveyance shall be accepted by the Townhome Association, and the property shall be Common Property to be maintained by the Townhome Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section 9.4.

Section 9.5. Removal of Improvements on Common Property by Declarant. During the Declarant Control Period, Declarant shall have the right, privilege, and option from time to time to remove, add, reconfigure, relocate, modify, and alter any and all improvements located on the Common Property.

Section 9.6. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction of the Townhome Lot separating any two (2) adjoining Townhome Lots shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section 9.6, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply to the maintenance and repair of such walls and fences. No Owner shall be permitted to remove any portion of a party wall between adjoining Residences on a Townhome Lot or mount any speaker to such party wall.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence 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 wall may restore it, and if the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others 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 9.6 shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section 9.6, each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint



an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one (1) additional arbitrator and the decision by a Majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

ARTICLE 10. INSURANCE AND CASUALTY LOSSES

Section 10.1. Townhome Association Insurance. The Townhome Association, acting through its Board of Directors or its duly authorized agent, shall have the authority to and shall obtain blanket "all-risk" property insurance, if reasonably available, for all insurable improvements on the Common Property and the Townhome Lots and Residences (excluding improvements and betterments made by the Owners and the personal property of the Owners). In this regard, the Townhome Association shall use commercially reasonable efforts to ensure that the "all-risk" property insurance cover all fixtures and appliances originally included in the Residence on the Townhome Lot in addition to the other physical structures on other portions of the Area of Common Responsibility to the extent that the Townhome Association has assumed responsibility for maintenance, repair and/or replacement thereof in the event of a casualty. If blanket "all-risk" coverage is not generally available at reasonable cost, then at a minimum an insurance policy providing fire and extended coverage, including coverage for vandalism and malicious mischief, shall be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured peril.

The "all-risk" property insurance policy shall not include or provide insurance coverage for the personal property of Owners or Occupants located within the Residence, but shall cover if reasonably available, improvements and betterments that an Owner can reasonably document have been made to the Residence. If "all-risk" property insurance covering improvements and betterments is not reasonably available and is not being provided by the Townhome Association, then the Townhome Association shall provide an annual notice of the same to the Owners, so that they may obtain such insurance on their own if they so desire.

The Board also shall obtain a commercial general liability policy covering occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Area of Common Responsibility. If generally available at reasonable cost, the commercial general liability policy shall have at least a One Million and 00/100 Dollar (\$1,000,000.00) combined single limit as respects bodily injury and property damage and at least a Two Million and 00/100 Dollar (\$2,000,000.00) limit per occurrence and in the aggregate. The liability insurance obtained by the Townhome Association pursuant to this Townhome Declaration shall cover the Townhome Association and its officers, directors, agents and employees, the Owners, and their respective Mortgagees. The Townhome Association shall be designated as the named insured, individually and as agent for the Owners collectively, without naming them individually, and as agent for their respective Mortgagees. All insurance purchased by the Townhome Association pursuant to this Article 10 shall run to the benefit of the Townhome Association, the Board of Directors, officers, all agents and employees of the Townhome Association, the Owners, and their respective Mortgagees.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be specifically assessed against the Townhome Lot or Townhome Lots suffering the damage based on the percentage of the overall damage to the Townhome Lot and the Residence thereon. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful conduct of one or more Owners or Occupants, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Townhome Lots pursuant to Section 6.5 hereof.

All insurance coverage obtained by the Board of Directors shall be governed by the following provisions:

- (i) All policies shall be written with a company authorized to do business in the State of Georgia.



(ii) Exclusive authority to adjust losses under policies obtained by the Townhome Association shall be vested in the Townhome Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(iii) In no event shall the insurance coverage obtained and maintained by the Townhome Association be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees.

(iv) All property insurance policies shall have an inflation guard endorsement, if reasonably available.

(v) if the policy contains a co-insurance clause, it shall also have an agreed amount endorsement.

(vi) Until the expiration of ten (10) days after the insurer gives notice in writing to the Mortgagee of any Townhome Lot, the Mortgagee's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Townhome Lot, the other Owners, the Board of Directors, or any of their agents, employees, or household members, nor be canceled for nonpayment of premiums.

(vii) The policy may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days prior notice in writing to the Board of Directors and all Mortgagees of Townhome Lots.

(viii) The Townhome Association shall arrange for an annual review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Gwinnett County, Georgia area.

(ix) The Townhome Association shall provide insurance certificates to each Owner and each Mortgagee upon written request.

(x) The Board of Directors shall be required to use reasonable efforts to secure insurance policies that will provide the following:

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

(B) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(C) a statement that no policy may be cancelled, invalidated, suspended, or subjected to nonrenewal on account of any one or more individual Owners;

(D) a statement that no policy may be cancelled, invalidated, suspended, or subjected to nonrenewal on account of any curable defect or violation without prior demand in writing delivered to the Townhome Association to cure the defect or violation and the allowance of a reasonable time thereafter within which it may be cured by the Townhome Association, its manager, any Owner, or Mortgagee;

(E) a statement that any "other insurance" clause in any policy excludes individual Owners' policies from consideration; and

(F) a statement that the Townhome Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification, or non-renewal.



In addition to other insurance required by this Section 10.1, the Townhome Association shall obtain, as a Common Expense, worker's compensation insurance if and to the extent required by law, directors' and officers' liability coverage, if reasonably available, and flood insurance, if advisable.

In addition to the other insurance required by this Section 10.1, the Board may obtain a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Townhome Association's funds. The amount of fidelity coverage shall be determined by the Board using its best business judgment.

Section 10.2. Repair and Reconstruction. In the event of damage to or destruction of all or any part of the improvements on the property insured by the Townhome Association as a result of any event covered by the Townhome Association's insurance, unless two-thirds (2/3) of the Total Association Vote, the Owner of any damaged Residence, and Declarant (during the Declarant Control Period) decide within sixty (60) days after the loss not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Townhome Association within said period, then the period shall be extended until such funds or information shall be made 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 Property shall be repaired or reconstructed.

If it is determined in the manner described above that the damage or destruction to the Common Property shall not be repaired or reconstructed and no alternative improvements are authorized, the affected portion of the properties shall be cleared of all debris and ruins. Thereafter, the properties shall be maintained by the Townhome Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

(a) Cost Estimates. After a casualty causing damage to property maintained by the Townhome Association, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures, if any, to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(b) Source and Allocation of Proceeds. If insurance proceeds are not sufficient to defray the estimated costs of reconstruction and repair of the property maintained by the Townhome Association, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a Special Assessment in an amount necessary to cover the insufficiency may be made against all of the members. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be retained by the Townhome Association.

(c) Plans and Specifications. Any reconstruction or repair of the property maintained by the Townhome Association shall be substantially in accordance with the plans and specifications under which the Community was originally constructed, except where changes are necessary to comply with current applicable codes.

(d) Damage and Destruction to Improvements on Townhome Lots. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Townhome Lot shall be promptly repaired by the Townhome Association and shall be diligently and continuously pursued until its completion.

(e) Encroachments. Encroachments upon or in favor of Townhome Lots that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the plans under which the Community was originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed Residence(s) shall stand.



(f) No Priority Over First Mortgagees. Nothing contained herein gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Townhome Lot on which there is a Mortgagee endorsement shall be disbursed jointly to such Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

(g) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Townhome Association from assessments against Owners on account of such casualty shall constitute a construction fund that shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Article 10 to be disbursed by the Townhome Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the structures as are designated by the Board of Directors.

ARTICLE 11. CONDEMNATION

In lieu of or under threat of condemnation by a governmental or other entity with the lawful power to condemn property, the Board of Directors shall have the power to convey portions of the Common Property to such governmental or other entity which has a lawful power to condemn real property in lieu of or under threat of condemnation. The award made for such taking shall be used by the Townhome Association as follows:

(i) If the taking involves a portion of the Common Property on which improvements have been constructed, then the Townhome Association shall restore or replace such improvements so taken on the remaining land included in the Area of Common Responsibility to the extent lands are available, unless within sixty (60) days after such taking Declarant, during the Declarant Control Period, and Owners representing at least a Majority of the Total Association Vote shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board of Directors of the Townhome Association. If such improvements are to be repaired or restored, the provisions in Article 10 of this Townhome Declaration regarding the disbursement of funds for the repair of casualty damage or destruction shall apply.

(ii) If the taking does not involve any improvements on the Area of Common Responsibility, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Townhome Association and used for such purposes as the Board of Directors shall determine.

ARTICLE 12. MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Townhome Lots in the Community. The provisions of this Article 12 apply to both this Townhome Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 12.1. Notices of Action. An Eligible Mortgage Holder, who provides a written request to the Townhome Association (such request to state the name and address of such Eligible Mortgage Holder and the relevant Townhome Lot number(s)) will be entitled to timely written notice of:

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

(ii) any delinquency in the payment of assessments or charges owed by an Owner of a Townhome Lot subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Townhome Association of any



default in the performance by an Owner of a Townhome Lot of any obligation under the Townhome Declaration or Bylaws of the Townhome Association which is not cured within sixty (60) days;

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

(iv) any proposed action, which would require the consent of a specified percentage of Mortgagees.

Section 12.2. No Priority. No provision of this Townhome Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Townhome Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Townhome Association easement areas. Any insurance proceeds payable to the Owner of a Townhome Lot on which there is a Mortgagee endorsement shall be disbursed jointly to such Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

Section 12.3. Notice to Townhome Association. Upon request, each Owner shall be obligated to furnish to the Townhome Association the name and address of the holder of any Mortgage encumbering such Townhome Lot.

Section 12.4. Amendments by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements, which necessitate the provisions of this Article 12 or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article 12 to be recorded to reflect such changes.

Section 12.5. Liability for Common Expenses. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Townhome Lot obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Townhome Association chargeable to such Townhome Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Townhome Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title.

Section 12.6. Applicability of this Article 12. Nothing contained in this Article 12 shall be construed to reduce the percentage vote that must otherwise be obtained under the Townhome Declaration, Bylaws, or Georgia law for any of the acts set out in this Article 12.

Section 12.7. 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 Townhome Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Townhome Association's request.

ARTICLE 13. EASEMENTS

Section 13.1. Easements for Utilities. There is reserved to Declarant and the Townhome Association and its designees blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (i) all utilities serving the Community or any portion of the Common Property, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (ii) water runoff and storm drainage systems, and (iii) any other services such as, but not limited to, a master television antenna system, cable television system, or security system which may be installed to serve the Community. It shall be expressly permissible for Declarant, the Townhome Association, or the designee of either, to do or to authorize the installation, repairing, replacing, and maintaining of the wires, conduits, cables, and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, Declarant or Board, as applicable, shall have the right to grant such easement.



Section 13.2. Townhome Lot Owner – Easement for Utilities. Declarant hereby establishes for the benefit of each Townhome Lot a nonexclusive easement for access to and installation, maintenance, repair, replacement and use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving such Townhome Lot and situated in, on or under any other Townhome Lot or the Common Property. The Board of Directors, and without a vote of the Owners, shall have the right, power and authority to grant permits, licenses, utility easements, and other easements, permits or licenses necessary or desirable for the proper maintenance or operation of the Community under, through, or over the Townhome Lots and/or the Common Property as may be reasonably necessary to or desirable for the ongoing operation of the Community. Except in an emergency, in the event that any Owner or the Townhome Association desires access to the attic or other areas of another Townhome Lot to install, maintain, repair or replace any utility pipe, wire, cable, conduit, utility line, flue or duct, the Owner shall contact the Owner of such other Townhome Lot(s) at least one (1) day in advance of the date that access is needed and attempt to agree on a convenient date and time for access by the Owner and the Owner's contractors. Access in emergency situations shall be granted immediately upon request. Any Owner of a Townhome Lot to which access is needed under this Section 13.2 shall not unreasonably withhold, condition or delay such access. Rights exercised pursuant to this easement shall be exercised with a minimum of interference to the quiet enjoyment of affected Townhome Lots, reasonable steps shall be taken to protect such Townhome Lots and the property of the Owners and Occupants thereof, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 13.3. Easement for Entry. In addition to the right of the Board to exercise self-help as provided herein, the Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. This right may also be exercised by the agents of the Townhome Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. The Board shall have the right to enter to cure any condition that may increase the possibility of a fire, slope erosion, or other hazard if an Owner or Occupant does not cure the condition after request by the Board and in such event, the Owner shall be obligated to reimburse the Townhome Association for the cost of curing such condition and the Townhome Association may charge such cost to the Townhome Lot, as a Specific Assessment in accordance with Section 6.5. For purposes of this Section 13.3, a water or other utility leak, fire, strong foul odor, obvious insect infestation, or sounds indicating that a person or animal might be injured or sick and require immediate medical attention shall be considered emergencies justifying immediate entry onto any Townhome Lot. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a property shall exist.

Section 13.4. Easement for Maintenance. Declarant expressly reserves a perpetual easement for the benefit of the Townhome Association across such portions of the Community, including any and all Townhome Lots, determined in the sole discretion of the Townhome Association, as are necessary to allow for the maintenance, repair, and when necessary, replacement of the Area of Common Responsibility, as required under this Townhome Declaration. This maintenance shall be performed with a minimum of interference to the quiet enjoyment of a Townhome Lot.

Section 13.5. Easement for Maintenance and Repair. There shall be reciprocal appurtenant easements between adjacent Townhome Lots for the purpose of maintaining or repairing the improvements, including, without limitation, landscaping, located on each Townhome Lot, which easement shall extend to a distance of not more than five (5) feet as measured from any point on the common boundary between the Townhome Lots and along a line perpendicular to such boundary at such point. The easement shall be used only for such period of time as is reasonably necessary in order to complete the needed maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Townhome Lot over which this easement is exercised which is caused by the maintenance or repair work. The damaged portions of such Townhome Lot shall be restored to substantially the same condition as existed prior to the damage.

Section 13.6. Construction and Sale Period Easement. Notwithstanding any provisions contained in this Townhome Declaration, the Bylaws, Articles of Incorporation, use restrictions, Rules and Regulations, Design Guidelines, and any amendments thereto, during the Declarant Control Period, there is



hereby reserved to Declarant an easement across all property in the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibit "A" to this Townhome Declaration and the Additional Property, including, but without limitation, the following: (i) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Townhome Lot; (ii) the right to tie into any portion of the Community with driveways, parking areas and walkways; (iii) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (iv) the right to grant easements over, under, in or on the Community, including, without limitation, the Townhome Lots, for the benefit of the Additional Property for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (v) the right to carry on sales and promotional activities in the Community; (vi) the right to erect and maintain signs; (vii) the right to construct and operate business offices, construction trailers, model residences, and sales offices; and (viii) the right to use the parking facilities within the Community. Declarant may use Residences, offices, or other buildings owned or leased by Declarant as model residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section 13.6 shall not be amended without Declarant's express written consent until the expiration of the Declarant Control Period.

Section 13.7. Public in General. The easements and rights created in this Article 13 do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Official Records or which may exist in favor of property owners adjoining the Community. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon fifteen (15) days prior written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Community), all or any portion of the Community which, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Townhome Declaration.

Section 13.8. Easement for Entry Features and Street Signs. There is hereby reserved to Declarant, and granted to the Townhome Association, and the designees of either, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to grade the land under and around the entry features.

Section 13.9. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Townhome Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Townhome Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Townhome Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Townhome Lot and the adjacent portion of the Common Property or as between adjacent Townhome Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant or the Townhome Association. In addition, should a Townhome Lot owned by Declarant require a variance to correct a set-back violation during the Declarant Control Period, all adjacent Owner(s) to such Townhome Lot agree to all governmental approvals necessary for such variance and in no way shall such adjacent Townhome Lot Owner(s) oppose or prevent or delay the approval of such variance. If requested by the Declarant, the adjacent Owner(s) shall write a letter of support in favor of granting the variance.



Section 13.10. Easements for Use and Enjoyment. Every Owner of a Townhome Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to such Owner's Townhome Lot, subject to the following provisions:

(i) the right of the Townhome Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and give as security for the payment of any such loan a pledge of the assessments, or portion thereof, of the Townhome Association.

(ii) Any Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to Owner's Occupants and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Townhome Lot if leased.

Section 13.11. Utility Lines.

(a) Utility Lines. Concrete slabs, patios, footings, exterior walls, lawns and common walls of Residences may contain utility pipes, lines, wires, cables, ducts, conduits, meters, valves, or other apparatus and structures related to electrical service to be provided by the Power Company (or its successor) and/or Gas Company (or its successor) (collectively, the "Utility Lines") which serve Residences located within and outside of the boundary lines of the Townhome Lot on which such Residence is located. A blanket easement is hereby created by Declarant over, under and through the Townhome Lots for these Utility Lines. As such, and so as not to disrupt the utility service of Residences, Owners shall not cut, modify, damage, relocate or otherwise change, alter, disconnect, tamper with, or affect any Utility Lines (or the materials or structure on which they are located or attached (i.e., exterior siding; concrete slabs or footings; common walls of attached Residences)) without the prior written consent of the Townhome Association. The Utility Lines are "as laid" physically on the Townhome Lot and so their physical location may vary between Townhome Lots.

(b) Responsibility. Any portion of the Utility Lines which are not otherwise maintained or serviced by the Power Company or Gas Company, shall be the responsibility of the Townhome Association. In the event of an emergency or power outage related to the Utility Lines, Owners shall contact the Power Company or Gas Company, as applicable.

(c) Obligation of Owners Subject to this Section 13.11. In addition to fulfilling their insurance obligations under the Townhome Declaration, all Owners are solely responsible for notifying their respective insurance carriers in writing of the Utility Lines and this Section 13.11.

(d) Utility Line Easement. There is hereby reserved: (a) to the Townhome Association, and its designated representatives, designees and/or assigns, blanket easements upon, across, above, and under all of the Townhome Lots (including through and underneath slabs of Residences) for the purposes of installing, connecting, repairing, replacing, and maintaining the Utility Lines; and (b) to and for the benefit of the Owner of each Townhome Lot easements for the purposes of utilizing the Utility Lines to provide electrical service to the Residence located within such Owner's Townhome Lot (collectively, the "Utility Line Easement"). The Utility Line Easement is subject to the following:

(i) The Townhome Association and its designated representatives, designees and/or assigns shall have a right of immediate access to the Townhome Lots (including Residences therein) to exercise the Utility Line Easement in the event of any emergency. Except in an emergency situation or as otherwise permitted under any Power Company easement or Gas Company easement affecting the Townhome Lot, entry into a Townhome Lot shall be only during reasonable hours and after notice to the Owner.

(ii) The Townhome Association, shall have the right to grant to any service or utility provider a specific license or easement by separate recordable document to exercise any of rights provided to the Townhome Association herein.



(iii) The Townhome Association is not liable for any work performed by, on behalf of, or directed by or on behalf of the Power Company or Gas Company (as applicable), another Owner, or any other party.

(iv) Owners shall cooperate in good faith with the Townhome Association, the Power Company and the Gas Company, their representatives and assigns, with scheduling and coordinating access to the Residence related to maintenance, repair, and replacement services of Utility Lines.

(v) The Utility Line Easement shall include, when determined necessary or desirable by the Townhome Association, the right of the Townhome Association to install and replace the electric meter base (which may be mounted on the exterior wall of a Residence), electric lines and conduit servicing each Townhome Lot and Utility Lines.

(vi) Owners shall not tamper with, modify, or otherwise disturb electrical service lines of other Townhome Lots without the prior written permission of the Townhome Association and all affected Townhome Lot Owners.

(e) Public in General. The easements and rights created in this Section 13.11 do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Official Records or which may exist in favor of property owners adjoining the Townhome Lots.

(g) Perpetual Easements. The easements granted herein shall be permanent and perpetual easements running with the title to each of the Townhome Lots and shall bind the successors and assigns of each of them and shall inure to the benefit of their successors-in-title.

(h) Cooperation. All easements and rights granted in this Section 13.11 and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted. Each Owner shall cooperate with the reasonable requests of the other Owner, the Townhome Association, the Power Company, and the Gas Company in furtherance of the spirit and intent of the matters addressed in this Section 13.11. To this end, in the event that an Owner limits access to its respective Townhome Lot, such Owner shall provide the party having easement rights over such areas a reasonable means of access over the areas to which such easement rights appertain.

(i) Damages Resulting From the Exercise of Easement Rights. Rights exercised pursuant to the exercise of the easement rights granted in this Section 13.11 shall be exercised with a minimum of interference to the quiet enjoyment of affected Townhome Lot, reasonable steps shall be taken to protect such Townhome Lot, and damage shall be repaired by the party causing the damage at such party's sole expense. The Townhome Association shall repair incidental damage to any Townhome Lot resulting from performance of work that is the responsibility of the Townhome Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard.

(j) Binding Effect. The easements and other agreements, provided for in this Section 13.11 shall run with the land and be binding upon and shall inure to the benefit of the parties hereto and their respective successors, transferees and assigns.

Section 13.12. Easement for Private Street, Sidewalks and Signs. Declarant hereby grants, conveys, declares, creates, imposes and establishes a perpetual, nonexclusive right-of-way easement for vehicular and pedestrian access, ingress and egress over and across any and all private streets, alleys and drives as depicted on the Survey. The right-of-way easement herein granted shall permit joint usage of such easement by (a) the Owners and Occupants, (b) the legal representatives, successors and assigns of the Owners, and (c) invitees and licensees of the Owners and Occupants. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate of any such easement area which are not inconsistent with the rights and privileges herein granted, including, without limitation, the right to maintain one or more proprietary signs on the easement area and the right to



grant additional nonexclusive easements to third parties, over, under and across the easement area. Declarant hereby reserves for the benefit of Declarant and grants to the Townhome Association as Common Property, the perpetual nonexclusive right and easement upon, over and across the private drives for the installation, maintenance, and use of such drives, sidewalks, traffic directional signs, grading for proper drainage, and related activities and improvements.

ARTICLE 14. ANNEXATION AND WITHDRAWAL OF PROPERTY

Section 14.1. Annexation of Property. For twenty-five (25) years from the date this Townhome Declaration is recorded in the Official Records, Declarant shall be entitled to unilaterally annex a portion or all of the Additional Property to the provisions of this Townhome Declaration and the jurisdiction of the Townhome Association by filing for record in the Official Records a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall require the signature of the Declarant only (and owner of the subjected property if not Declarant) and shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided in such Supplementary Declaration. After the twenty-five (25) year period has expired, subject to the consent of the owner, upon the affirmative vote, or written consent, or any combination thereof, of Owners holding a Majority of the Total Association Vote, the Townhome Association may annex real property to the provisions of this Townhome Declaration and the jurisdiction of the Townhome Association by filing for record in the Official Records a Supplementary Declaration describing the property being annexed. The Owners of the real property being annexed shall also consent in writing to the annexation. Any such Supplementary Declaration shall be signed by the President and Secretary of the Townhome Association, and any such annexation shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided in the Supplementary Declaration. Notwithstanding the above, the Declarant, during the Declarant Control Period shall have the right to annex any real property within one (1) mile of any real property of any part of the real property submitted to this Townhome Declaration provided that the owner of the Property being annexed consents in writing to the same.

Section 14.2. Withdrawal of Real Property from the Community. During the Declarant Control Period, Declarant reserves the right to unilaterally amend this Townhome Declaration to withdraw any portion of the Community then owned by Declarant or the Townhome Association from the coverage of this Townhome Declaration, to the extent that such real property was included originally in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community in the sole discretion of Declarant.

Section 14.3. Additional Covenants and Easements. Declarant may unilaterally subject any portion of the Community submitted to this Townhome Declaration initially or by Supplementary Declaration to additional covenants and easements, including covenants obligating the Townhome Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Townhome Association through assessments. Such additional covenants and easements shall be set forth in a Supplementary Declaration filed either concurrent 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.

Section 14.4. Creation of Additional Neighborhoods and Annexation of Property to this Townhome Declaration. Declarant reserves the unilateral right, but not necessarily the obligation, to (i) create additional neighborhoods on all or any portion of the property described in Exhibit "B" attached hereto and incorporated herein, which neighborhoods may be organized as one or more associations, and (ii) to subject said property and neighborhood(s) to the terms of this Townhome Declaration.

ARTICLE 15. GENERAL PROVISIONS

Section 15.1. Duration. The covenants and restrictions of this Townhome Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Townhome Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. However, if Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Townhome Declaration affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically



extended for successive periods of twenty (20) years, unless at least sixty-six and two-thirds percent (66 2/3%) of the record Owners execute an agreement to prevent renewal of the covenants and such agreement is recorded in the Official Records. A written instrument reflecting termination must be recorded within two (2) years prior to the expiration of the initial twenty (20) year period or any subsequent twenty (20) year period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Townhome Declaration, by acceptance of a deed or other conveyance, agrees that provisions of this Townhome Declaration may be extended and renewed as provided in this Section 15.1.

Section 15.2. Termination of Rights of Declarant. The rights of Declarant to take, approve or consent to actions under this Townhome Declaration, the Articles of Incorporation and the Bylaws shall cease and be of no further force and effect upon the earlier of: (i) the expiration of the Declarant Control Period; or (ii) the date of recording by Declarant in the Official Records of a written instrument terminating all of Declarant's rights hereunder.

Section 15.3. Amendment.

(a) Unilateral Amendment. This Townhome Declaration or the Bylaws may be amended unilaterally at any time and from time to time by Declarant (i) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (ii) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the property subject to this Townhome Declaration; (iii) if an amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the property subject to this Townhome Declaration; (iv) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the property subject to this Townhome Declaration; or (v) the amendment does not materially and adversely affect the rights and obligations of the Owners herein. However, any such amendment shall not adversely affect the title to any Owner's Townhome Lot unless the Owner consents to the amendment in writing. Furthermore, during the Declarant Control Period, Declarant may unilaterally amend this Townhome Declaration for any other purpose; provided, however, any such amendment shall neither directly, materially and adversely affect the substantive rights of any Owner, nor directly, materially and adversely affect title to any Townhome Lot without the consent of the affected Owner. Any amendment to withdraw property from the Common Property (including, but not limited to, an amendment to resubmit the withdrawn property as Townhome Lots) shall be deemed not to have a material or adverse effect on the rights of any Owner.

(b) Amendment by Vote and/or Written Consent. In addition to the above and except as provided in Section 8.4 of this Townhome Declaration, this Townhome Declaration and/or the Bylaws may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least two thirds (2/3) of the Total Association Vote and the consent of Declarant (during Declarant Control Period). Notwithstanding the above, during the Declarant Control Period, the Townhome Declaration and/or Bylaws may be amended upon either: (i) the affirmative vote of a Majority of the votes cast in person or by proxy at a meeting of the members at which a quorum is present plus the Declarant, or (ii) a Majority of the votes cast on a ballot measure initiated by the Townhome Association (during the period in which votes are eligible to be cast) provided that the total number of votes cast constitute a quorum of the members of the Townhome Association plus the Declarant. Amendments to this Townhome Declaration or the Bylaws shall become effective upon recordation, unless a later effective date is specified in the amendment. No provision of this Townhome Declaration or the Bylaws which reserves, grants, or exempts special rights, easements, or exemptions to Declarant shall be amended or removed without the prior written consent of Declarant.

(c) Action to Challenge. Any action to challenge the validity of an amendment adopted under this Section 15.3 must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

Section 15.4. SECURITY. THE TOWNHOME ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS



WHICH DIRECTLY OR INDIRECTLY IMPROVE SAFETY IN THE COMMUNITY. HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES ACKNOWLEDGES AND AGREES THAT NEITHER THE TOWNHOME ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY FOR THE COMMUNITY. NON-OWNERS AND NON-OCCUPANTS MAY GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS. CRIMINAL ACTS MAY ALSO BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY, AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. DECLARANT AND THE TOWNHOME ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.

Section 15.5. Dispute Resolution. Any Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Townhome Association, the Board, any director or officer or any agent of the Townhome Association. The Owner or Occupant shall in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time, and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) nor more than thirty (30) days from the date of receipt of the notice of hearing by the person requesting the hearing. If the dispute still exists after such hearing, the Owner or Occupant, as the case may be and the Board of Directors agree to submit the dispute to mediation prior to the Owner or Occupant filing suit. The mediation shall be conducted by a licensed alternative dispute resolution company agreed to by the parties which regularly handles the mediation and arbitration of claims. The cost of such mediation shall be borne equally by the parties.

Section 15.6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 15.7. Severability. Whenever possible, each provision of this Townhome Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Townhome Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Townhome Declaration are declared to be severable.

Section 15.8. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 15.9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Townhome Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 15.10. Notices. Except as otherwise specifically provided in such document(s), as the case may be, notices provided for in this Townhome Declaration or the Articles or Bylaws shall be in writing, and shall be addressed to an Owner (at the address of the Townhome Lot), to Declarant (at the address of its registered agent on file with the Secretary of State of Georgia), and to the Townhome Association (at the address of its registered agent on file with the Secretary of State of Georgia). Any Owner may designate a different address, including an electronic mail address, for notices to such Owner by giving written notice to the Townhome Association. Owners shall keep the Townhome Association advised of their current address and phone number(s) where they can be reached. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage prepaid, or delivered in person, including delivery by Federal Express or other reputable commercial courier service, or issued electronically in



accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act." The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

Section 15.11. Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Townhome Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorneys' fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Townhome Association and the Townhome Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Townhome Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Section 15.12. Transfer of Declarant's Rights. Any or all of the special rights and obligations of Declarant set forth in this Townhome Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Townhome Declaration or in the Bylaws, as applicable. Furthermore, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Official Records.

Section 15.13. Sale of Townhome Lots. All Owners must regularly keep the Townhome Association apprised of their name, address, telephone number and email address and notify the Townhome Association in writing of any change in name, address, telephone number, or email address. Prior to the closing of the sale of a Townhome Lot, the Owner shall provide the Townhome Association with written notice of the name, address, telephone number and email address of the buyer(s) (and such other information as the Board may reasonable require) so that the Townhome Association can attempt to contact the Owner in the event of an emergency. Nothing herein shall be interpreted as creating a duty on the part of the Townhome Association to contact the Owner in the event of an emergency. An Owner intending to make a transfer or sale of a Townhome Lot or any interest in a Townhome Lot shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish to the Board as part of the notice (a) the name and address of the buyer(s); and (b) such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Townhome Association or in any third party.

Within seven (7) days after receiving title to a Townhome Lot, the purchaser of the Townhome Lot shall give written notice to the Board of Directors of the name, mailing address, telephone number and email address of the Owner, the names of the Occupants of the Townhome Lot, if any, and such other information as the Board may reasonably require. Upon failure of an Owner to give the required notice within the seven (7) day time period provided herein, the Board may levy fines against the Townhome Lot and the Owner thereof, and assess the Owner for all costs incurred by the Townhome Association in determining his or her identity.

Section 15.14. Agreements. Subject to the prior approval of Declarant (during Declarant Control Period), all agreements and determinations, including settlement agreements regarding litigation involving the Townhome Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.



Section 15.15. No Discrimination. No action shall be taken by the Declarant, the Townhome Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or disability.

Section 15.16. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Townhome Declaration shall be cumulative with those of any declaration affiliated with the Community and the corresponding association may, but shall not be required to, enforce the latter; provided, however, in the event of conflict between or among such covenants and restrictions, and the provisions of any articles of incorporation, bylaws, Rules and Regulations, policies, or practices adopted or carried out pursuant thereto, those of any declaration or association affiliated with the Community shall be subject and subordinate to those of this Townhome Declaration and the Townhome Association. In the event of a conflict between the provisions of this Townhome Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control.

Section 15.17. Implied Rights. The Townhome Association may exercise any right or privilege given to it expressly by this Townhome Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate the right or privilege.

Section 15.18. Variances. Notwithstanding anything to the contrary contained in this Townhome Declaration, Declarant, as long as it owns a Townhome Lot for sale within the Community, and the Board of Directors or its designee shall be authorized, but not required, in its sole discretion to grant individual variances from any of the provisions of this Townhome Declaration, the Bylaws, and any rule, regulation, or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case would not materially harm other Owners or negatively affect other Owners' quality of life in the Community.

Section 15.19. Successor Declarants. Any successor to Declarant shall not be responsible or subject to liability by operation of law or through the purchase of Declarant's interest in the Community or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Declarant.

Section 15.20. Constructive Notice and Acceptance. Every Person who or which shall hereafter have, claim, own or acquire any right, title, interest or estate in or to any portion of the Community, whether or not such interest is reflected in the Official Records, shall be conclusively deemed to have (a) consented and agreed to each and every term, provisions, covenant, condition, restriction, easement and reservation contained or by reference incorporated in this Townhome Declaration, whether or not any reference to this Declaration is contained in the document or instrument pursuant to which such Person shall have acquired such right, title, interest or estate on the Community or any portion hereof; and (b) acknowledged and agreed that in addition to being subject to and bound by the Community Instruments, the Community is subject to and bound by other documents and instruments recorded in the Official Records.

Section 15.21. Disclosures. Each Owner and Occupant acknowledges those certain disclosures as more particularly described in Section 16.22 of the Master Declaration, along with the following additional disclosures:

(a) **Heating in Colder Months.** In order to prevent breakage of water pipes during colder months of the year resulting in damage to the Townhome Lots, increased Common Expenses of the Townhome Association, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within Residences shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. Owners and Occupants of Residences shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. At any time during the time periods described herein when the heating equipment is not working, the Townhome Owner shall immediately inform the Townhome Owners of the other Townhome Lots attached to such affected



Townhome Lot of this failure of the equipment and of the time needed in order to repair the equipment and shall take reasonable steps to keep the Townhome Unit heated sufficiently to prevent breakage of water and utility pipes and lines. In addition, Owners and Occupants shall keep any terrace level areas on a Townhome Lot dry in summer months.

(b) Sound and Vibrations. In a townhome community where homes are attached to one another, Owners and Occupants should have an expectation of hearing sounds and feeling vibrations inside their homes that originate from outside their homes. No representations are made that homes will be soundproof or free of vibrations or that sound and vibrations may not be transmitted through shared walls or from outside of the home into the home. The townhome is wood frame construction and has not been designed to prevent the transmission of sound and vibration beyond the minimum required under applicable building codes. Among other possible things, sound and vibrations that may be felt or heard inside the townhome which originate from a neighboring townhome include people arguing, talking, running, jumping, playing, exercising and engaging in other life activities; dogs barking, walking or running; televisions, alarms, doorbells, garbage disposals, music, toilets, plumbing, HVAC, elevators and other equipment. Sound and vibrations from outside of townhomes may also be heard or felt inside the townhome, including, but not limited to, sirens, whistles, bells, horns, music, construction activity, building and grounds maintenance, ambulances, airplanes, buses, trucks, automobiles, trains and other generators of sound and vibrations. Sound occurs at a variety of frequencies. In urban areas, there is often a broader range of sounds and vibrations that are produced than in other areas. Sounds originating within a townhome may also be heard in other parts of the townhome from mechanical, plumbing and sewer systems inside or serving the townhome including from HVAC systems and hot water heaters cycling on and off, dishwashers, washing machines, dryers, exhaust and ceiling fans, toilets flushing and water running through water and sewer systems.

(c) Impairment of Townhome Lots and Easements. A Townhome Owner shall not do or permit any work to be done that will impair the structural soundness or integrity of any Residence or impair any easement or other interest in real property, and shall not do any act or allow any condition to exist which will adversely affect the other Townhome Lots or their Owners or Occupants.

(d) Exterior Enclosures. Except as may be installed by Declarant, no exterior enclosure or screening of a deck, porch, stoop or patio serving a Townhome Lot shall be permitted without the prior written approval of the Townhome Association.

(e) Grilling. The use of outdoor grills on a deck, porch, stoop or patio serving a Townhome Lot shall be governed by applicable state laws and local ordinances having jurisdiction over the Community.

(f) Noise. Townhome Owners and Occupants shall not undertake or pursue hobbies or other activities within a Residence which can be heard in any other Townhome Lot or Residence. Accordingly, no Townhome Owner or Occupant shall install any speakers in the common party wall of a Residence.

(g) Other Preventive Measures. The Board, upon resolution, shall have the authority to require Townhome Owners to do any act or perform any work involving portions of the Residence that will, in the Board's sole discretion, decrease the possibility of fire or other damage to any improvements located in the Community, reduce the insurance premium paid by the Townhome Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Townhome Owners to turn off cut-off valves, which may now or hereafter be installed, during winter months for outside water spigots; requiring such Townhome Owners to insulate pipes sufficiently or take other preventative measures to prevent freezing of water pipes; requiring such Townhome Owners and Occupants to install smoke detectors; requiring such Owners to make improvements to such Townhome Owner's Residence; and such other measures as the Board may reasonably require, so long as the cost of such work does not exceed Five Hundred Dollars (\$500.00) per Townhome Lot in any twelve (12) month period.

(h) Self Help. In addition to, and not in limitation of, any other rights the Townhome Association may have, if any Townhome Owner does not comply with any reasonable requirement made by the Board pursuant to this Section 15.21, the Townhome Association, upon fifteen (15) days' written notice (during which period the Townhome Owner may perform the required act or work without further liability), may perform such



required act or work at the Townhome Owner's sole cost. Such cost shall be an assessment and a lien against the Residence and shall be collected as provided herein for the collection of assessments. The Townhome Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this Section 15.21, including, without limitation, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of such Residence, except that access may be had at any time without notice in an emergency situation.

(i) Conditions Shown on Survey. The Community, the Townhome Lots and any Exclusive Common Area contained therein may be subject to additional conditions shown on the Survey and in zoning conditions for the Community, including, but not limited to, various buffers, easements, and other conditions that affect the Community, the Townhomes Lots, and any Exclusive Common Area contained therein.

(ii) Townhome Association Budget. The Townhome Association budget is based on estimated expenses only and such expenses may increase or decrease from time to time.

Section 15.22. Property Taxes on Additional Property. The Townhome Association shall pay all property taxes on: (1) all real property owned by the Townhome Association; and (2) all or such portion of the Additional Property that the Townhome Association and its members have a right to use and enjoy pursuant to either an easement, the terms of this Townhome Declaration or a license granted by Declarant to the Townhome Association for the benefit of the members. The obligation of the Townhome Association to pay property taxes on such Additional Property shall only be for such period of time as the members of the Townhome Association have a right to use and enjoy such property.

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, the undersigned, Declarant herein, hereby executes this instrument by and through its duly authorized officers and under seal this 20th day of September, 2021.

DECLARANT:

Stanley Martin Homes, LLC,
a Delaware limited liability company

By: [Signature] [SEAL]

Print Name: Kyle Upper

Title: Division President

Signed, sealed, and delivered
in the presence of:

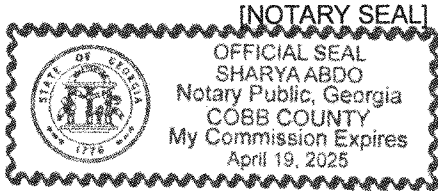
[Signature] JOHN LYDON

Witness _____

[Signature]

Notary Public

My Commission Expires: April 19, 2025



[signatures continued on following page]



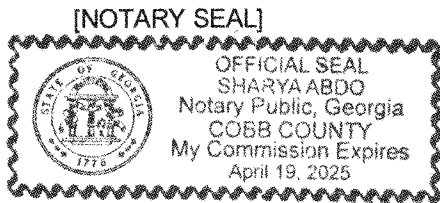
Consented, acknowledged and agreed to this 20th day of September, 2021.

Signed, sealed, and delivered
in the presence of:

[Signature]
Witness

[Signature]
Notary Public

My Commission Expires: April 19, 2025



TOWNHOME ASSOCIATION:

**The Beacon at Old Peachtree Townhome
Association, Inc.,**
a Georgia nonprofit corporation

By: [Signature]
Name: John Lydon
Title: President

By: [Signature]
Name: Kyle Upper
Title: Secretary

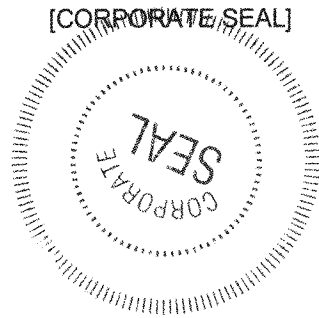




EXHIBIT "A"

LEGAL DESCRIPTION OF THE COMMUNITY

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 104, 7TH LAND DISTRICT, GWINNETT COUNTY, GEORGIA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A #4 REBAR FOUND IN A 3" OPEN TOP PIPE AT THE CORNER COMMON TO LAND LOTS 104, 105, 132, AND 133, 7TH LAND DISTRICT, GWINNETT COUNTY, GEORGIA; THENCE S 51°10'34" E A DISTANCE OF 1245.81' TO A #4 REBAR SET AT THE NORTHEASTERN RIGHT OF WAY INTERSECTION OF OLD PEACHTREE ROAD (80' R/W) AND LINE DRIVE (50' R/W) SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE ALONG THE SOUTHERN RIGHT OF WAY LINE OF LINE DRIVE WITH A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 40.29', A RADIUS OF 27.00', A CHORD BEARING OF N 09°17'18" W, AND A CHORD LENGTH OF 36.66' TO A #4 REBAR SET; THENCE CONTINUING ALONG THE AFORESAID RIGHT OF WAY LINE THE FOLLOWING CALLS N 33°27'56" E A DISTANCE OF 40.06' TO A POINT; THENCE WITH A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 25.60', A RADIUS OF 575.00', A CHORD BEARING OF N 34°44'28" E, AND A CHORD LENGTH OF 25.60', TO A POINT; THENCE N 39°28'03" E A DISTANCE OF 69.22' TO #4 REBAR SET; THENCE WITH A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 181.97', A RADIUS OF 575.00', A CHORD BEARING OF N 51°59'04" E, AND A CHORD LENGTH OF 181.21' TO A #4 REBAR SET; THENCE N 59°48'18" E A DISTANCE OF 67.82' TO A POINT; THENCE N 59°54'09" E A DISTANCE OF 182.00' TO A POINT AT THE SOUTHWESTERN RIGHT OF WAY INTERSECTION OF LINE DRIVE (80' R/W) AND WHISTLER WAY (80' R/W); THENCE WITH A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 14.14', A RADIUS OF 9.00', A CHORD BEARING OF S 75°05'51" E, AND A CHORD LENGTH OF 12.73' TO A POINT ALONG THE WESTERN RIGHT OF WAY LINE OF WHISTLER WAY; THENCE ALONG THE AFORESAID RIGHT OF WAY LINE S 30°05'51" E A DISTANCE OF 613.49' TO A POINT ALONG THE NORTHERN RIGHT OF WAY LINE OLD PEACHTREE ROAD (80' R/W); THENCE ALONG THE AFORESAID RIGHT OF WAY LINE WITH A CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 181.28', A RADIUS OF 3162.17', A CHORD BEARING OF S 75°35'31" W, AND A CHORD LENGTH OF 181.26' TO A POINT; THENCE CONTINUING ALONG THE AFORESAID RIGHT OF WAY LINE WITH A COMPOUND CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 240.22', A RADIUS OF 583.11', A CHORD BEARING OF S 89°02'10" W, AND A CHORD LENGTH OF 238.53' TO A POINT; THENCE CONTINUING ALONG THE AFORESAID RIGHT OF WAY LINE WITH A COMPOUND CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 99.63', A RADIUS OF 509.17', A CHORD BEARING OF N 73°33'23" W, AND A CHORD LENGTH OF 99.47' TO A POINT; THENCE CONTINUING ALONG THE AFORESAID RIGHT OF WAY LINE WITH A COMPOUND CURVE TURNING TO THE RIGHT HAVING AN ARC LENGTH OF 259.90', A RADIUS OF 2598.13', A CHORD BEARING OF N 54°54'28" W, AND A CHORD LENGTH OF 259.79' TO A POINT; THENCE CONTINUING ALONG THE AFORESAID RIGHT OF WAY LINE N 52°02'31" W A DISTANCE OF 40.00' TO A #4 REBAR SET AT THE NORTHEASTERN RIGHT OF WAY INTERSECTION OF OLD PEACHTREE ROAD (80' R/W) AND LINE DRIVE (50' R/W) SAID POINT BEING THE **TRUE POINT OF BEGINNING**.

SAID PARCEL HAVING AN AREA OF 265,868 S.F., OR 6.1035 ACRES.



EXHIBIT "B"

LEGAL DESCRIPTION OF ADDITIONAL PROPERTY

All that property lying and being within one (1) mile of the Community.



EXHIBIT "C"

BYLAWS
OF
THE BEACON AT OLD PEACHTREE TOWNHOME ASSOCIATION, INC.



One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500

These Bylaws may be used only in connection with the property at The Beacon at Old Peachtree and the operation of The Beacon at Old Peachtree Townhome Association, Inc.



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BYLAWS

OF

THE BEACON AT OLD PEACHTREE TOWNHOME ASSOCIATION, INC.

ARTICLE 1. GENERAL

Section 1.1. Applicability. These Bylaws provide for the self-government of The Beacon at Old Peachtree Townhome Association, Inc., in accordance with the Articles of Incorporation filed with the Georgia Secretary of State ("Articles of Incorporation") and the Declaration of Covenants, Conditions, Restrictions and Easements for The Beacon at Old Peachtree Townhomes recorded in the Gwinnett County, Georgia land records ("Townhome Declaration").

Section 1.2. Name. The name of the corporation is The Beacon at Old Peachtree Townhome Association, Inc. ("Townhome Association").

Section 1.3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in Article 1 of the Townhome Declaration.

Section 1.4. Membership. An Owner of a Townhome Lot shall automatically become a member of the Townhome Association upon taking title to the Townhome Lot and shall remain a member for the entire period of ownership. As may be more fully provided below, a member's spouse or Domestic Partner may exercise the powers and privileges of the member. If title to a Townhome Lot is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) equal vote per Townhome Lot. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Townhome Lot and shall be transferred automatically by conveyance of that Townhome Lot and may be transferred only in connection with the transfer of title.

Section 1.5. Entity Members. In the event an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, representative, or other designated agent of such entity shall be eligible to represent such entity in the affairs of the Townhome Association, including, without limitation, serving on the Board of Directors of the Townhome Association. Such person's relationship with the Townhome Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner, and termination of the person's relationship with the Townhome Association will create a vacancy in any elected or appointed position within the Townhome Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

Section 1.6. Voting. Each Townhome Lot shall be entitled to one (1) equal vote, which vote may be cast by the Owner, the Owner's spouse or Domestic Partner, or by a lawful proxy as provided below. When more than one (1) Person owns a Townhome Lot, the vote for such Townhome Lot shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Townhome Lot. If only one (1) co-owner attempts to cast the vote for a Townhome Lot, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Townhome Lot. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to act as a proxy for any other member if that Owner is shown on the books or management accounts of the Townhome Association to be more than thirty (30) days delinquent in any payment due the Townhome Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Townhome Declaration, these Bylaws, or any rule of the Townhome Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as



an eligible vote for purposes of establishing a majority or a quorum. Votes pertaining to Owners whose rights to vote have not been suspended may be referred to herein as "Eligible Votes."

Section 1.7. Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totaling more than fifty percent (50%) of the total number of Eligible Votes, Owners, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" means more than fifty percent (50%) of those voting in person or by proxy. Except as otherwise specifically provided in the Townhome Declaration or these Bylaws, all decisions shall be by majority vote.

Section 1.8. Purpose. The Townhome Association shall have the responsibility of administering the Community, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Area of Common Responsibility and performing all of the other acts that may be required to be performed by the Townhome Association pursuant to the Georgia Nonprofit Corporation Code and the Townhome Declaration. Except as to those matters which the Townhome Declaration or the Georgia Carolina Nonprofit Corporation Code specifically require to be performed by the vote of the Townhome Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

Section 1.9. Electronic Documents and Electronic Signatures.

(a) Electronic Documents. Whenever these Bylaws require that a document, record or instrument be "written" or "in writing," the requirement is deemed satisfied by an Electronic Document.

(b) Electronic Signatures. Whenever these Bylaws require a signature, an Electronic Signature satisfies that requirement only if: (i) the signature is easily recognizable as a Secure Electronic Signature which is capable of verification, under the sole control of the signatory, and attached to the electronic document in such a way that the document cannot be modified without invalidating the signature; or (ii) the Board reasonably believes that the signatory affixed the signature with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) Verification and Liability for Falsification. The Board may require reasonable verification of any Electronic Signature or Electronic Document. Pending verification, the Board may refuse to accept any Electronic Signature or Electronic Document that, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Townhome Association shall be liable to any member or any other Person for accepting or acting in reliance upon an Electronic Signature or Electronic Document that the Board reasonably believes to be authentic. Any member or Person who negligently, recklessly or intentionally submits any falsified Electronic Document or an unauthorized Electronic Signature shall fully indemnify the Townhome Association for actual damages, reasonable attorneys' fees and expenses incurred as a result of such acts.

ARTICLE 2. MEETINGS OF MEMBERS

Section 2.1. Annual Meetings. The regular annual meeting of the members shall be held each year with the date, hour, and place to be set by the Board of Directors. No annual meeting of the Townhome Association shall be set on a federal holiday. The annual meeting may be held at a location where people meet in person or by a Zoom call or other similar technology where attendees can see and/or hear each other.

Section 2.2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President or Secretary, by request of any two (2) members of the Board of Directors, or upon written petition of Owners holding at least fifteen percent (15%) of the Total Association Vote. Any such written petition by the members must be submitted to the Townhome Association's



Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Townhome Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition setting the date, time and location of the meeting (which is not required to be the date, time or location requested in any petition submitted to the Townhome Association), and the Secretary shall send notice of the meeting in accordance with these Bylaws. Any special meeting called pursuant to written petition shall be set within thirty (30) days of the date of the petition.

Section 2.3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to the record Owner of each Townhome Lot or to the Townhome Lots a notice of each annual or special meeting of the Townhome Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Owner wishes notice to be given at an address other than his or her Townhome Lot, the Owner shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 2.4. Waiver of Notice. Waiver of notice of meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Owners, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner 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 waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 2.5. Quorum. Except as may be provided elsewhere, the presence of Owners, in person or by proxy, entitled to cast twenty-five percent (25%) of the Total Association Vote shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant to the Townhome Declaration or these Bylaws shall not be counted as Eligible Votes toward the quorum requirement.

Section 2.6. Adjournment. Any meeting of the Owners may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Owners holding the majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 2.7. 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 signed, dated, and filed with the Secretary or the Secretary's designated representative prior to the opening of the meeting for which it is to be used. Proxies may be filed with the Secretary or the Secretary's designated representative by personal delivery, U.S. mail or electronically. Proxies may be revoked only by written notice delivered to the Secretary, except that: (i) the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting; and (ii) a later dated proxy shall automatically be deemed to invalidate any previously given proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 2.8. Action Taken Without a Meeting. In the Board's discretion, any action that may be taken by the Townhome Association members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every member entitled to vote on the matter.



(a) **Ballot.** A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

The Board may deliver ballots and consent forms by personal delivery, U.S. Mail, facsimile transmission, e-mail, or other electronic means. Owners shall deliver their vote by ballot or consent form by whatever means is specified by the Board.

All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and (iii) specify the time by which a ballot must be received by the Board in order to be counted. A written ballot may not be revoked. The Townhome Association shall maintain such ballots in its file for at least three (3) years.

(b) **Written Consent.** Approval by written consent shall be valid only when the number of written consents setting forth the actions taken is received and equals or exceeds the requisite majority of the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by the Declarant, if required. Executed written consents shall be included in the minutes or filed with the Townhome Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Townhome Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

Section 2.9. Order of Business. The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all membership meetings. The Board of Directors may establish rules of conduct and the order of business for all membership meetings. When not in conflict with the Townhome Declaration, these Bylaws, the Articles of Incorporation or meeting procedures adopted by the Board of Directors, Robert's Rule of Order (latest editions) shall govern all membership meetings. The Board may order the removal of anyone attending a membership meeting who, in the opinion of the Board disrupts the conduct of business at such meeting.

ARTICLE 3. BOARD OF DIRECTORS

Section 3.1. Composition and Eligibility. The affairs of the Townhome Association shall be governed by a Board of Directors. Except for directors appointed by the Declarant hereunder, the directors shall be Owners or spouses or Domestic Partners of such Owners; provided, however, no Owner and his or her spouse or Domestic Partner may serve on the Board at the same time, and no co-owners may serve on the Board at the same time. No persons shall be eligible to be elected to or continue to serve on the Board of Directors if they are shown on the books and records of the Townhome Association to be more than thirty (30) days delinquent in the payment of any assessment or charge by the Townhome Association.

Section 3.2. Directors Appointed by the Declarant. Notwithstanding anything to the contrary herein, Declarant shall have exclusive authority to appoint and remove directors and officers until the earlier of: (i) twenty-five (25) years after the recording of the Townhome Declaration in the Official Records, retaining the right to appoint one (1) member of the Board of Directors, until Declarant's appointment right terminates as set forth in this Subsection (i), (ii) unless Declarant at that time has an unexpired option to add Additional Property, thirty (30) days after the date as of which one hundred percent (100%) of the Townhome Lots shall have been conveyed by Declarant to Owners other than a



Person constituting the Declarant, or (iii) the surrender in writing by Declarant of the authority to appoint and remove officers and directors of the Townhome Association (the "Declarant Control Period").

Section 3.3. Number of Directors and Term of Office. During the Declarant Control Period, the Board shall consist of at least one (1) but not more than five (5) directors, the exact number of which shall be determined by Declarant from time to time. After termination of the Declarant Control Period, the Townhome Association shall call a meeting to be held at which Owners shall elect three (3) directors. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after Declarant has surrendered control of the Townhome Association, if three (3) directors are elected, the two (2) directors receiving the highest number of votes shall be elected for terms of two (2) years each and the remaining director shall be elected for a term of one (1) year. At each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Townhome Association.

Section 3.4. Removal of Members of the Board of Directors. After expiration of the Declarant Control Period, at any annual or special meeting of the Townhome Association duly called, any one (1) or more Board members, except for directors appointed by Declarant hereunder, may be removed with or without cause by a majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. Further, any director who is more than thirty (30) days past due in the payment of any assessment or charge shall be automatically removed from the Board of Directors, even if the director subsequently pays the amount owed, and the vacancy shall be filled as provided in Article 5 below. Any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings may be removed by the vote of a majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days' notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 3.5. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by a majority of the Total Association Vote or by Declarant, shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. The successor so selected shall hold office until the next annual meeting. Notwithstanding anything to the contrary herein, any director who is an officer, director or other designated agent of an entity member and whose position becomes vacant for any reason, may be replaced by the entity who is the Owner unless there has been a transfer of ownership of the Townhome Lot, in which case, the vacancy shall be filled by the remaining directors, even if less than a quorum at any meeting of the directors.

Section 3.6. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a majority of the Total Association Vote. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors. Directors also may be given nominal gifts or tokens of appreciation by the Townhome Association for recognition of services performed, not to exceed a value of One Hundred and 00/100 Dollars (\$100.00) per calendar year. For purposes hereof, reasonable food and beverages purchased for Board meeting shall not be considered compensation.

Section 3.7. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Townhome Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during the discussion. Notwithstanding anything herein, the directors, during the Declarant Control Period, shall be authorized on behalf of the Townhome Association to enter into contracts with the Declarant and its affiliates.



Section 3.8. Nomination. Nomination for election to the Board shall be made from the floor at the meeting. The Board also may appoint a nominating committee to make nominations prior to the meeting.

Section 3.9. Elections. All members of the Townhome Association eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Voting for election of Board members shall be by written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted).

Section 3.10. Regular Board 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 six (6) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the membership. Notwithstanding the foregoing, during the Declarant Control Period, the Board shall not be required to hold regular meetings.

Section 3.11. Special Board Meetings. Special meetings of the Board may be called by the President on two (2) days' notice to each director given by regular first class or electronic mail, in person, by telephone, or by facsimile transmission, 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 on the written request of at least two (2) directors.

Section 3.12. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board, 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 directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A majority of directors shall constitute a quorum for the transaction of business. One (1) or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 3.14. Open Meetings. Board meetings need not be open to all members. However, if the Board permits members to attend Board meetings, then members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Townhome Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

Section 3.15. 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 a majority of the directors consent to such action in writing, sent via hand delivery, regular first class or electronic mail or facsimile. Such consents must describe the action taken and be signed by no fewer than a majority of the directors and such consents shall be filed with the minutes of the Board of Directors.

Section 3.16. Powers and Duties. The Board of Directors shall manage the affairs of the Townhome Association and shall have all of the powers conferred upon nonprofit corporations by common law, the statutes of the State of Georgia in effect from time to time, and all of the powers



necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in the Articles of Incorporation, these Bylaws, the Townhome Declaration, or the Georgia Nonprofit Corporation Code.

In addition to the duties imposed by these Bylaws or by any resolution of the Townhome Association that may hereafter be adopted, the Board of Directors shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

- (i) designating, hiring, and dismissing the personnel necessary for the operation of the Townhome Association and the maintenance, repair, and replacement of the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (ii) making and amending rules and regulations and imposing sanctions for violation thereof, including, without limitation, monetary fines;
- (iii) opening of bank or other financial accounts on behalf of the Townhome Association and designating the signatories required;
- (iv) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Area of Common Responsibility in accordance with the other provisions of the Townhome Declaration and these Bylaws, after damage or destruction by fire or other casualty; and
- (v) paying the costs of all services rendered to the Townhome Association or its members and not directly chargeable to specific Owners.

Section 3.17. Management Agent. The Townhome Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract by the Townhome Association with or without cause and without penalty, upon no more than thirty (30) days written notice. Any and all associations which are hereby subjected to the Townhome Declaration must use the same management agent as the Master Association (as defined in the Townhome Declaration).

Section 3.18. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Area of Common Responsibility, and for other purposes, with the approval of a majority of the Total Association Vote.

Section 3.19. Liability and Indemnification of Officers, Directors and Committee Members. The Townhome Association shall indemnify every officer, director, and committee member (including directors, officers, and committee members appointed by Declarant during the Declarant Control Period) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Townhome Association, in determining whether to indemnify a director, officer or committee member, shall not impute knowledge to said director, officer or committee member from any source whatsoever; rather, any such determination shall be based on the actual knowledge of the director, officer or committee member. The officers,



directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Townhome Association (except to the extent that such officers, directors and committee members may also be members of the Townhome Association), and the Townhome Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member or former officer or director may be entitled. The Townhome Association shall maintain, as a Common Expense, adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Townhome Declaration.

Section 3.20. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 3.21. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

ARTICLE 4. OFFICERS

Section 4.1. Designation. The principal officers of the Townhome Association shall be the President, the Secretary and the Treasurer, all or any of which may be the same person. A Vice President may be elected at the discretion of the Board.

Section 4.2. Election of Officers. The Townhome Association officers shall be elected annually by the Board at the first Board meeting following each annual meeting of the members and shall hold office at the pleasure of the Board and until a successor is elected.

Section 4.3. Removal of Officers. Upon the affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4.4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 4.5. President. The President shall be the chief executive officer of the Townhome Association and shall preside at all meetings of the members and of the Board. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Townhome Association.

Section 4.6. Vice President. The Vice President, if any, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 4.7. Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all duties incident to the office of the secretary of a corporation organized under Georgia law.

Section 4.8. Treasurer. The Treasurer shall have the responsibility for the Townhome Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Townhome Association or the managing agent in such depositories as may from time to time be



designated by the Board of Directors. The Treasurer shall be responsible for the preparation of the budget as provided in the Townhome Declaration. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 4.9. Other Officers. Other offices may be created by the Board, and the Board members that hold such offices shall have such titles and duties as are defined by the Board.

Section 4.10. Agreements, Contracts, Deeds, Leases, Etc. Except during the Declarant Control Period, all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Townhome Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors. During the Declarant Control Period all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Townhome Association shall be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE 5. RULE MAKING AND ENFORCEMENT

Section 5.1. Authority and Enforcement. The Community shall be used only for those uses and purposes set out in the Townhome Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Townhome Lots and the Common Property, provided that copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a majority of the Total Association Vote and the consent of the Declarant during the Declarant Control Period, at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Townhome Declaration, Bylaws and Rules and Regulations of the Townhome Association, and any lack of compliance therewith shall entitle the Townhome Association and, in an appropriate case, one (1) or more aggrieved Owners, to take action to enforce the terms of the Townhome Declaration, Bylaws or Rules and Regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Townhome Lot, and to suspend an Owner's right to vote or to use the Common Property for violation of any duty imposed under the Townhome Declaration, these Bylaws, or any Rules and Regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Townhome Association or the Board to limit ingress and egress to or from a Townhome Lot. In the event that any Occupant of a Townhome Lot violates the Townhome Declaration, Bylaws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine shall first be assessed against such 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 Townhome Association, and the fine shall be an assessment and a lien against the Townhome Lot until paid. The failure of the Board to enforce any provision of the Townhome Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 5.2. Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Property (provided, however, if an Owner is shown on the books or management accounts of the Townhome Association to be more than thirty (30) days delinquent in any payment due the Townhome Association, suspension of the right to vote and the right to use the Common Property shall be automatic) unless and until the Townhome Association has sent or delivered written notice to the violator as provided in Subsection (a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under Subsection (b) below.

(a) **Notice.** If any provision of the Townhome Declaration or Bylaws or any rule or regulation of the Townhome Association is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the



Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) Hearing. If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

Section 5.3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Townhome Declaration, these Bylaws, or the Rules and Regulations by self-help (specifically including, but not limited to, or performing maintenance on any Townhome Lot upon a failure by the Owner to so do) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 5.2 above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

The Townhome Association or its duly authorized agent shall have the power to enter a Townhome Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Townhome Declaration, these Bylaws, or the Rules and Regulations; provided, however, written notice shall be given to the Owner of the Townhome Lot at least two (2) days prior to the time that any items of construction are altered or demolished. All costs of self-help, including reasonable attorneys' fees, shall be assessed against the violating Owner and shall be collected as provided herein for the collection of assessments.

ARTICLE 6. MISCELLANEOUS

Section 6.1. Notices.

(a) Method of Giving Notice. Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing and shall be given via:

(i) Personal delivery to the addressee; or

(ii) United States mail, first class, postage prepaid; or

(iii) Electronic mail; or

(iv) Facsimile; or

(v) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

(b) Addressee. Notice sent by one of the methods described in Subsection (a) above shall be deemed to have been duly given:

(i) If to an Owner, at the address, electronic mail address or facsimile number which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Townhome Lot of such Owner;



(ii) If to an Occupant, at the address, electronic mail address or facsimile number which the Occupant has designated in writing with the Secretary or, if no such address has been designated, at the address of the Townhome Lot occupied; or

(iii) If to the Townhome Association, the Board or the managing agent, at the postal address, facsimile or electronic mail address of the principal office of the Townhome Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Owners of any such change in address.

Section 6.2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Townhome Declaration.

Section 6.3. 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 Bylaws or the intent of any provision thereof.

Section 6.4. Gender and Grammar. The use of the masculine gender in these Bylaws 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.

Section 6.5. Fiscal Year. The fiscal year of the Townhome Association may be set by Board resolution, and, in the absence thereof, shall be the calendar year.

Section 6.6. Financial Review. A financial review of the accounts of the Townhome Association shall be performed annually in the manner provided by the Board and a financial statement prepared. However, after having received the Board's financial statement review at the annual meeting, the Owners may, by a majority of the Total Association Vote, require that the accounts of the Townhome Association be audited as a Common Expense by an independent accountant. Such statement shall be made available to the holder, insurer, or guarantor of any first mortgage on a Townhome Lot upon submission of a written request and must be available within one hundred twenty (120) days of the Townhome Association's fiscal year end. If an audited financial statement by an independent accountant is not required, a mortgage holder may have an audited statement prepared at its own expense.

Section 6.7. Conflicts. The duties and powers of the Townhome Association shall be those set forth in the Georgia Nonprofit Corporation Code, the Townhome Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Townhome Association; provided, however, that if there are conflicts or inconsistencies between the Georgia Nonprofit Corporation Code, the Townhome Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Georgia Nonprofit Corporation Code, as may be applicable, the Townhome Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner of a Townhome Lot, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 6.8. Amendment. These Bylaws may be amended as provided in Section 15.3 of the Townhome Declaration.

Section 6.9. Books and Records.

(a) Right to Inspect. All members of the Townhome Association and any holder of a first Mortgage shall be entitled to inspect the following records at a reasonable time and location specified by the Townhome Association, upon written request at least five (5) business days before the date on which the member or Mortgagee wishes to inspect and copy:



- (i) its Articles or restated Articles of Incorporation and all amendments to them currently in effect;
- (ii) its Bylaws or restated Bylaws and all amendments to them currently in effect;
- (iii) resolutions adopted by either its members or Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;
- (iv) the minutes of all meetings of members and records of all actions approved by the members for the past three (3) years;
- (v) all written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years;
- (vi) a list of the names and business or home addresses of its current directors and officers; and
- (vii) its most recent annual report delivered to the Georgia Secretary of State.

(b) Inspection. A member may inspect and copy the following records upon written notice at least five (5) business days before the date on which the member wishes to inspect and copy only if the member's demand is made in good faith and for a proper purpose that is reasonably relevant to the member's legitimate interest as a member; the member describes with reasonable particularity the purpose and the records the member desires to inspect; the records are directly connected with this purpose; and the records are to be used only for the stated purpose:

- (i) excerpts from minutes of any Board meeting, records of any action of a committee of the Board while acting in place of the Board on behalf of the Townhome Association, minutes of any meeting of the members, and records of action taken by the members or the Board without a meeting, to the extent not subject to inspection under Section 6.9(a) above;
- (ii) accounting records of the Townhome Association; and
- (iii) the membership list only if for a purpose related to the member's interest as a member. Without the consent of the Board, a membership list or any part thereof may not be: used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the Townhome Association; used for any commercial purpose; or sold to or purchased by any person.

The Townhome Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the member.

Notwithstanding anything to the contrary, the Board may limit or preclude member inspection of confidential or privileged documents, including attorney/client privileged communications, executive session meeting minutes, and financial records or accounts of other members. Minutes for any Board or Townhome Association meetings do not become effective and an official Townhome Association record until approved by the Board or Townhome Association membership, as applicable, at a subsequent meeting.