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Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

**DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

**FOR**

**LAKESIDE AT RIVER GREEN**

Prepared by / upon recording, please return to:

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- TABLE OF EXHIBITS -

<u>Exhibit</u>	<u>Subject Matter</u>
"A"	Land Initially Submitted
"B"	Potential Expansion Property
"C"	Initial Rules
"D"	By-Laws of Lakeside at River Green Homeowners Association, Inc.

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## DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

### FOR

### LAKESIDE AT RIVER GREEN

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by JWC LAKESIDE, LLC, a Georgia limited liability company formerly known as River Green Land, LLC (with its successors and assigns, the "**Declarant**").

#### ARTICLE I CREATION OF LAKESIDE AT RIVER GREEN

##### 1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A," intends by this Declaration to establish a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance and preservation of Lakeside at River Green, a residential neighborhood within the master planned community known as River Green located in the City of Canton, Cherokee County, Georgia.

**Lakeside at River Green is designed and intended to provide housing for persons 55 years of age or older in compliance with the provisions of the federal Fair Housing Act at 42 U.S.C. § 3607(b) and regulations promulgated thereunder, and provisions of the Georgia Fair Housing Law at O.C.G.A. 8-3-205(b), as such provisions may be amended.** However, younger persons are not restricted from owning a Unit, or from occupying a Unit along with a person 55 years of age or older so long as such occupancy is otherwise in compliance with this Declaration.

The Declarant has established Lakeside at River Green Homeowners Association, Inc., a Georgia nonprofit corporation (the "**Association**"), whose membership is comprised of all owners of real property made subject to this Declaration, to own, operate and/or maintain certain property and improvements as described in this Declaration and to administer and enforce this Declaration and the other Lakeside Documents referenced in Section 1.3 of this Declaration. **This document provides for automatic and mandatory membership in a homeowners association.**

##### 1.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Lakeside at River Green in the future by recording an amendment to this

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Declaration or a Supplement in accordance with Article IX (collectively, "**Lakeside**" or "**Lakeside at River Green**"), shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the properties comprising Lakeside, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, is intended to have perpetual duration, subject to the right of the Owners to terminate this Declaration as provided in Article XVIII.

1.3. Governing Documents.

All property now or hereafter comprising Lakeside at River Green is part of the larger residential community known as River Green and, as such, is subject to the jurisdiction of the River Green Community Association, Inc., a Georgia nonprofit corporation ("**River Green Association**") and to the River Green Declaration, the River Green Supplemental Declaration, and the River Green Design Guidelines (as such terms are defined in Section 2.1), as well as the articles of incorporation, by-laws, and rules of the River Green Association, all as they may be amended (collectively, the "**River Green Documents**").

In addition, Lakeside at River Green is governed by:

- this Declaration and such Supplements as may be recorded from time to time pursuant to Article IX; and
- the Association's Articles of Incorporation and By-Laws; and
- the Rules described in Article III; and
- such resolutions as the Association's Board of Directors may adopt;

all as they may be amended (collectively, the "**Lakeside Documents**").

The River Green Documents and the Lakeside Documents are collectively referred to in this Declaration as the "**Governing Documents**").

In the event of a conflict between or among any of the Lakeside Documents, the documents shall be given priority in the order listed above. In the event of a conflict between the Lakeside Documents and the River Green Documents as they relate to Lakeside, the River Green Documents shall control except that, where one is simply more restrictive than the other, the more restrictive shall control. For purposes of this paragraph, a "conflict" shall exist when requirements of two or more documents or laws are inconsistent and mutually exclusive, making compliance with all such requirements impossible. If two or more of the foregoing impose requirements that address the same

matter, but are not inconsistent or mutually exclusive, both shall be complied with, it being the intent that the Lakeside Documents shall supplement, and may be more restrictive or expansive than, applicable law to the extent permitted by applicable law, and that one Lakeside Document may be more restrictive or detailed than another so long as not in conflict with the document that would control under this paragraph in the event of a conflict.

Throughout the Lakeside Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Lakeside Documents, the text shall control.

Diagram 1.1 identifies the various The Lakeside Documents and their functions.

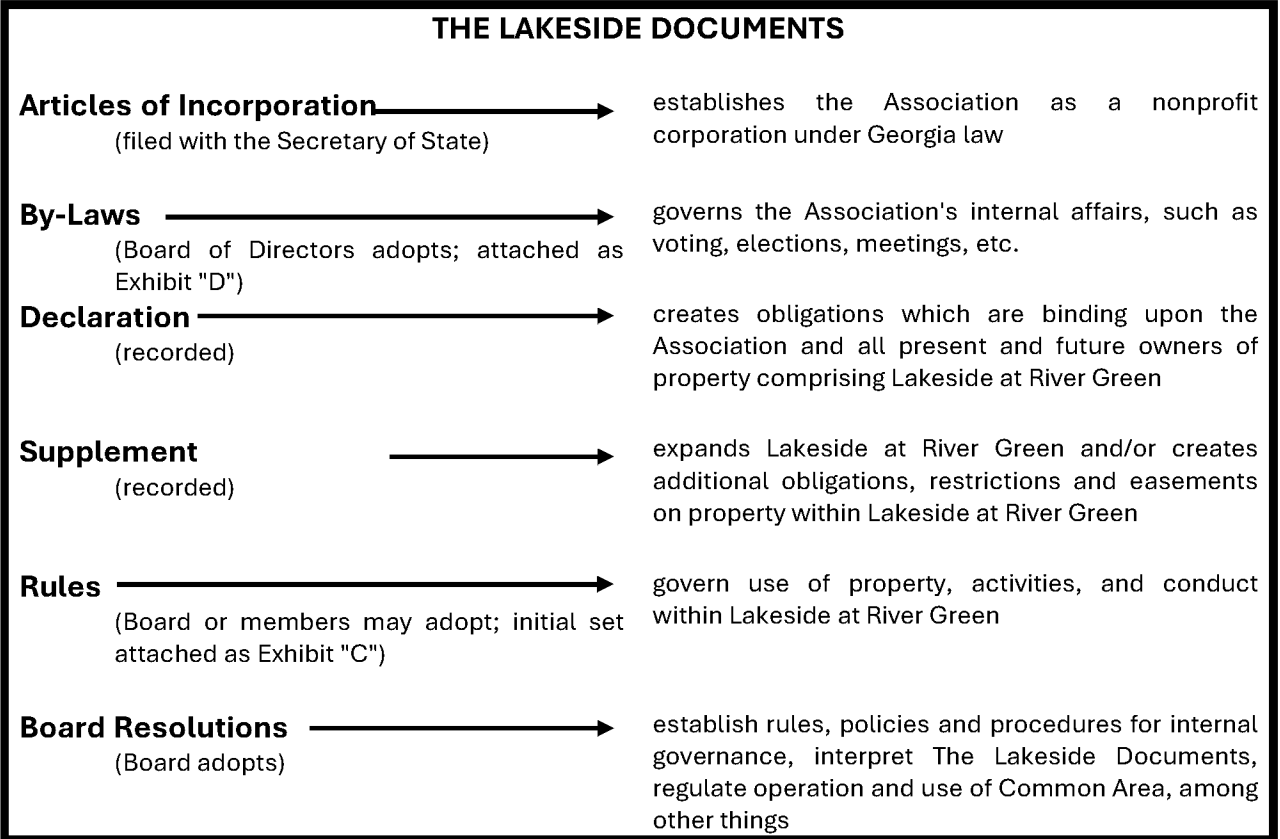


Diagram 1.1 - The Lakeside Documents

The Governing Documents apply to all Owners and Occupants of Units within Lakeside at River Green, as well as to their respective tenants, guests and invitees. If a Unit is leased, the tenant and all Occupants of the leased Unit are bound by and obligated to comply with the Governing Documents, whether or not the lease so provides.

The Association, the Declarant, and every Owner shall have the right to take legal action to enforce the Lakeside Documents. The Association shall have the specific

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enforcement powers and remedies described in Section 7.4 and elsewhere in the Lakeside Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

## **ARTICLE II CONCEPTS AND DEFINITIONS**

### **2.1. Defined Terms.**

The terms used in the Lakeside Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below or as described in the paragraph where they first appear in bold print.

**"Area of Common Responsibility":** The Common Area and other areas described in Section 7.1, together with such other properties, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplement, or other applicable covenants, contracts, or agreements.

**"Articles of Incorporation":** the Articles of Incorporation of Lakeside at River Green Homeowners Association, Inc., filed with the Office of the Secretary of State, State of Georgia, as they may be amended.

**"Association":** Lakeside at River Green Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

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

**"Builder":** A Person who acquires any parcel of land within the property described in Exhibits "A" or "B" hereof for further subdivision and development or to hold for future subdivision and development, or who acquires one or more Units for the purpose of constructing dwellings thereon for sale to consumers in the ordinary course of its business, and either purchases such land or Units directly from the Declarant or is designated a "Builder" hereunder in a written instrument executed by the Declarant.

**"By-Laws":** The By-Laws of Lakeside at River Green Homeowners Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."



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"Class "B" Control Period": The period of time during which the Declarant, as the Class "B" Member, is entitled to appoint a majority of the members of the Board, as provided in Article III of the By-Laws. The Class "B" Control Period begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

(a) the first annual meeting following the date on which 100% of the Permitted Units (as defined below) have been issued certificates of occupancy and have been conveyed to Persons other than the Declarant, a Declarant Affiliate, or a Builder;

(b) December 31, 2040; or

(c) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

"Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and benefit of the Owners. Unless otherwise specified, the term shall include any Exclusive Common Area, as defined below.

"Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of the Owners, including any reasonable reserve, as the Board may find necessary or appropriate pursuant to the Lakeside Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total Class "A" votes in the Association. Payments due under leases of capital improvements such as streetlights shall not be considered an initial development expense or original construction cost.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing in Lakeside at River Green, or the minimum standards established pursuant to the Community Documents and the Lakeside Documents, whichever is the higher standard. Declarant initially shall establish such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within River Green and Lakeside change over time.

"Declarant": JWC Lakeside, LLC, a Georgia limited liability company (formerly known as River Green Land, LLC), its successors, or any successor-in-title or assign who takes title to any portion of the property described in Exhibits "A" or "B" of this Declaration for the purpose of development and/or sale and who the immediately preceding Declarant designates as the "Declarant" hereunder in a recorded instrument.

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"Declarant Affiliate": Any Person that controls, is controlled by, or is under common control with the Declarant, and any Person that is an owner, a member, a partner, or a shareholder of the Declarant.

"Development and Sale Period": The period of time between the recording of this Declaration and the date as of which all of the following have occurred: (i) neither the Declarant, any Declarant Affiliate, or any Builder owns any property subject to this Declaration; (ii) Declarant's right to expand Lakeside at River Green pursuant to Section 9.1 has expired; and (iii) each Unit has become an Improved Unit, as define herein.

"Design Guidelines": The guidelines and standards for design, construction, landscaping, and exterior items placed on Units, established and administered pursuant to River Green Declaration, as they may be amended.

"Exclusive Common Area": Any portion of the Common Area which has been assigned pursuant to Section 11.1(b) for the exclusive use of one or more, but less than all, Units.

"Expansion Property": the real property described on Exhibit "B" to this Declaration, which may be made subject to this Declaration as provided in Article IX.

"General Assessment": Annual assessments levied on all Units subject to assessment under Section 8.5 to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.2.

"Governing Documents": This River Green Documents and the Lakeside Documents, all as they may be amended.

"Improved Unit": A Unit (as defined herein) improved with a dwelling that either (i) has been issued a certificate of occupancy by the applicable governmental authority and is owned by a Person other than the Declarant, a Declarant Affiliate, or a Builder, or (ii) is or has been occupied for residential purposes. For purposes of this definition, use of a dwelling by Declarant or a Builder as a sales office, business office, and/or model home shall not constitute occupancy for residential purposes.

"Lakeside" or "Lakeside at River Green": The real property subject to this Declaration, as it may be supplemented and amended from time to time. The initial property subject to this Declaration is described on Exhibit "A. Additional property may be submitted to this Declaration pursuant to Article IX or by amendment in accordance with Article XVII.

"Lakeside Amenities": Any recreational amenities located on Common Area, and any facilities constructed by Declarant or its contractors elsewhere within River Green on property assigned as "Exclusive Common Area" (as defined in the River Green Declaration)

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of the Units within Lakeside at River Green pursuant to the River Green Supplemental Declaration (as defined below).

**"Lakeside Documents"**: This Declaration and any applicable Supplement, the Articles of Incorporation, By-Laws, the Rules, and Board resolutions, all as they may be amended.

**"Member"**: A Person subject to membership in the Association pursuant to Section 6.2.

**"Mortgage"**: A mortgage, a security deed, a deed to secure debt, or any other form of security instrument affecting title to a Unit. The term **"Mortgagee"** shall refer to a beneficiary or holder of a Mortgage.

**"Occupant"** Any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is an Owner, a tenant, or a household member or guest, except as otherwise provided in Section 3.2.

**"Owner"**: One or more Persons who hold the record title to any Unit, but excluding any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

**"Permitted Units"**: the maximum number of Units which the Declarant is permitted by applicable zoning to develop within the property described in Exhibits "A" and "B".

**"Person"**: A natural person, a corporation, a partnership, a limited liability company, or any other legal entity.

**"Public Records"**: The office of the Clerk of the Superior Court of Cherokee County, Georgia, or such other place designated as the official location for filing documents affecting title to real estate in Cherokee County, Georgia in order to make them a matter of public record.

**"Reviewer"**: The entity or entities with architectural review authority over a particular matter pursuant to Article IV and the River Green Declaration and, when more than one entity has review authority, each such entity, separately, or all such entities, collectively, as the context may require.

**"River Green"**: the residential community located in the City of Canton, Cherokee County, Georgia known as River Green, being more specifically described in and made subject to the River Green Declaration referenced below.

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"River Green Association": River Green Community Association, Inc., a Georgia nonprofit corporation, or any successor thereto as the owners association whose membership consists of all owners of lots subject to the River Green Declaration.

"River Green Declarant": the Person which holds the rights and status of the declarant under the River Green Declaration, as such rights and status may be assigned pursuant to the River Green Declaration.

"River Green Declaration": The Amended and Restated Declaration of Covenants, Conditions and Restrictions for River Green recorded in the Public Records (defined below) on February 4, 2003 at Deed Book 5861, Page 408, *et seq.*, as it has been and may be further amended and supplemented, which instrument applies to the property comprising Lakeside as well as to other real property described in the River Green Declaration or in amendments or supplements thereto filed from time to time in the Public Records.

"River Green Supplemental Declaration": that recorded Supplemental Declaration submitting property within Lakeside to the River Green Declaration, as it may be amended.

"River Green Documents": The River Green Declaration, the River Green Supplemental Declaration, , the Design Guidelines established pursuant to the River Green Declaration, and the articles of incorporation, by-laws and rules of River Green Community Association, Inc.

"Rules": The initial rules of the Association set forth in Exhibit "C" to this Declaration, as they may be supplemented, modified and repealed pursuant to Article III.

"Special Assessment": Assessments levied in accordance with Section 8.3.

"Specific Assessment": Assessments levied in accordance with Section 8.4.

"Supplement": An instrument recorded pursuant to Article IX which subjects additional property to this Declaration and/or creates or imposes additional easements, restrictions and obligations on the land described in such instrument.

"Unit": A numbered lot shown on a recorded plat of any portion of Lakeside at River Green, which lot may be independently owned and conveyed and is intended for development, use, and occupancy as a residence for a single family, whether or not such residence has been constructed, but specifically excluding streets, alleys, Lakeside Amenities, Common Area and any parcel designated on the plat by a two or more letters followed by a number. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the event that a Unit is improved with a main dwelling and an accessory dwelling, each dwelling shall constitute a separate "Unit" hereunder; however, nothing herein shall authorize the creation of an accessory dwelling

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without the prior approval of the Declarant during the Development and Sale Period and the Board thereafter, in addition to such approval as is required under the River Green Declaration.

In the case of a parcel of land submitted to this Declaration prior to recordation of a subdivision plat subdividing it into lots for single family dwellings, the parcel shall be deemed to be a single Unit until such time as a subdivision plat is recorded subdividing all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any remaining portion shall constitute a single Unit. Units may be combined or further subdivided, and boundary lines of Units may be changed, only by recording of a plat or other legal instrument approved by the Declarant reflecting such change. In the absence of recording such a plat or other legal instrument, ownership of adjacent Units by the same Owner shall not permit such Units to be treated as a single Unit for purposes of voting and assessment, notwithstanding that such Units may be improved with a single dwelling.

## 2.2. Interpretation of Certain References.

(a) Consent or Approval. All references in the Lakeside Documents to "consent" or "approval" shall refer to permission or approval that, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

(b) Discretion and Determinations. All references in the Lakeside Documents to "discretion" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act and, unless otherwise expressly limited in the Lakeside Documents, a Person entitled to exercise discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

(c) Recorded; Recording. All references in the Lakeside Documents to a "recorded" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed, or the filing of a legal instrument, in the Public Records.

## ARTICLE III RESTRICTIONS ON USE, OCCUPANCY AND CONDUCT; LEASING

### 3.1. Residential Use.

Except as the Declarant may otherwise authorize with respect to construction, marketing, and sale activities of the Declarant and Builders it designates, Units may be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit, including business uses ancillary to a primary residential use, except that an Owner or Occupant residing in a Unit may conduct business activities ancillary to a primary residential use of the Unit if the business activity:

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(a) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(b) complies with the Governing Documents and applicable zoning requirements;

(c) does not involve regular visitation of the Unit by employees, clients, customers, suppliers, business invitees, or other persons who do not regularly reside in the Unit, or door-to-door solicitation within Lakeside at River Green; and

(d) is consistent with the residential character of Lakeside at River Green and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

The terms "trade" and "business" shall have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing of a dwelling for residential purposes shall not be considered a "business" within the meaning of this Section, provided that such lease complies with Section 3.3 and Section 3.4.

### 3.2. Occupancy of Units.

(a) **General.** Lakeside at River Green is designed and intended to provide housing for persons 55 years of age or older, although younger persons are not restricted from occupying a Unit along with a person 55 years of age or older or so long as such occupancy is otherwise in compliance with this Section 3.2. In addition, certain exceptions may be made pursuant to subparagraph (b)(i). The provisions of this Section 3.2 are intended to be consistent with, and are set forth in order to comply with, the "housing for older persons" exemption ("**HOPA Exemption**") from prohibitions on discrimination based on familial status under the federal Fair Housing Act, 42 U.S.C. § 3601, *et seq.*, as now and hereafter amended, and the Georgia Fair Housing Law, O.C.G.A. 8-3-200, *et seq.*, as now and hereafter amended (collectively, the "**Fair Housing Acts**"). Declarant, during the Development and Sale Period, and the Board thereafter, shall have the power to amend this Section 3.2, without the consent of the members of the Association or any other Person except the Founder, if necessary to make this Section 3.2 compliant with the HOPA Exemption under the Fair Housing Acts, the regulations adopted pursuant thereto, as they may be amended, other provisions of Georgia law, and any judicial decisions arising thereunder or otherwise relating to any of the foregoing.

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(b) Requirements for Occupied Units.

(i) Each occupied Unit shall at all times have as a "Permanent Resident" (as defined herein) at least one person who is 55 years of age or older (the "**Qualifying Occupant**"), except as otherwise provided in this subsection (b). For purposes of this Section 3.2, an Occupant shall not be considered a "Permanent Resident" unless such Occupant considers the Unit to be his or her legal residence and actually resides in the Unit for at least six months during every calendar year or such shorter period as the Unit is actually occupied by any person.

(A) In the event of the death of a person who was the sole Qualifying Occupant of a Unit, or the illness or disability of the sole Qualifying Occupant requiring their transfer to a health care facility, nursing home, or assisted living, personal care, continuing care, or similar facility providing assistance with daily personal needs and/or health care, the spouse of such Qualifying Occupant residing in the Unit immediately prior to such event and any other person then occupying the Unit in compliance with this Section 3.2 may continue to occupy the Unit, provided that they notify the Board in writing within 10 days after the death or relocation of the Qualifying Occupant and such continued occupancy would not cause Lakeside at River Green to be in noncompliance with the requirements of the HOPA Exemption under the Fair Housing Acts or the requirements of applicable zoning as of the date of the Board's receipt of such notice;

(B) During the Development and Sale Period, Declarant may grant an exception to this requirement, provided the requirements for the HOPA Exemption under the Fair Housing Acts and the requirements of applicable zoning would still be met, to permit occupancy of a specific Unit by the particular individuals for whom the exception is made. Any such exception shall be made only in a writing signed by the Declarant, and shall identify the specific individuals and Unit which they are authorized to occupy, and shall apply only to occupancy by the specific individuals so named; and

(C) In addition to the above, Declarant and any other Owner may request in writing that the Board make an exception to the requirements of this Section 3.2(b)(i) with respect to such Owner's Unit. The Board may adopt and publish rules and policies for considering and granting such requests, including policies regarding the form of such request and the information that must be provided with such request. The Board shall respond to any such request within 10 calendar days after receipt of such request and all information required to accompany such request, as specified by Board rules and policies. The Board may, but shall not be obligated to, grant exceptions under this subparagraph (C). In considering any such request, the Board shall use good faith efforts to maintain eligibility for the requirements for the HOPA Exemption under the Fair Housing Acts consistent with applicable law.

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(ii) Nothing in this Section 3.2(b) is intended to restrict the ownership of or transfer of title to any Unit nor prohibit occupancy of a Unit by a person of any age, provided that the requirements of this Section 3.2(b) are met.

(c) Change in Occupancy; Sales and Leases.

(i) Any lease or other occupancy agreement or contract of sale relating to a Unit shall be in writing, shall be signed by the tenant or purchaser, and shall include a statement in conspicuous type that the Units in Lakeside at River Green are intended for the housing of persons 55 years of age or older, as set forth in Section 3.2(a). Owners shall clearly disclose such intent to any prospective tenant, purchaser, or other prospective resident of the Unit. Every lease of a Unit shall provide that failure to comply with the requirements and restrictions of this Section 3.2 shall constitute a default under the lease.

(ii) Upon the initial occupancy of a Unit, and thereafter upon any change in occupancy of any Unit as a result of a transfer of title, a lease, a birth or death, a change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Unit shall immediately notify the Board in writing and provide to the Board the names of each person occupying the Unit and such information as the Board may require to verify compliance with the requirements of Section 3.2(b). In the event that an Owner fails to notify the Board and provide all required information within 10 days after initial occupancy or any change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Unit for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the Unit continues to meet the requirements of Section 3.2(b), in addition to all other remedies available to the Association under this Declaration and Georgia law, which may include dispossession or eviction proceedings, subject to any limitations of Georgia law.

(iii) Within 30 days after the Qualifying Occupant of a Unit or any other person granted an exemption pursuant to Section 3.2(b)(i), ceases to be a Permanent Resident of the Unit, the remaining Occupants shall vacate the Unit unless there is another Qualifying Occupant residing in the Unit or the Board has granted an exception for the remaining Occupants pursuant to Section 3.2(b)(i).

(d) Monitoring Compliance; Appointment of Attorney-in-Fact.

(i) The Association shall maintain a record of the identity and age of the Qualifying Occupant of each Unit and the identity of all other Persons occupying each Unit. The Board shall adopt and publish policies, procedures, and rules to verify, monitor and maintain compliance with this Section 3.2, including procedures for (A) routinely determining the occupancy of each Unit; (B) updating occupancy records at least once every two years through surveys, affidavits, or other means as required under 24 CFR



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§100.307, (C) the granting of exceptions pursuant to Section 3.2(b)(i), and (D) enforcement. The Association shall periodically distribute such policies, procedures, and rules to Owners and make copies available to Owners, their tenants, and holders of security interests in any Unit upon reasonable request. A summary of occupancy surveys shall be made available for inspection upon reasonable notice and request by any person.

(ii) The Association shall have the power and authority to enforce this Section 3.2 in any legal manner available, as the Board deems appropriate consistent with federal and state law, including, without limitation, conducting a census of the persons occupying each Unit, requiring copies of birth certificates or other proof of age for each Qualifying Occupant a Unit to be provided to the Board on a periodic basis, and taking action to evict the Occupants of any Unit which is not in compliance with the requirements of this Section 3.2. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT, OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER UNIT AS THE BOARD DEEMS APPROPRIATE TO ENFORCE COMPLIANCE WITH THIS SECTION 3.2. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Unit that, in the judgment of the Board, are reasonably necessary to monitor compliance with this Section 3.2.

(iii) Each Owner shall be responsible for ensuring compliance of its Unit with the requirements of this Section 3.2 and the rules of the Association adopted hereunder. EACH OWNER, BY ACCEPTANCE OF TITLE TO A UNIT, AGREES TO INDEMNIFY, DEFEND, AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION THAT MAY ARISE FROM FAILURE OF SUCH OWNER'S UNIT TO SO COMPLY. In addition, the Association shall be entitled to recover all attorneys' fees and costs actually incurred in enforcing this Section 3.2 from the Owner of the non-compliant Unit, whether or not suit is filed.

### 3.3. Leasing of Units.

(a) Definition. "Leasing," as used in this Declaration, shall mean occupancy of a Unit by any person other than the Owner, the Owner's parent or grandparent, or if the Unit is held in trust, the trustee or beneficiary of such trust (any of which shall be an "Owner Substitute") and the members of such Owner's or Owner Substitute's household, when the Owner or an Owner Substitute is not residing in the Unit. For purposes of this Section 3.3, an Owner or Owner Substitute shall be considered to be residing in the Unit only if they furnish and maintain the Unit as their principal residence and regularly reside in the Unit except during occasional periods of travel out of town.

(b) Restriction on Leasing. In order to maintain the predominantly owner-occupied character of Lakeside and facilitate the financing of Unit purchases, leasing of Units shall be prohibited except as specifically authorized in Section 3.3(c) and (d), and then subject to the conditions set forth in Section 3.3(e). Any leasing transaction which is not authorized under Section 3.3(c) or (d) shall be voidable at the option of the Board.

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(c) Exemptions.

(i) Hardship Exemption. The Board may (but shall not be obligated to) allow leasing of a Unit not otherwise exempt under this Section 3.3(c) or authorized to lease under Section 3.3(d), if the Board deems it appropriate to avoid undue hardship to the Owner, including, but not limited to, a situation in which:

(A) the Owner who has been occupying the Unit for at least 12 months must relocate his or her residence more than 30 miles from River Green and has been unable to sell the Unit after having advertised it for sale on a commonly recognized real estate listing service for at least six months at a price no greater than 105% of current appraised market value, and made reasonable efforts to achieve a sale; provided, any exemption granted pursuant to this clause (A) may be conditioned upon such terms as the Board deems appropriate, including a condition that the Owner continue such efforts to sell the Unit;

(B) the Owner who has been occupying the Unit dies and the Unit is being administered by his or her estate; or

(C) the Owner who has been occupying the Unit temporarily relocates and intends to return to reside in the Unit.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing and such other information as the Board may reasonably require. Upon the Board's written approval of such application, the Owner may lease the Unit for such duration as the Board reasonably determines necessary to prevent undue hardship. Upon expiration of such authorized period, any lease of the Unit shall terminate unless the Owner has applied for and been granted an extension of the hardship exception, which may be granted or withheld in the Board's sole discretion.

(ii) Exemptions for Model Homes. Any Unit which the Declarant or a Builder sells and leases back for use as a model home for marketing purposes shall be exempt from the restriction on leasing under Section 3.3(b) during the term of such lease, provided the lessee continues to be engaged in the business of constructing and/or selling its homes in Lakeside and the Unit is not occupied for residential purposes.

(iii) Exemption for Institutional Lenders. An institutional lender which acquires title to a Unit upon foreclosure of its first priority deed of trust on the Unit or by a deed in lieu of such a foreclosure may lease the Unit so long as owned by such lender; however, this subsection (c)(iii) shall not permit leasing by any Owner, other than such lender, who purchases the Unit at a foreclosure sale or acquires title to the Unit from the

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lender subsequent to the foreclosure of a deed of trust or granting of a deed in lieu of foreclosure.

(d) Permission to Lease. Subject to the limitation set forth in Section 3.3(e)(xi), an Owner of a Unit which does not qualify for an exemption under subsection (c) and which is improved with a dwelling for which a certificate of occupancy has been issued ("**Non-Exempt Unit**") may submit a written request to the Board for permission to lease. The Board shall grant such request unless, at the time such request is considered, ten percent (10%) or more of the Non-Exempt Units in Lakeside have permission to lease pursuant to this subsection (d), in which case the Board shall deny such request and place the Unit on a waiting list for permission to lease. Such waiting list shall be maintained in the order in which the Association receives the Owners' applications for permission to lease hereunder; however, the existence of a waiting list shall not preclude the Board from granting hardship exemptions pursuant to subsection (c) even though each such exemption granted may delay granting of permission to lease to an Owner on the waiting list.

At such time as the percentage of Non-Exempt Units which have permission to lease pursuant to this subsection (d) drops below 10%, the Board shall notify the Owner of the Unit at the top of the waiting list that such Owner has been granted permission to lease. The Owner shall have 90 days after the date of such notice within which to enter into a written lease agreement and provide a copy to the Board or the permission to lease shall expire. If a lease is executed within such initial 90-day period and, at any time thereafter, there is a period of more than 90 consecutive days in which the Unit is not occupied by a tenant pursuant to a lease which complies with this Section 3.3, permission to lease shall expire.

If the Board fails to respond to a written request for permission to lease within 30 days after receipt of such request, the Owner may give written notice to the Board by certified mail, return receipt requested, that the Owner intends to lease the Unit and, if such lease would not result in Owners of more than ten percent (10%) of the Non-Exempt Units in Lakeside having permission to lease pursuant to this subsection (d), then permission to lease shall be deemed granted effective as of the fifth (5th) day following the Board's receipt of such notice.

(e) Conditions. Subject to the foregoing, all leasing of Units shall comply with the leasing conditions set forth in the River Green Declaration and with the following:

(i) No signs advertising the Unit for rent or lease or otherwise indicating that the Unit is available for rent or lease shall be posted on the Unit, elsewhere in Lakeside or River Green, or on any right-of-way adjacent to River Green, except as may specifically be authorized by the Design Guidelines.

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(ii) **Any lease of a Unit shall be in writing, shall incorporate by reference the occupancy requirements and restrictions set forth in Section 3.2 of this Declaration, and shall expressly set forth the provisions required by Section 3.2(c).**

(iii) All leases shall have an initial term which complies with the minimum lease term set forth in the River Green Declaration. If the lease is terminated or the lessee occupying the Unit under the lease vacates the Unit prior to expiration of such minimum initial term, the Unit may not be leased or subleased to another lessee until expiration of such minimum initial term, unless otherwise approved in advance by the board of directors of the River Green Association.

(iv) Units may be leased only in their entirety; no fraction, portion, or rooms constituting less than the entire Unit may be leased and no Unit shall be subject to more than one lease at a time (*i.e.*, concurrent leases with multiple parties shall not be permitted). This subsection (b)(iv) shall not prohibit unrelated persons from sharing occupancy of a Unit as part of a common household and sharing expenses in such manner as they determine among themselves, provided that such occupancy complies with Section 3.2.

(v) The Owner of a leased Unit shall provide to the lessee copies of the Declaration, By-Laws, and the Rules prior to the lessee entering into any agreement to lease a Unit.

(vi) Prior to the lessee taking occupancy of the Unit, the Owner shall give notice to the Association as required under Section 3.2(c). Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee. The notice of any lease shall provide an alternate mailing address for the Owner, a copy of the lease, and any additional information the Board may reasonably require, and shall be accompanied by a fee ("**Administrative Lease Fee**") in such reasonable amount as the Board may establish from time to time to help fund costs of processing lease applications, updating resident records, and other administrative burdens associated with leasing.

(vii) Each Owner of a leased Unit and each lessee, by occupancy of a Unit, agrees to the following provisions and further agrees that, if such provisions are not expressly contained in the lease, then such provisions shall be incorporated into the lease by existence of this covenant on the Unit:

Compliance With Governing Documents. The lessee acknowledges receipt of a copy of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for River Green and the other governing documents referenced therein as well as the Declaration of Covenants, Restrictions and Easements for Lakeside at River Green and the other governing documents referenced therein (collectively, the "Governing Documents") and agrees to comply with the Governing Documents and to

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control the conduct of all other occupants and guests of the leased premises in order to ensure their compliance. Any violation of the Governing Documents by the lessee, any person residing in the Unit, or any guest of the lessee or other members of the lessee's household shall constitute a default under the terms of the lease and shall authorize the lessor to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The lessor hereby delegates and assigns to Lakeside at River Green Homeowners Association, Inc., acting through its board of directors, the power and authority to enforce this provision against the lessee, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the lessor, in accordance with the terms hereof.

Liability for Assessments. If the lessor fails to pay any monetary obligation due to Lakeside at River Green Homeowners Association, Inc. (the "Association") for a period of more than 30 days after it is due and payable, then upon the Association's demand, the lessee shall pay to the Association the rental payments due under the lease as of the date of such demand and thereafter continue to pay all rent due under the lease to the Association as it comes due until all the monetary obligations of the Owner related to the Unit have been paid in full to the Association and the Association releases the tenant or until the termination of the lease, whichever occurs first. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Governing Documents as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(viii) In the event the Association proceeds to evict a lessee pursuant to the language in subsection (b)(vii) above, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment against the Unit, secured by the Association's lien under Section 8.6 of this Declaration.

(ix) Any demand for payment of rents due under the lease pursuant to the language in subsection (b)(vii) above shall be in writing and shall be delivered to the lessee by hand or by United States mail. Any Owner hereby consents to the assignment of any rent due from the lessee during the period of any delinquency. The Association may, but shall have no duty to, take legal action to collect rents from any lessee pursuant to subsection (b)(vii), and nothing in that subsection (b)(vii) shall be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she is otherwise responsible.

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(x) The Owner of a leased Unit shall be responsible for any violations of the Governing Documents by the lessee or other Occupants of the Unit, notwithstanding that the lessee and Occupants are fully liable and may be sanctioned for their violations. In the event that the Association imposes a fine for violation of the Governing Documents by the lessee or Occupants of the leased Unit, the Association shall give notice to the Owner and the lessee and the Owner shall be responsible for payment if the lessee fails to pay the fine. Unpaid fines shall constitute a lien against the Unit.

(xi) An Owner and any other Owners to whom such Owner is related by blood, adoption, or marriage, or with whom such Owner is affiliated through a common ownership interest, shall not individually or collectively lease or offer for lease more than one Unit at the same time, except that this prohibition shall not apply to restrict:

(A) leasing of Units to Declarant or any Builder authorized by Declarant for use as model homes or sales offices; or

(B) the leasing of Units by an institutional lender following foreclosure on any Unit(s).

#### 3.4. No Short-Term Lodging or Timesharing.

No Person shall advertise via the internet, social media, or any other advertising media), offer, or operate any Unit or portion thereof as a hotel, inn, bed and breakfast, vacation rental, or other lodging for which a fee or other monetary compensation is to be charged. However, this shall not preclude advertising or offering of a Unit for lease on terms and in a manner consistent with Section 3.3, if such Unit is authorized to be leased thereunder. No Unit shall be used for operation of a timesharing, fraction-sharing, residence club, vacation club, or similar program whereby the right to exclusive use of the Unit is shared among participants in the program on a fixed or floating time schedule or on a reservation basis over a period of years.

#### 3.5. Rules and Rulemaking Authority.

(a) General. The Lakeside Documents establish a general plan of development and framework of covenants, conditions, easements and restrictions that govern Lakeside at River Green. The initial Rules attached as Exhibit "C" are a part of that framework. This Section 3.5 establishes the authority and procedures for modifying and expanding the Rules. This Section does not apply to policies relating to use and operation of the Common Area (such as operating hours, pool rules, etc.), which the Board may adopt by resolution, nor to administrative or other policies consistent with the Governing Documents which the Board may adopt from time to time, notwithstanding that such policies may be referred to as rules and/or published for informational purposes as part of the Rules.

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(b) Authority. Subject to the limitations set forth in subsection (e):

(i) Declarant Authority. So long as the Declarant has the right to amend this Declaration pursuant to Section 17.1, the Declarant may unilaterally amend Exhibit "C" to add new Rules or to modify or rescind existing Rules.

(ii) Board Authority. Subject to the Board's duty to exercise its powers in a reasonable, fair and nondiscriminatory manner, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any duly called meeting of the Board or by action without a meeting in accordance with the By-Laws; however, during the Development and Sale Period, any such action shall also be subject to the Declarant's written consent.

(iii) Member Authority. Subject to the terms of this Section, Members entitled to cast more than 50% of the total Class "A" votes in the Association may adopt new Rules and modify or rescind existing Rules at any duly called meeting of the Association membership or by action without a meeting in accordance with the By-Laws, regardless of the manner in which the original Rule was adopted; however, during the Development and Sale Period, any such action shall be subject to the Declarant's written consent.

(c) Notice of Proposed Rule Change. At least five business days prior to any vote by the Board or Members on a proposed Rule change under subsections (b)(ii) or (b)(iii) above, the Board shall send notice of the proposed Rule change to all Owners and, during the Development and Sale Period, to the Declarant. Members shall have the right to submit comments on the proposed action for consideration by the Board or Members, as applicable, before it is put to a vote and, if the vote is taken at a meeting, Members shall have a reasonable opportunity to be heard before the proposed action is put to a vote.

(d) Effective Date. A Rules change shall be effective upon its adoption unless otherwise stated therein, but no Person shall be considered in violation of a Rule adopted or modified pursuant to this Section until 30 days after notice of its adoption has been given pursuant to subsection (b). A resolution adopting any Rules change shall be filed in the corporate records of the Association and may, but need not, be set forth in an amendment to Exhibit "C" executed by the Declarant or the Association and recorded in the Public Records.

ALL OWNERS ARE GIVEN NOTICE THAT USE OF THEIR UNITS AND THE COMMON AREA IS LIMITED BY THE RULES AS AMENDED, EXPANDED AND OTHERWISE MODIFIED FROM TIME TO TIME. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Rules may be obtained from the Association.

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(e) Limitations on Rulemaking Authority. Except as may be set forth in this Declaration (either initially or by amendment), any Supplement, or in the initial Rules set forth in Exhibit "C," the rulemaking authority set forth in Section 3.5(a) shall be subject to the following limitations:

(i) *Discrimination.* Rules may not discriminate among Owners or occupants based on race, color, religion, sex, disability, or national origin.

(ii) *Religious and Holiday Displays.* Rules shall not prohibit an Owner or occupant of a Unit from displaying religious and holiday signs, symbols, and decorations inside structures on their Units, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside the boundaries of the Unit.

(iii) *Transfer of Ownership.* No Rule shall prohibit the transfer of any Unit, or require consent of the Association or Board for the transfer of any Unit.

(iv) *Flags.* No Rule shall regulate or prohibit an Owner or occupant of a Unit from displaying on the Unit the flag of the United States of America, the current flag of the State of Georgia, or an official or replica flag of any branch of the United States armed forces, provided that any such flag is of a size no greater than four feet by six feet and is displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. Sections 5-10, as amended, governing the display and use of the flag of the United States; however, the Design Guidelines and the Reviewer may regulate the location, size, use and manner of display of such flags and flagpoles and associated lighting to the extent such regulations are not inconsistent with federal and state laws.

(v) *Abridging Existing Rights.* No Rule shall be applied to require an Owner or Occupant to dispose of personal property kept in or on a Unit by such Owner or Occupant in compliance with all Rules in effect immediately prior to the adoption of such Rule; however, the Association may adopt Rules permitting current Owners and Occupants to keep such personal property during their period of ownership or occupancy while prohibiting the keeping of similar items by subsequent Owners or Occupants of the same Unit.

(vi) *Interference with Easements.* No Rule or action shall unreasonably interfere with the exercise of any easement affecting Lakeside.

(vii) *Interference with Rights to Develop and Sell.* No Rule or action by the Association or Board shall impede Declarant's right to develop Lakeside, nor restrict Declarant, or any Builder that the Declarant may so authorize, from maintaining upon Common Areas and Units which they own any facilities necessary or incidental to construction or sale of Units.



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The limitations in subsections (i) through (vi) of this Section 3.5(e) shall only limit rulemaking authority exercised under this Section 3.5; they shall not invalidate any provision of this Declaration or apply to Rules set forth on Exhibit "C" initially or amendments to this Declaration adopted in accordance with Article XVII.

#### **ARTICLE IV CONSTRUCTION; ARCHITECTURE AND LANDSCAPING**

##### **4.1. Required Approvals and Compliance.**

All new structures and improvements on a Unit or Exclusive Common Area assigned to a Unit pursuant to Section 11.1(b), and all alterations to existing structures and improvements, including installation and removal of landscaping, exterior lighting, and other items (including sports, play, and maintenance equipment, outdoor furniture and storage, signs, and decorative items) placed or stored on any property in Lakeside at River Green in a manner or location visible from outside of any existing structure ("**Improvements**"), are subject to the architectural and aesthetic standards and procedures and approval requirements set forth in (i) the River Green Declaration and the Design Guidelines adopted pursuant thereto, and (ii) this Declaration and the Lakeside Standards, if any, adopted pursuant to Section 4.3 hereof.

In addition to such approval as is required under the River Green Declaration, during the Development and Sale Period, all Improvements proposed to be made by Persons other than the Declarant shall be subject to prior approval of the Declarant, and after termination of the Development and Sale Period, by the Board (or a committee which the Board may appoint pursuant to this Article), except that no approval of the Declarant or Board shall be needed to repaint the exterior painted portions of a structure in accordance with the original or previously approved color scheme or to rebuild a damaged structure in accordance with original or previously approved plans and specifications for such Unit.

The Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications for approval hereunder. In reviewing and acting upon any request for approval, the Declarant and any such designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue until termination of the Development and Sale Period, unless earlier terminated in a written instrument that Declarant executes and records. The Declarant may, in its discretion, delegate authority over specific matters to the Board. Any such delegation shall be in writing specifying the scope of responsibilities delegated and shall be subject to: (i) the Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) the Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason.

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The Board shall have no authority over architectural review until termination of the Declarant's authority under this Section, except to the extent that the Declarant has delegated all or some of its authority to the Board. The Board may delegate its review authority under this Section to a committee consisting of at least three, but not more than five, persons, who shall serve and may be removed and replaced in the Board's discretion, at least a majority of whom shall be Members of the Association, spouses of Members, or representatives of Members which are legal entities. Any such committee shall be subject to the same procedures and limitations as the Board hereunder. The Board may, in its discretion, retain architects, engineers or similar design professionals who are not Members or representatives of Members to assist the Board or any such committee and may compensate such individuals for their service in such manner and amount if any, as the Board may establish and may include the compensation of such persons in the Association's annual operating budget.

Each Owner, by accepting a deed or other instrument conveying any interest in a Unit, acknowledges that (i) the Declarant has a substantial interest in ensuring that Improvements to Units within Lakeside enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property in Lakeside, and (ii) the Association has a substantial interest in ensuring that any modifications to Units are compatible with and do not detract from the aesthetics within Lakeside or interfere with the Association's performance of its responsibilities hereunder.

The Owner of each Unit shall be responsible for obtaining all necessary approvals and governmental permits prior to commencement of any work within the scope of such provisions and for ensuring that all construction activity and Improvements on the Unit comply with the River Green Declaration and Design Guidelines adopted pursuant thereto, all applicable building codes, ordinances, and other governmental requirements, and the plans and specifications as approved by all Persons whose approval is required under the River Green Declaration, this Article, and applicable ordinances.

#### 4.2. Review Fees.

The Declarant and the Board may establish and charge reasonable fees for review of applications within the scope of their respective authority hereunder, and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals.

#### 4.3. Architectural and Aesthetic Standards.

During the Development and Sale Period, the Declarant may establish architectural and aesthetic standards for Lakeside (collectively, "Lakeside Standards"), which shall apply in addition to those architectural standards set forth in, and the Design Guidelines adopted pursuant to, the River Green Declaration; however, in the event of a conflict, the

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more restrictive provision shall control. The Declarant shall have the exclusive authority to amend the Lakeside Standards during the Development and Sale Period, except to the extent that it specifically delegates such authority to the Board in writing. After termination of the Declarant's authority, the Board may adopt and amend Lakeside Standards. The Lakeside Standards, if any, are intended to facilitate the application and review process, but shall not be the sole basis of decisions of the Declarant or the Board hereunder. The Declarant or Board shall make the Lakeside Standards, if any, available for review by Owners and their contractors.

In reviewing any application hereunder, the Declarant or Board may consider, in addition to the architectural standards set forth in the River Green Declaration, the Design Guidelines adopted pursuant thereto, and the Lakeside Standards, any other factors it deems relevant and may base its decision on purely subjective opinions as to aesthetics. Compliance with the Design Guidelines and Lakeside Standards does not guarantee approval. Each Owner acknowledges that opinions may vary as to the desirability and/or attractiveness of proposed Improvements. The decision of the entity having review authority on aesthetic matters shall be final, conclusive, and binding and shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

#### 4.4. Review Procedures.

An application for architectural approval of the Declarant, the Board, or any committee appointed by the Board (as applicable, the "**Lakeside Reviewer**") shall include such detailed plans and specifications for the proposed Improvements as the reviewing entity may reasonably require to properly evaluate the acceptability thereof, including all items required to be included in the application for approval under the River Green Declaration and Design Guidelines. The Lakeside Reviewer shall make an initial determination on an application within 30 days after receipt of a completed application and all required information and may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until termination of the Development and Sale Period, the Board shall notify the Declarant in writing, in a manner authorized by the Declarant, within three business days after its approval of any application within the scope of matters which the Declarant has delegated to the Board, such notice to be accompanied by a copy of the application and any additional information that Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the Board.

The Lakeside Reviewer shall notify the applicant of the final decision on an application within five days, except that in the case of application subject to the Declarant's veto right hereunder, such notice shall be sent within five business days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of

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the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections. Notice to an applicant hereunder shall be deemed given when deposited in the U.S. Mail, certified mail, return receipt requested, properly addressed to the applicant at the address stated in such applicant's notice, or upon receipt if given by any other means.

In the event that the Lakeside Reviewer fails to give notice of its approval or disapproval of any application within the time period required above, the applicant may notify the Lakeside Reviewer by certified mail, return receipt requested, at the address for such notices set forth in the application form provided by the Lakeside Reviewer or the current edition of the Lakeside Standards, if any, stating that no response has been received and that unless a written response is given at the address set forth in such notice within 15 days of the Lakeside Reviewer's receipt of the applicant's notice, as evidenced by the return receipt, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with this Declaration, the Design Guidelines, or the Lakeside Standards, unless a written variance has been granted pursuant to this Article.

Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. If approved work is not completed within the required time, it shall be considered nonconforming and shall be subject to enforcement action by the Association, Declarant or any aggrieved Owner.

#### 4.5. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines and Lakeside Standards, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case the Lakeside Reviewer may elect not to require changes to the improvements involved, but may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### 4.6. Variances.

The Lakeside Reviewer may authorize variances from compliance with any of the Lakeside Standards (but not the Design Guidelines) when it determines that circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations justify such variance, but only in accordance with a duly

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adopted resolution specifying the justification for such variance. No variance shall (a) be effective unless in writing; (b) be in conflict with this Declaration or the River Green Declaration; or (c) preclude the Lakeside Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

#### 4.7. Limitation of Liability.

The Declarant, the Association, its officers, the Board, and members of any of the foregoing shall not be responsible for liable to any Person for: (a) any loss or damage arising out of any action, inaction or decision made pursuant to this Article; (b) the action, inaction, integrity, financial condition, or quality of work of any Builder, architect, or contractor, or their respective subcontractors, employees, or agents; or (c) any injury, damages, or loss arising out of the manner or quality or other circumstances of any construction activity on or modifications to any Unit undertaken by any Owner, Builder or their contractors, subcontractors, employees, or suppliers.

### ARTICLE V MAINTENANCE AND REPAIR OF UNITS

#### 5.1. Maintenance of Units.

(a) Each Owner shall be responsible for maintaining such Owner's Unit, any Exclusive Common Area assigned to such Owner's Unit pursuant to Section 11.1(b), and all improvements on the Unit and any such Exclusive Common Area, except to the extent that such responsibility is specifically assigned to or assumed by the Association hereunder. Subject to subsection (b) hereof, the Association shall be responsible for the following on the Units and, to the extent that the Owners would otherwise be responsible for such maintenance pursuant to Section 5.2 of the River Green Declaration, on property adjacent to the Units:

(i) mowing of lawns (including both front and rear yards of the Units) during the growing season and application of fertilizer to lawns two times per year;

(ii) installation of pine straw in planting beds twice per year;

(iii) pruning of shrubbery and weeding and edging of curbs, walks, and planting beds with such frequency as the Board deems appropriate consistent with the budget adopted pursuant to Article VIII;

(iv) removal of fallen leaves from lawns, planting beds, and sidewalks at least twice per year; and

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(v) such other maintenance as the Board may expressly elect to undertake consistent with the budget adopted from time to time in accordance with Article VIII;

all on such schedule as the Board determines appropriate consistent with the above and the Community-Wide Standard. In addition, the Association shall be responsible for maintaining any retaining wall(s) originally installed by the Declarant (and replacements thereof) which span the property lines of two or more Units or any Unit and Common Area, including any fence installed by the Declarant along the top of any such retaining walls and replacements thereof.

If an Owner undertakes to perform maintenance which would otherwise be performed by the Association under Section 5.1(a), there shall be no reduction or abatement in the assessments levied on such Unit hereunder by reason of the Owner providing such maintenance.

(b) The Association's responsibilities under Section 5.1(a) shall commence as to each Unit at such time as:

(i) all construction and landscaping on the Unit has been completed in accordance with the approved plans and the Reviewer has issued a letter so stating; and

(ii) the Builder has either (A) delivered written notice to the Association that the final inspection of the dwelling on the Unit has been performed as required by the City of Canton, Georgia and a certificate of occupancy has been issued; or (B) has conveyed the Unit for residential occupancy.

Until the Association's maintenance responsibilities commence hereunder, the Owner/Builder shall be responsible for all maintenance on the Unit.

(c) Except as otherwise provided in this subsection (c), all costs which the Association incurs in performing its responsibilities under this Section 5.1 shall be allocated as provided herein among only those Units as to which the Association's responsibilities have commenced under Section 5.1(b) and levied as a Specific Assessment under Section 8.4. For purposes of allocating such costs, the Board may classify lots based on approximate lot size or width (for example, less than 50' width, 50-60' width, and greater than 60' width) and establish Specific Assessments at different rates for each class to reflect differences in costs for different size lots. To the extent that any maintenance, repair or replacement which is the Association's responsibility hereunder is necessitated by damage or excessive wear and tear resulting from the conduct or activities of the owners or occupants of a Unit, their guests, invitees, or pets, the Association shall have the right to assess the costs which it incurs for such maintenance, repair or replacement against the Unit and the Owner thereof as a Specific Assessment pursuant to Section 8.4 hereof.

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(d) The Association shall have a perpetual, nonexclusive easement for entry upon each Unit to perform maintenance pursuant to Section 5.1(a), which easement may be exercised by the Association, its officers, directors, employees, agents and contractors, and entry upon any Unit for such purpose shall not be deemed a trespass. Each Owner shall clear yards and sidewalks on such Owner's Unit and adjacent rights-of-way of personal property and obstructions in order to enable maintenance personnel to perform the services to be provided by the Association hereunder. An Owner's failure to comply with this Section shall relieve the Association of its responsibility hereunder with respect to such Owner's Unit to the extent that the Association or maintenance personnel determine that such noncompliance interferes with their ability to provide the required services, in which case the Owner shall perform such maintenance and repairs, at such Owner's expense, in a timely manner and in accordance with the Community-Wide Standard, without deduction from or offset against assessments due hereunder.

(e) Each Owner shall be responsible for all maintenance of the Unit other than that which the Association is specifically obligated to provide pursuant to Section 5.1(a). Without limiting the generality of the preceding sentence, each Owner shall be responsible for (i) irrigation of the lawn and plant material and maintenance of any irrigation equipment on such Owner's Unit, (ii) treatment of insects and fungus on trees and other plant material and removal and replacement of dead or dying trees and other plant material on the Unit; (iii) maintenance and repair of any retaining walls located entirely on such Owner's Unit; and prevention and correction of any erosion or drainage issues on the Unit. All maintenance on Units shall be performed in a manner and on a schedule consistent with the Community-Wide Standard. No Person shall remove or modify existing landscaping on a Unit without prior approval of the Association and such approval as required under Article IV hereof and Article 9 of the River Green Declaration.

#### 5.2. Insurance by Owners.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible. Each Owner shall submit to the Association, within 7 days of any written request from the Board of Directors, a certificate evidencing that such insurance coverage is in effect. The Association shall have no responsibility to ensure compliance with this Section, and no liability arising out of any Owner's noncompliance.

In the event of damage to or destruction of structures on or comprising a Unit, the Owner shall promptly clear the Unit of any debris and ruins and repair or reconstruct the damaged structures in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with the River Green Declaration and diligently pursue such work to completion. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

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Each Owner and Occupant of a Unit shall also be responsible for insuring their personal property to the extent that they deem necessary or appropriate. Neither the Association nor Declarant shall bear any responsibility for the maintenance or safekeeping of personal property of any Owner or Occupant of a Unit, their family, guests or invitees, nor shall the Association or Declarant be held liable for the condition of, or any loss or damage to, any such personal property except to the extent directly attributable to the reckless acts or willful misconduct of the Association, Declarant or their respective agents or employees.

## **ARTICLE VI THE ASSOCIATION AND ITS MEMBERS**

### **6.1. Function of Association.**

The Association has been established to administer Lakeside at River Green in accordance with the Lakeside Documents. Its responsibilities include, but are not limited to:

- (a) management, maintenance, operation and control of the Area of Common Responsibility;
- (b) maintenance of Units, to the extent provided in Section 5.1;
- (b) interpretation and enforcement of the Lakeside Documents; and
- (c) establishing and upholding the Community-Wide Standard.

### **6.2. Membership.**

(a) Automatic Membership; Exercise of Privileges. Every Owner automatically becomes a Member of the Association upon taking title to a Unit and remains a Member as long as the Owner holds title to such Unit. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership (subject to the limitations set forth in this Declaration, reasonable Board regulation, and the restrictions on voting set forth in Section 6.3 and in the By-Laws), and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

(b) Classes of Membership. The Association initially shall have two classes of membership, Class "A" and Class "B". Class "A" Members shall be all Owners, including the Declarant and Builders as to any Units which they own. The sole Class "B" Member shall be the Declarant. The Class "B" membership shall terminate upon termination of the Development and Sale Period.



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### 6.3. Voting.

The voting rights of each class of membership shall be as follows:

(a) Class "A". Each Unit owned by a Class "A" Member, including the Declarant, is assigned one vote equal to that of every other Unit owned by a Class "A" Member. If title to a Unit is held by more than one Person as co-Owners, any one of the co-Owners of such Unit may cast the vote for the Unit; provided, no more than one vote shall be cast for any Unit. If more than one co-Owner of a Unit attempts to cast the vote allocated to such Unit, the act of a majority of the co-Owners attempting to cast the vote for such Unit shall bind all co-Owners of the Unit. Voting rights may be suspended for nonpayment of assessments or other charges owed the Association as provided in Section 7.4. No Class "A" vote shall be exercised for any property that is exempt from assessment under Section 8.7.

(b) Class "B". The Class "B" Member shall not have a specific number of Class "B" votes; rather, the consent of the Class "B" Member shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Lakeside Documents. In addition, the Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III of the By-Laws, and one additional director thereafter until termination of the Class "B" Membership. Additional rights of the Class "B" Member are specified in the relevant sections of the Lakeside Documents. In addition, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

## **ARTICLE VII ASSOCIATION POWERS AND RESPONSIBILITIES**

### 7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of Article XVI. The Association may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of Owners and Occupants of Units. The Association may borrow money to make improvements to the Area of Common Responsibility and pledge or assign specified assessment income for repayment of such loan, subject to the limitations on borrowing set forth in the By-Laws.

(b) Declarant, any Declarant Affiliate, and their respective designees may grant, transfer or convey to the Association, from time to time, personal property and fee title, easements, and leasehold or other interests in any real property, improved or unimproved,

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within River Green, and the Association shall accept or shall be deemed to have accepted, without condition, all such transfers, grants and conveyances. Each fee simple conveyance of Common Area shall be free and clear of mortgages and mechanics liens, but may be subject to covenants, restrictions and easements, including easements granting exclusive rights to use a portion of the Common Area to one or more Owners and easements permitting persons who are not members of the Association to use and enjoy such Common Area upon such terms and conditions as specified in the instrument creating the easement. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area which Declarant originally conveyed to the Association for no consideration, if conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines. Each Owner, by acceptance of a deed to a Unit, covenants and agrees to execute a written consent to any such reconveyance upon Declarant's request.

Any Common Area shall be held for the general use and benefit of all Owners except such portions thereof, if any, as are designated "Exclusive Common Area" for the benefit of a particular Unit or Units pursuant to Section 11.1(b) hereof. Any Exclusive Common Area shall be held for the exclusive use and benefit of the Unit(s) to which such Exclusive Common Area is assigned, and the Association may not sell, lease, transfer, convey, or change its designation as Exclusive Common Area except as provided in Section 16.3.

(c) The Association shall be responsible for management, operation and control of the Common Area (other than Exclusive Common Area) and Lakeside Amenities, if any, subject to any covenants and restrictions set forth in the deed or other instrument transferring an interest in such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area and any Lakeside Amenities, as it deems appropriate, including rules consistent with applicable law limiting access to the Lakeside Amenities.

(d) The Declarant may convey or dedicate any property it owns to the River Green Association or the City of Canton. Nothing herein shall be construed to require conveyance of any property to the Association.

#### 7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard, except to the extent that responsibility for maintenance of a portion of the Area of Common Responsibility rests with the River Green Association, a public body or utility provider, and except as otherwise provided in this Section 7.2. The Area of Common Responsibility shall include, but need not be limited to:

- (a) all portions of and structures situated on the Common Area; and

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(b) all streets and any alleys within Lakeside at River Green unless and until such time as they are accepted for maintenance by a governmental body; and

(c) any entry monumentation for Lakeside at River Green, and related signage, decorative or privacy walls, fencing and columns, vehicular and pedestrian gates and access systems, lighting, landscaping, and irrigation systems, if any, installed by the Declarant or the Association within the Common Area, rights-of-way, or easements for such purposes on Units within Lakeside at River Green, and replacements thereof;

(d) any landscaping, signage, and sidewalks installed by the Declarant, any Builder (with prior approval pursuant to Article IV), or the Association, and located within rights-of-way within Lakeside at River Green;

(e) any retaining walls constructed by Declarant (and replacements thereof) which span the boundaries of two or more Units, including any fence installed by the Declarant along the top of any such retaining walls (and replacements thereof);

(f) any mail kiosk serving the Units;

(g) any Lakeside Amenities;

(h) such other property, if any, as may be dictated by this Declaration, any Supplement, or any contract or agreement for maintenance thereof entered into by the Association;

(i) any pipes, lines, pumps, or other apparatus comprising the irrigation system, if any, serving the Common Area and/or Units, to the extent located within Common Area, rights-of-way, or easements granted to the Association for such purpose;

(j) any wetlands located on Common Area or on property designated to be owned or maintained by the Association on a recorded plat of any portion of Lakeside at River Green, including ongoing monitoring and maintenance of the same to the extent required by and in accordance with applicable laws and ordinances; and

(k) any property and facilities Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines

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that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property that it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Some portions of the Area of Common Responsibility may consist of open space, wetlands, or conservancy or buffer areas intentionally left in a natural or relatively undisturbed state. The level of maintenance that the Association provides to the Area of Common Responsibility may vary from a high level of landscaping and regular, weekly maintenance to intermittent or no maintenance, depending on the nature and intended use of the particular open space area. Open space, wetlands, and other natural areas may serve as habitats for a variety of native plant, animal, and insect species, and may contain creeks, fallen trees and other naturally occurring conditions, some of which may pose hazards to persons or pets coming in contact with them. Neither the Association, the Declarant, or any Builder shall have any responsibility for providing maintenance in such areas or taking action to abate such conditions.

The Association shall maintain the Lakeside Amenities, if any, in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members entitled to cast 90% of the total Class "A" votes in the Association and, during the Development and Sale Period, the Declarant, agree in writing to discontinue such operation, and then subject to any applicable provisions of the River Green Supplemental Declaration.

Notwithstanding the above, the Association's responsibilities under this Section 7.2 may be reduced by a transfer of ownership and/or maintenance responsibility to the River Green Association, the City of Canton, or a utility provider. However, except as otherwise provided in any applicable Supplement, any such transfer shall be subject to:

(i) such approval as may be required under Section 16.3 hereof, as applicable, and, during the Development and Sale Period, the prior written approval of the Declarant; and

(ii) acceptance by the proposed transferee.

Except as provided above, the Area of Common Responsibility shall not be reduced during the Development and Sale Period without Declarant's prior written approval.

Except as otherwise specifically provided in this Declaration or any applicable Supplement, the costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense, subject to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for,

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certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

7.3. Insurance.

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

(i) Property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, protecting against loss or damage due to fire, lightning, wind, smoke, hail, civil commotion (including riots), aircraft, vehicle, explosion, water, vandalism, and malicious mischief, among other things. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes, excluding foundation and excavation costs; and

(ii) Commercial general liability insurance, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits; and

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

(iv) Directors and officers liability coverage; and

(v) Commercial crime insurance, including fidelity insurance covering the Association's officers and all other Persons responsible for handling Association funds, in an amount determined in the Board's business judgment but not less than the maximum amount that will be in the custody of the Association or its managing agent at any point in time. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

Premiums for all insurance on the Common Area shall be a Common Expense.

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(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Cherokee County, Georgia. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member.

Association policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be allocated in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

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

(ii) identify the Association as the named insured, as trustee for the benefit of the Association and its Members; and

(iii) be primary and not be brought into contribution with insurance separately purchased by Owners, Occupants, or Mortgagees; and

(iv) contain a building ordinance or law endorsement, if enforcement of any building, zoning, or land use law could increase the cost of demolition, repairs or reconstruction in the event of a casualty; and

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

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member); and

(vii) provide a waiver of subrogation under the policy against any Owner or Occupant of any Unit; and

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

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners or members of their households, unless such Owner is acting within the scope of its authority on behalf of the Association.

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

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

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

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

(iv) a cross liability provision; and

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

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall cause damaged improvements on the Common Area to be repaired or reconstructed unless : (i) repair or restoration would be prohibited under any state or local statute or ordinance; or (ii) a decision not to repair or reconstruct is approved within 60 days after the loss or damage by Owners of at least 80% of the Units, and during the Development and Sale Period, by the Declarant. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are

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available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be distributed to all of the Owners or their Mortgagees, as their interests may appear, at an equal rate per Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall.

#### 7.4. Compliance and Enforcement.

(a) Every Owner and Occupant of a Unit, their guests and invitees, shall comply with the Governing Documents. An Owner shall be responsible for, and shall be subject to sanctions for, any violations of the Governing Documents and any damage to the Area of Common Responsibility by such Owner or any Occupant of such Owner's Unit, or their guests or visitors. In addition to the enforcement rights of the River Green Association under the River Green Declaration, the Association, the Declarant during the Development and Sale Period, and every affected Owner, shall have the right to file suit at law or in equity to enforce the Governing Documents, subject to the dispute resolution procedures set forth in Article XII and the River Green Declaration. In addition, the Association, acting through the Board, may impose sanctions for violation of the Governing Documents as set forth in this Section 7.4 and elsewhere in the Lakeside Documents.

(b) Subject to the notice and a hearing procedures set forth in Article VIII of the By-Laws, the Association, by action of the Board, may:

(i) impose reasonable monetary fines for violations of the Governing Documents and, in the case of a continuing violation, for each day that the violation continues after notice from the Association to cease or cure such violation, with no limit on the aggregate amount of any fine for a continuing violation. In the case of a continuing violation, only a single notice and opportunity for hearing is required. The Board may adopt a schedule of fines establishing a range of fines for particular types of violations, which range may vary depending on the nature of the violation. In the event that any Occupant, guest or invitee of a Unit violates the Lakeside Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the



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fine upon notice from the Board. Fines shall constitute a Specific Assessment against the Unit pursuant to Section 8.4; and

(ii) suspend an Owner's and/or Occupant's privilege of using any Lakeside Amenities for a reasonable period of time, as the Board determines appropriate, for any violation by such Owner or Occupant or their guests occurring on the Lakeside Amenities. Notwithstanding the procedures set forth in the By-Laws, if the violation involves a significant and immediate risk of harm to others or damage to the Lakeside Amenities, the Association may temporarily suspend a Person's right to use the Lakeside Amenities pending compliance with, and a final determination of sanctions pursuant to, the notice and hearing procedures in Article VIII of the By-Laws; and

(iii) suspend the vote attributable to an Owner's Unit, suspend the privilege of using any Lakeside Amenities associated with such Owner's Unit, suspend the privilege of using any automated gate access system for entry to and exiting from the Community (but not the right to enter and exit), and/or suspend any services which the Association provides to an Owner's Unit (other than essential utilities, e.g., electricity, water, natural gas), if the Owner of the Unit is more than 60 days delinquent in paying any assessments or other charges owed to the Association, which suspension may continue until such assessments or other charges have been paid in full; and

(iv) without liability to any Person, preclude any contractor, subcontractor, agent, employee, supplier, service provider, or other invitee of an Owner or occupant of a Unit who causes damage to any property in Lakeside or fails to comply with the terms and provisions of Article IV hereof and Article 9 of the River Green Declaration from continuing or performing any further activities in Lakeside; and

(v) levy a Specific Assessments pursuant to Section 8.4 to cover costs which the Association incurs to bring a Unit into compliance with the Governing Documents, and/or costs incurred as a consequence of the conduct of an Owner or Occupant of a Unit, their guests or invitees; and

(vi) record a notice of violation with respect to any Unit on which a physical violation of the Governing Documents exists.

(c) In addition, the Association, acting through the Board or its designee, may take the following action to enforce the Lakeside Documents without the necessity of complying with the procedures set forth in Article VIII of the By-Laws:

(i) demand that an Owner, at its expense, perform maintenance on such Owner's Unit, or remove any structure, item or improvement on such Owner's Unit in violation of the Governing Documents, and restore the Unit to its previous condition, and if the Owner fails to comply within 21 days after receipt of such written demand, enter the

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property and exercise self-help to perform such maintenance or cure the violating condition, and any such entry shall not be deemed a trespass; and

(ii) exercise self-help in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/or

(iii) bring suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to the dispute resolution procedures set forth in the River Green Declaration and/or Article XII hereof, as applicable.

(d) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to take enforcement action in a particular case shall not preclude the Association from taking action to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

(e) All sanctions and remedies set forth in the Lakeside Documents shall be in addition to, not in lieu of, any remedies available at law or in equity. In any situation in which the Association incurs legal fees and/or costs to enforce the Governing Documents and prevails, it shall be entitled to assess and recover from the violator or the Owner of the Unit in which the violator resides all costs reasonably incurred, including, without limitation, attorneys' fees and court costs, whether or not suit is filed. If the Association does not prevail, the defendant shall be entitled to recover from the Association all costs reasonably incurred by the defendant, including, without limitation, attorneys' fees and court costs. The Association shall be deemed to prevail if, in the case of a monetary

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claim, it receives a net award of at least 51% of its affirmative claim after any offsets for claims or counterclaims by the other party, or, in the case of a claim in equity, it is awarded substantially the relief sought.

(f) The Association, by contract or other agreement, may enforce applicable City ordinances and permit the City of Canton to enforce ordinances within Lakeside at River Green for the benefit of the Association and its Members.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Lakeside Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. The Board may exercise all rights and powers of the Association without a vote of the membership except to the extent that the Lakeside Documents or Georgia law specifically requires a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, interpretation or enforcement of the Lakeside Documents, or any other civil claim or action affecting the rights, powers, and responsibilities of the Association under the Lakeside Documents. However, the Lakeside Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Article VI of the By-Laws.

7.6. Provision of Services to Units.

The Association may provide, or provide for, services and facilities for the Owners and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Association may enter into bulk service agreements by which a particular service is provided (a) to all Units, with the charges allocated among all Units as part of the General Assessment, or (b) to all Improved Units, with the charges allocated only among Improved Units, as a Specific Assessment. Alternatively, the Association may arrange for or offer various services at the option of each Owner and assess the cost thereof against such Owner's Unit as a Specific Assessment. By way of example, such services and facilities might include such things as exterior maintenance; pest control service; telecommunication and internet services; utilities; and other services and facilities.

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Except as otherwise provided in Section 5.1 and elsewhere in this Declaration, the cost of services provided to all Units shall be a Common Expense assessed pursuant to Section 8.2. Services provided only to Improved Units or only to Units as to which the Association's maintenance responsibilities have commenced under Section 5.1 shall be assessed as a Specific Assessment pursuant to Section 8.4. The Association shall charge a separate use fee, in such amount as the Board may determine appropriate in its discretion, for any services provided at the option of an Owner, which fee shall be assessed against the benefited Unit as a Specific Assessment pursuant to Section 8.4.

Any contract entered into by the Association for services may provide the option for individual Owners or Occupants to contract directly with the Persons providing components or services in order to gain access to or obtain specified services. Such individual contracts may contain terms and conditions that, if violated by the Owner or Occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit pursuant to this Article.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Lakeside Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

**7.7. Safety and Security.**

**(a) Each Owner and Occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in River Green and while using any Lakeside Amenities, wherever located, and each assumes all risks of personal injury and loss or damage to their property, including Units, vehicles, and their contents, resulting from acts of nature and acts of third parties.**

**The Association may, but shall not be obligated to, maintain or support certain activities designed to enhance the level of safety or security that each person provides for himself and his property within Lakeside at River Green. However, no representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to Lakeside at River Green or any portion thereof, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Neither the Association, the Declarant, any Builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall in any way be considered insurers or guarantors of safety or security within or outside of Lakeside**

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**at River Green, whether on Common Area or elsewhere, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.**

(b) The Association may require each person who desires to use any Lakeside Amenities, or to participate in activities sponsored by the Association, to have a waiver of liability and assumption of risk on file with the Association, signed by themselves or, in the case of a minor, by a parent or legal guardian, prior to entering or using such facilities or participating in such activities. For safety reasons, the Association may deny access to any Lakeside Amenities, to the extent not inconsistent with applicable law, to:

(i) any person who is unable to demonstrate that he or she can read and follow posted instructions and rules for use of the facility or equipment and understand the risks associated with such use, unless such person is accompanied by another person who has demonstrated such ability and assumes responsibility for informing them of the instructions and rules and ensuring their compliance; and

(ii) any person of a size or weight or with a health condition that subjects them to significant risk of personal injury to themselves or others in using the facility or equipment; and

(iii) any person who fails to comply with all posted instructions and rules for use of the facility.

The foregoing is not intended to limit the Association's right to restrict access to Lakeside Amenities for other reasons as authorized in the Lakeside Documents.

## **ARTICLE VIII ASSOCIATION FINANCES**

### **8.1. Authority to Levy Assessments for Association Expenses.**

(a) Purposes and Types. There are hereby created, and the Association is hereby authorized to levy, assessments for expenses incurred and anticipated to be incurred by the Association in performing its responsibilities and exercising its rights and powers under the Governing Documents, specifically including but not limited to: any amounts charged to the Association by the River Green Association pursuant to the River Green Declaration; the cost of water and sewer service provided to the Area of Common Responsibility by any public utility and billed to the Association; expenses of maintaining, repairing, replacing, improving, operating, and insuring the Area of Common Responsibility, to the extent the Association is responsible therefor; expenses of monitoring and enforcing compliance with the provisions of the Lakeside Documents; expenses arising out of the Association's indemnification obligations; expenses of managing the Association, including compensation of management personnel, maintaining books and records, handling Association funds, providing financial reports, and corresponding with Members; administrative expenses such as postage, copying

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expense, office supplies and equipment; legal, accounting, and other professional fees; expenses associated with borrowing and debt service; hard and soft costs associated with improvements to the Common Area and other Lakeside Amenities, if any, and such other expenses as the Board deems necessary or desirable to maintain the Community-Wide Standard, protect property values and enhance marketability of Units.

There shall be four (4) types of assessments: (a) General Assessments; (b) Special Assessments as described in Section 8.3; (c) Specific Assessments as described in Section 8.4; and (d) an assessment for the working capital contribution described in Section 8.8. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Unit, is deemed to covenant and agree to pay these assessments. Such assessments shall commence at the time and in the manner set forth in Section 8.5.

(b) Personal Obligation and Lien. By accepting title to a Unit or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Lakeside Documents and, if not paid within 15 days of the due date, interest (computed from its due date at a rate of 10% per annum or such rate as the Board may establish by resolution, subject to the limitations of Georgia law), late charges in the amount of \$20 per month or such other amount as the Board may establish by resolution (subject to the limitations of Georgia law), costs, and reasonable attorneys' fees. All such amounts shall be the personal obligation of each Owner and a charge and continuing lien upon each Unit as provided in Section 8.6 until paid in full.

Upon a transfer of title to a Unit, the new Owner shall be jointly and severally liable with the previous Owner for any assessments and other charges due at the time of acquisition of title, except as otherwise provided in Section 8.6; however, for purposes of this provision, the term "previous Owner" shall not include the Association if the Association acquired title to the Unit through foreclosure or deed in lieu of foreclosure of its lien on the Unit. For purposes of the foregoing sentence, "acquisition of title" shall be deemed to occur upon the earlier of: (i) the recording of a deed conveying title; or (ii) the time at which the rights of the parties are fixed following the foreclosure of such Mortgage.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner shall be exempted from liability for assessments by non-use of Common Area or Lakeside Amenities, abandonment of such Owner's Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform

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some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(c) Declarant's Obligations; Funding of Shortfalls. Notwithstanding anything to the contrary herein, the Declarant shall not be liable for assessments on any Units it owns that are not Improved Units. However, during the Class "B" Control Period, if and to the extent that the sum of general operating expenses incurred by the Association plus budgeted contributions to reserves exceeds (i) the General Assessments and Special Assessments receivable from other Owners, plus (ii) other income of the Association available for general use (excluding any loans or cash advances by the Declarant) ("**Excess Operating Expenses**"), the Declarant shall fund such Excess Operating Expenses. Any amounts paid by the Declarant pursuant to this subsection (c) may be treated as contribution or as a loan, in the Declarant's sole discretion; provided, any loan shall be documented as such and disclosed in the Association's annual budget and financial statements each year thereafter until repaid.

(d) Assessment Statement. Within five business days after receipt of a written request from any Owner, Mortgagee, prospective Mortgagee, or contract purchaser of a Unit, delivered personally or sent by certified mail, first-class postage prepaid, return receipt requested to the Association's registered office specifying the address to which a response is to be directed, the Association shall mail or otherwise furnish a written statement setting forth the amount of any unpaid assessments with respect to such Unit, any late charges and interest applicable thereto, the amount of current periodic assessments, and the date on which such assessment becomes or became due, and any credit for advanced payments or prepaid items. The Association may require the payment of a fee for issuance of each such assessment statement and any update thereto, provided such fee shall not exceed the maximum amount authorized in O.C.G.A. 44-3-232(d), as it may be amended. Such statement shall be binding upon the Association as to Persons who rely thereon in good faith.

## 8.2. Adoption of Budget and Annual Assessment.

(a) Preparation of Budget. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. The estimated expenses in the budget shall include, in addition to any operating reserves, a contribution to a reserve fund for scheduled or deferred maintenance and repair and replacement of any capital improvements to be maintained by the Association as a Common Expense, in such amount as the Board deems appropriate pursuant to a separate reserve budget established by the Board. In establishing such reserve budget and determining the amount of the reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost or deferred maintenance expense, and the contribution required to fund the projected need by annual contributions over the useful life of the asset. So long as the Board exercises business judgment, which may include relying in good faith on the advice of its accountants or other professional advisers in

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determining the amount or necessity of the reserve fund, the Board members shall have no liability if the reserve funding proves insufficient to fully fund necessary repairs and replacements.

The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of assessments. The budget shall also reflect the estimated surplus or deficit as of the end of the current year.

(b) Calculation of General Assessments. Upon determining the total amount of income required to be generated through the levy of General Assessments, the Board shall establish the General Assessment at an equal rate per Unit subject to assessment under Section 8.5, subject to the provisions of subsection (c) below.

Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Declarant under Section 8.1(c)). Any such subsidy may be treated as a contribution or an advance against future assessments due from Declarant, in Declarant's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

In addition, Declarant may loan funds to the Association to cover any budget shortfall or Common Expenses; provided, any such loans and the debt service shall also be disclosed in the budget each year thereafter as long as the loan remains outstanding. The Declarant may charge and collect interest on the outstanding principal balance of any loan at a rate not to exceed the greater of 10% per annum or two percentage points over the prime rate published by the Wall Street Journal on the date of such loan, such interest rate to be set forth in a promissory note executed on behalf of the Association.

(c) Notice of Budget and Assessment; Right to Disapprove. The Board shall send a copy or summary of the budget, together with notice of the amount of the General Assessment to be levied pursuant to such budget, to each Owner to be assessed thereunder at least 30 days prior to the due date of the General Assessment to be levied pursuant to such budget. Such General Assessment shall automatically take effect unless disapproved (i) at a meeting by Members entitled to cast at least 67% of the votes allocated to Units subject to such assessment under Section 8.5, and (ii) by the Declarant, during the Class "B" Control Period.

There shall be no obligation to call a meeting for the purpose of considering any budget except on petition of Members as provided for special meetings in the By-Laws.



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Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is rejected or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(d) Budget Revisions. The Board may revise the budget and adjust the General Assessment from time to time during the year, subject to the same notice requirements and rights to disapprove set forth above.

### 8.3. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted under Section 8.2. A Special Assessment may be authorized by the Board without membership approval unless such Special Assessment, together with any other Special Assessments payable within the preceding 12 months, would exceed \$500 per Unit, in which case it shall require the affirmative vote or written consent of Members entitled to cast more than 50% of the votes attributable to Units subject to assessment under Section 8.5. In addition, regardless of amount, during the Development and Sale Period, any Special Assessment shall also be subject to the Declarant's written consent. Any Special Assessment authorized hereunder shall be allocated equally among all Units subject to assessment under Section 8.5 and shall be payable in such manner and at such times as the Board may determine, which may include payment in installments extending beyond the fiscal year in which the Special Assessment is approved.

### 8.4. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

- (a) for maintenance on Units, as provided in Section 5.1;
- (b) to cover the costs, including overhead and administrative costs, of providing services to such Unit upon request of the Owner pursuant to any menu of special services which the Association may offer pursuant to Section 7.6. Specific Assessments for special services may be levied in advance of the provision of the requested service;
- (c) for monetary fines assessed pursuant to Section 7.4 and to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this subsection (c); and

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(d) to cover any insurance deductible levied against a Unit pursuant to Section 7.3(b);

(e) to cover the charges for services provided to less than all Units pursuant to any bulk service or similar agreement entered into by the Association pursuant to Section 7.6;

(f) in the amount of any working capital fee due pursuant to Section 8.8; and

(g) for such other amounts as the Lakeside Documents authorize the Association to charge to a particular Owner or levy against a particular Unit.

#### 8.5. Payment of Assessments.

(a) Commencement. Except as otherwise provided herein and in Section 8.1(c) with respect to Units owned by the Declarant, the obligation to pay General Assessments and any Special Assessments and Specific Assessments levied hereunder shall commence as to each Unit on the first day of the month following the date on which the Unit becomes an Improved Unit. Assessments for amounts due under Sections 8.8 and 8.9 shall be due and payable as stated in those sections. If a Unit is made subject to this Declaration after the Board has adopted a budget and levied assessments, the first General Assessment levied on such Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

(b) Payment Schedule. Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of up to one year of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. The Board may permit assessments to be paid in two or more installments.

(c) Delinquencies. If any Owner is delinquent in paying any assessments or installment thereof or any other charges levied on such Owner's Unit, the Board may revoke any privilege of paying in installments and require the outstanding balance of all assessments levied on such Unit to be paid in full immediately, or it may, in its discretion, permit payment of the outstanding balance in installments in accordance with a payment plan acceptable to the Board and the Owner, which may include reasonable administrative fees and costs for documenting the payment plan and for accepting and processing installments to the outstanding balance. Any such payment plan shall be in writing and signed by the Owner and the Association. Failure of the Owner to comply with any such installment payment plan or terms shall authorize the Board to terminate such plan and declare the entire outstanding amount due and payable immediately. However, prior to revoking the privilege of paying in installments or filing any lawsuit to collect delinquent assessments, the Board shall give at least 10 days' prior written notice to the Owner by certified mail which:

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(i) specifies each delinquent amount and the total amount of the payment required to make the account current;

(ii) provides a period of at least 10 days for the Owner to cure the delinquency and avoid further collection action on such delinquent amounts ("**Cure Period**"); provided, if the Owner has been given such an opportunity to cure a delinquency within the previous 90 days, or has agreed to a written installment payment plan and has failed to honor such plan, no further Cure Period shall be required;

(iv) states that the Association shall be entitled to reimbursement of reasonable attorneys' fees and other reasonable costs which the Association incurs to collect the amounts due.

(d) Application of Payments. Payments received from an Owner by the Association shall be applied to the amounts owed by such Owner in the following order of priority:

(i) first to delinquent assessments or installments thereof in order of their due dates (oldest first);

(ii) then to any current assessment;

(iii) then to any attorneys' fees or third party collection costs.

#### 8.6. Lien for Assessments.

(a) Existence of Lien. The Association shall have a lien against each Unit to secure payment of assessments due hereunder, as well as interest, late charges and costs of collection (including attorneys' fees and expenses), subject to the limitations of Georgia law. Such lien shall be superior to all other liens except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; (ii) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit; and (iii) the lien of the River Green Association under the River Green Declaration.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

(b) Enforcement of Lien. Subject to Section 8.5 and this subsection (b), the Association's lien may be foreclosed through judicial or non-judicial foreclosure proceedings in accordance with Georgia law, in like manner of any Mortgage. Each Owner hereby grants to the Association, whether or not it is so expressed in the deed or other

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instrument conveying such Unit to the Owner, a power of sale to be exercised in accordance with Georgia law and this Declaration.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association.

Subject to Section 8.5, the Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) Effect of Sale or Transfer. Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments, except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish the Association's lien for assessments which became payable prior to such sale or transfer. A purchaser at a foreclosure sale or subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such foreclosure. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.5, including such acquirer, its successors and assigns.

Any such sale or transfer pursuant to foreclosure shall not relieve the purchaser or transferee of the Unit from liability for, nor the Unit so sold or transferred from the lien of, any assessments thereafter becoming due.

#### 8.7. Exempt Property.

Any property (other than easements) owned by any governmental authority or public utility and used for public purposes shall be exempt from assessment hereunder.

#### 8.8. Capitalization of Association.

(a) Except as otherwise exempted in subsection (b) of this Section, upon conveyance of an Improved Unit by the Builder or upon first occupancy of the dwelling on an Improved Unit for residential purposes, whichever first occurs, and thereafter upon each transfer of title to the Improved Unit, the Owner thereof shall make a contribution to the working capital of the Association in such amount as the Board may establish by resolution, not to exceed the amount of the annual General Assessment in effect for the year in which such transfer occurs. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessments, but rather shall be considered a Specific Assessment secured by the Association's lien for assessments under Section 8.6. This amount may be used by the

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Association for operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws, or for funding of reserves as the Board may determine in its discretion.

(b) The following transfers shall be exempt from payment of the working capital contribution hereunder: (i) transfer by a co-Owner to any Person who was a co-Owner immediately prior to such transfer; (ii) transfer to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner; (iii) transfer to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law (provided, upon any subsequent transfer of an ownership or beneficial interest in such entity, such contribution shall be required); (iv) transfer to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage; or (v) transfer under other circumstances which the Board, in its discretion, deems to warrant classification as an exempt transfer (e.g., a transfer made solely for estate planning purposes may be, but is not required to be, exempt from this provision).

#### 8.9. Use and Consumption Fees.

The Board may charge use, consumption, or activity fees for optional Association services or facilities, or in order to participate in optional Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners).

### **ARTICLE IX EXPANSION OF LAKESIDE AT RIVER GREEN**

#### 9.1. Expansion by Declarant.

Declarant may from time to time expand Lakeside at River Green to include all or any portion of the property described in Exhibit "B" by recording a Supplement describing the additional property and stating the intent to submit it to the provisions of this Declaration. A Supplement recorded pursuant to this Section shall not require the consent of any Person except the owner of such property (if not owned by the Declarant).

Declarant's right to expand Lakeside at River Green pursuant to this Section shall expire when all of the Expansion Property has been subjected to this Declaration or 20 years after this Declaration is recorded, whichever is earlier. Until then, Declarant may transfer, assign, or otherwise permit this right to be exercised by any Person or Persons who are the developers of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer, assignment or permission shall be memorialized in a written, recorded instrument executed by Declarant and the Person to whom it is assigned.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the Expansion Property in any manner whatsoever.

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#### 9.2. Expansion by the Association.

The Association may also expand Lakeside at River Green to include additional property by recording a Supplement describing the additional property and the intent to submit it to the provisions of this Declaration. Any such Supplement shall require the affirmative vote of persons entitled to cast more than 50% of the Class "A" votes in the Association represented at a meeting duly called for such purpose and the consent of the owner of the property to be added. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplement shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary. Notwithstanding the above, no property may be added by this Section if such property contains an occupied dwelling which does not comply with Section 3.2.

#### 9.3. Additional Covenants and Easements.

Declarant may subject any property within Lakeside at River Green to additional covenants and easements, with the consent of the Owner(s) of such property. Such additional covenants and easements may be set forth either in a Supplement subjecting such property to this Declaration or in a separate Supplement referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplement. Any such Supplement may add to, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property, but shall not except any Unit from the applicability of Section 3.2.

#### 9.4. Effect of Filing a Supplement.

A Supplement shall be effective upon recording unless otherwise specified in such Supplement. On the effective date of the Supplement, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

### **ARTICLE X ADDITIONAL RIGHTS RESERVED TO DECLARANT**

#### 10.1. Special Development Rights.

In addition to the rights specifically reserved to the Declarant under Article IX with respect to expanding Lakeside at River Green and elsewhere in this Declaration, the Declarant reserves the right:

(a) during the Development and Sale Period, to revise and record any subdivision plat or replat any portion of Lakeside which it owns without the consent of the Association or its Members, and to replat any other portion of Lakeside with the consent of the

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Owner(s) and Mortgagee(s) of any Unit as to which boundary lines would be changed), for any purpose, including, without limitation, to subdivide or combine Units, change boundaries of Units and Common Areas, convert Common Areas to Units and vice versa, designate Exclusive Common Areas, and to create roadways and provide for utilities; and

(b) during the Development and Sale Period, to amend this Declaration or any Supplement to withdraw any portion of Lakeside from the coverage of this Declaration, provided that such property has not been improved with a dwelling. Any such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn (if not owned by the Declarant) or, in the case of Exclusive Common Area, the Owner of the Unit to which such Exclusive Common Area is assigned. If the property is Common Area, the Association shall execute such amendment consenting to such withdrawal.

#### 10.2. Development and Sales Activities.

Notwithstanding anything in the Lakeside Documents to the contrary, during the Development and Sale Period:

(a) Declarant and any Builder whom the Declarant so authorizes may construct and maintain such facilities, and conduct such activities and sales and marketing events, on property they own, the Common Area, and any Lakeside Amenities, as Declarant determines appropriate, convenient, desirable, or incidental to the construction, marketing, or sale of Units, subject to any limitations imposed by applicable zoning or the River Green Declaration. Such facilities may include, but need not be limited to, business offices, signs, model homes, sales offices, parking facilities, and exterior lighting features or displays. Declarant and authorized Builders and their invitees shall have easements for access to and use of such facilities at no charge. There shall be no limit on the number or location of such facilities, except as otherwise restricted by the River Green Declaration, state law or local ordinance or regulations.

(b) Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area, Lakeside Amenities, roads within Lakeside at River Green, and those portions of each Unit outside of a dwelling, for the purpose of

(i) exercising any rights reserved to the Declarant pursuant to this Declaration; and

(ii) making, constructing, and installing any improvements indicated on recorded subdivision plats of Lakeside at River Green and such other improvements to the Common Area and Lakeside Amenities as it deems appropriate; and

(iii) making repairs or correcting any condition on the Common Area or any Unit.

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(c) Declarant reserves for itself and its designees the right, without the consent of or payment of compensation to any Person, to take photographs and to capture, produce, and reproduce, by any method and in any format or media, images of any structures, streetscapes, landscapes, signage, public spaces, or other elements located on Units, Common Area, Lakeside Amenities, or public property within Lakeside, which are visible from public streets, Common Area or any Lakeside Amenities, and to use such images in its advertising, marketing materials, displays, presentations, and publications of any kind, including, without limitation, newspaper, internet, television, and other media, except that such right shall not include the right to sell such images for commercial use by others. Each Owner, by accepting a deed to any Unit, shall be deemed to have consented to the exercise by Declarant and its designees of the rights described in this subsection (c) and to have waived any personal or proprietary right such Owner may have in connection with such images to permit such use.

#### 10.3. Right to Transfer or Assign Declarant Rights.

The Declarant may assign its status as the Declarant and the rights reserved to the Declarant under the Governing Documents ("**Declarant Rights**") to any Person who takes title to any portion of the property described in Exhibits "A" or "B" to this Declaration and who agrees to assume the obligations of the Declarant under this Declaration as of the effective date of such assignment. There shall be no more than one Person holding the status of Declarant at any time; however, the Declarant may partially assign, or permit other Persons to exercise on a limited basis, any or all of the Declarant Rights without transferring the status of the Declarant and without relinquishing the right to continue to exercise such Declarant Rights itself. For example, the Declarant may authorize a Builder to exercise, with respect to any property described on Exhibits "A" or "B" that such Builder owns, any right which the Declarant could exercise with respect to property which the Declarant owns.

Any assignment of Declarant Rights may impose such conditions upon the exercise of such Declarant Rights as the assignor deems appropriate and any assignment of the status of Declarant may reserve to the assignor the right to exercise such Declarant Rights as are specified therein. However, the Declarant may not assign a broader right than that which it has under the Declaration, nor relieve itself of any obligations except to the extent such assignment states that such obligations are assumed by the assignee. No transfer or assignment of the Declarant's status shall be effective unless it is in a recorded instrument signed by the Declarant and the assignee. The foregoing sentence shall not preclude the Declarant from permitting other Persons to exercise, on a one-time or limited basis, any right reserved to the Declarant in this Declaration where the Declarant does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record the written assignment unless desired to evidence the Declarant's consent to such exercise.



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#### 10.4. Exclusive Rights To Use Name of Development.

The names "Lakeside at River Green" and "Evermore," along with all logos and service marks associated with such names, are proprietary trade names and/or service marks. No Person shall use such names, or any associated service mark or logo, for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, on any Internet website, or in any logo or depiction, without the prior written consent of the Person who owns such name or mark. Such approval may be given or withheld in such Person's discretion and may be subject to such terms and conditions as such Person deems appropriate.

The owner of any mark or trademark may condition the Association's or any other Person's use of protected trade names or marks upon the signing of one or more license agreement(s), which are intended to protect the trade names and service marks from unauthorized use by others. Such license agreement(s) shall be non-exclusive, non-transferable, and in form and substance acceptable to the owner of the mark.

Subject to such licensing agreements, the Association may use the words "Lakeside at River Green" in its name and Owners may use the name "Lakeside at River Green" solely to specify that particular property is located within Lakeside at River Green (subject, however, to such terms and conditions as the owner of associated tradenames and service marks may impose in order to protect its registered trade names and service marks). Other use by the Association or any Owner is subject to the restrictions set out in this Section or otherwise imposed by the owner of the mark.

#### 10.5. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within Lakeside at River Green in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless Declarant and any Builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection pursuant to the rights reserved in Section 11.7, and take action to correct any issue.

Any notice under this Section shall include a description of the nature and location of the alleged defect in design or construction ("**Defect**"), a description of any damage suffered as the result of the Defect, the date on which the Defect was discovered, and at least two dates and times during ordinary business hours within not less than 3 nor more than 30 days thereafter that such Person or their representative is available to meet for purposes of conducting an inspection.

Nothing in this Section obligates the Declarant or any other Person to inspect, repair, replace, or cure any Defect. However, if any Person entitled to inspect hereunder

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elects to repair any Defect, it shall so notify the owner of the affected property within 30 days after conducting such inspection and such owner shall permit such Person, its contractors, subcontractors, and agents access as needed during ordinary business hours to make such repairs which, once begun, shall be diligently pursued to completion within a reasonable time, subject to the nature of the repair and unforeseen circumstances and events.

All applicable statutes of limitations shall be tolled for 30 days to permit any inspection hereunder and, if any Person entitled to notice and to inspect hereunder conducts such inspection within such 30-day period and elects to make any repairs as provided herein, the applicable statute of limitations shall be tolled for an additional period, not to exceed 120 days from the date of the notice of such election, to perform the work which such Person has elected to perform. At any time during such 120-day period, such Person may end such tolling period by delivering written notice to the Association or Owner, as applicable, that such Person does not intend to take any further action to remedy the Defect.

Any dispute as to the adequacy of the proposed repairs to resolve the problem or as to whether repairs that have been made have remedied the Defect, shall be submitted to the dispute resolution procedures set forth in Article XII.

## **ARTICLE XI EASEMENTS**

### **11.1. Easements in Common Area.**

(a) Declarant grants a nonexclusive right and easement appurtenant to each Unit within Lakeside at River Green for use, access, and enjoyment over the Common Area, and there shall be a right and easement appurtenant to each such Unit for use and enjoyment of any Lakeside Amenities, all such easements being subject to:

(i) the Lakeside Documents, the River Green Supplemental Declaration, and any other applicable covenants;

(ii) any restrictions, limitations, and easements contained in any deed conveying such property to the Association;

(iii) the Board's right to:

(A) adopt rules regulating use and enjoyment of the Lakeside Amenities, including, without limitation, rules limiting use of the Lakeside Amenities to certain Occupants of each Unit, limiting the number of Occupants of each Unit who may access and use certain Lakeside Amenities, and/or requiring payment of fees for users in excess of a specified number; rules regulating guest use and who qualifies as a guest; and rules requiring guests to be registered or accompanied by their host when using the Lakeside Amenities; and

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(B) suspend the right of an Owner to use Lakeside Amenities pursuant to Section 7.4; and

(C) impose separate membership requirements and charge reasonable initiation fees, admission or other use fees for the use of any Lakeside Amenities;

(D) permit use of any Lakeside Amenities by persons other than Owners and occupants of Units and their guests, on such terms and conditions and payment of such fees as the Board deems appropriate, all subject to approval of the Declarant during the Development and Sale Period;

(E) dedicate or transfer all or any part of the Common Area, subject to Section 16.3; and

(F) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 16.3.

(iv) the Declarant's right to designate portions of the Common Area as Exclusive Common Area for the benefit of specified Units pursuant to Section 11.1(b) and the right of the Owners and occupants of such specified Units to the exclusive use of the Exclusive Common Area designated for the benefit of their Units.

An Owner who leases his or her Unit shall be deemed to have assigned all rights of access and use of the Lakeside Amenities associated with such Unit to the lessee of such Unit for the period of the lease.

(b) The Declarant hereby reserves for itself, its successors and assigns, the right to designate from time to time portions of the Common Area (other than portions improved with roads, recreational, or other facilities designed for the common use of all Owners) as "Exclusive Common Area" and assign such portion(s) for the use and benefit of a particular Unit or Units. Such designation and assignment may be made in this Declaration or an amendment hereto, any Supplemental Declaration, on a recorded subdivision plat, in the deed conveying such Exclusive Common Area to the Association, or in another recorded instrument executed by the Declarant and encumbering title to such Exclusive Common Area. The Declarant hereby establishes an exclusive easement over each portion of the Common Area now or hereafter designated as Exclusive Common Area pursuant to this subsection (b), for the benefit of and appurtenant to the Unit or Units to which such Exclusive Common Area is assigned in the instrument designating it as Exclusive Common Area, for access, ingress, egress, use and enjoyment of such Exclusive Common Area and any improvements constructed thereon, and for maintenance of the same, all in a manner consistent with the Governing Documents; provided, the Owner shall not construct or alter any landscaping or improvements on such Exclusive Common

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Area without obtaining prior written approval as required by Article IV. Notwithstanding anything to the contrary in this Declaration or other Governing Documents, the Owner of a Unit to which Exclusive Common Area is assigned shall be solely responsible for maintenance of such Exclusive Common Area, and for insuring, repairing, and replacing any landscaping and improvements thereon as if it were part of such Owner's Unit and the Association shall have no responsibility for such Exclusive Common Area. Such Owner shall keep such Exclusive Common Area free of liens and encumbrances at all times.

#### 11.2. Easements of Encroachment.

(a) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions), to a distance of not more than two feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

(b) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units as reasonably necessary to install, maintain, repair and replace any fence constructed on or within one foot of the boundary line of any Unit.

#### 11.3. Easements for Access Over Any Private Streets.

(a) Declarant hereby reserves for itself and its agents, employees, successors, and assigns, and their respective invitees, a perpetual, non-exclusive easement of access, ingress, and egress over all streets and any alleys within Lakeside at River Green and through any gate limiting vehicular or pedestrian access to Lakeside at River Green, for the purpose of:

(i) constructing, installing, maintaining, repairing, and rebuilding subdivision improvements and performing any other work that the Declarant deems reasonably necessary, in its discretion, or that the Declarant is required to perform pursuant to any development agreement or order, contract, court order, or requirements of any government agency having jurisdiction; and

(i) development, marketing and sale of property in Lakeside at River Green, the Expansion Property, and other properties being developed, marketed, or sold by the Declarant, its affiliates, agents, or designees.

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(b) Declarant hereby grants a perpetual, nonexclusive easement for access, ingress, and egress through any gate limiting access to Lakeside and over streets and alleys within Lakeside to the Owners and Occupants of Units, for themselves and their invitees (which may include persons providing construction services and materials to their Units), subject to such Rules as the Association may adopt. Such easement shall be subject to the Board's right to suspend the privilege of using any automated gate access system as provided in Section 7.4(b) and require use of a keypad or other alternate method as the Board may authorize to open the gate.

(c) Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress through any gate limiting access to Lakeside and over the streets and alleys within Lakeside for law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service within Lakeside, provided that such easement shall not authorize any such Persons to enter Lakeside except while acting in their official capacities.

The existence of the foregoing easements shall not preclude the Association from maintaining gates or other devices or systems designed to limit vehicular or pedestrian access over any private streets within Lakeside at River Green unless and until such time as they are dedicated to the public, provided that the Association at all times maintains systems and/or procedures to permit the entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or unreasonable delay.

**Nothing herein shall be construed as a representation that the streets within Lakeside at River Green will always be maintained as private streets or that Lakeside at River Green will always be gated or that any gates will always limit vehicular access by unauthorized persons. The Declarant reserves the right to dedicate any or all streets within Lakeside at River Green to the public, either on the recorded plat or thereafter at any time during the Development and Sale Period.**

#### 11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Expansion Property, whether or not such Expansion Property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is

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exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5. Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over all property within Lakeside as necessary to enable the Association to fulfill its maintenance responsibilities under Section 5.1 and Section 7.2 and otherwise exercise its authority and fulfill its duties under the Lakeside Documents. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform other maintenance, to inspect for the purpose of ensuring compliance with and enforce the Lakeside Documents, and to exercise self-help under Section 7.4. Any member of the Board and its duly authorized agents and designees, and all emergency personnel in the performance of their duties, may exercise such right of entry. Except in an emergency situation, entry onto an occupied Unit for any purpose other than performing, during daylight hours, any exterior maintenance that is the Association's responsibility under this Declaration or any Supplement, shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Utilities, Drainage and Infrastructure.

(a) Installation and Maintenance. Declarant reserves for itself, during the Development and Sale Period, temporary non-exclusive easements, and grants to the Association and all utility providers, perpetual non-exclusive easements, throughout Lakeside (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve Lakeside, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, stormwater drainage systems, spray irrigation systems, and street lights and signage, on Common Area (other than Exclusive Common Area) or within public rights-of-way or easements reserved for such purpose on recorded plats or in other recorded documents; and

(ii) using, inspecting, maintaining, repairing and replacing the utilities, infrastructure and other improvements described in Section 11.6(a)(i); and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to assign or grant and record such specific easements, consistent with the above and other easements reserved to the Declarant hereunder, as may be

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necessary, in the sole discretion of Declarant, in connection with the orderly development of any property subject to this Declaration or which may be made subject to this Declaration. The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.7. Easement to Inspect and Right to Correct.

Declarant reserves for itself, the Builders, and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of Lakeside, including Units, and a perpetual, nonexclusive easement of access throughout Lakeside to the extent reasonably necessary to exercise such right; however, except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

11.8. Right of Entry for Maintenance by Owners.

If any dwelling is located within five (5) feet of the boundary of any Unit and such location conforms to all applicable laws, ordinances, and Design Guidelines, the Owner shall have a perpetual, nonexclusive easement over the Unit adjoining such boundary to the extent reasonably necessary to perform maintenance and repairs on such Owner's dwelling. All work shall be done expeditiously and, upon completion of the work, the Owner shall restore the adjoining Unit to as nearly the same condition as that which existed prior to such entry as reasonably practicable.

11.9. Landscaping, Wall, and Signage Easements.

Declarant and its designees and the Association shall have perpetual, nonexclusive easements exercisable by their respective employees, agents, and contractors:

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(a) over areas within five feet of the rights-of-way of streets within Lakeside at River Green and over any easement designated on recorded plats of any portion of Lakeside at River Green, for the purpose of installation, maintenance, repair, and replacement of lot bollards, neighborhood entrance monuments, signs, fences, lighting, irrigation systems, decorative walls or fencing, and landscaping within the easement area; and

(b) over portions of any Unit or Common Area (i) lying within 10 feet of any portion of a retaining wall constructed by Declarant which spans the boundaries of two or more Units or which is located along the common boundary between one or more Units and adjacent Common Area, and (ii) upon which any portion of such a retaining wall (including any related grid system, anchors, or other supporting or reinforcement system, and any fence along the top thereof) is constructed or installed, for purposes of maintenance repair and replacement thereof;

(c) over portions of Units lying within 10 feet of the side boundaries of any Unit or Common Area parcel for the purpose of access by people and equipment to perform maintenance, repair, and replacement of retaining walls, decorative or privacy walls, and/or fencing which are the Association's maintenance responsibility hereunder.

Nothing herein shall obligate Declarant or the Association to exercise such easements or to construct or install any of the foregoing. No fences, structures, driveways, plantings, or any other objects, temporary or permanent, shall be permitted in such easement areas which would interfere with the exercise of this easement without the Association's prior written approval, other than those installed by Declarant or its designees or the Association.

No person shall interfere with the exercise of this easement by Declarant, its designees, or the Association, by removing, defacing, or otherwise vandalizing any signs (temporary or permanent) or other improvements placed within such easement area by Declarant, its designees, or the Association, or otherwise. The Declarant, its designees and the Association, respectively, may remove signs or other improvements which they have placed on the easement area.

#### 11.10. Pedestrian Easement.

Declarant reserves for itself, its successors, assigns, and designees, a perpetual, non-exclusive easement over the Common Area (other than Exclusive Common Area) lying between Units within Lakeside and that lake located on property of River Green Association for purposes of construction and use of a pedestrian pathway connecting sidewalks on River Green Avenue to a trail that may now or hereafter be located on property of the River Green Association, which pathway may consist of a combination of sidewalks within the rights-of-way of Woodlake Court and Lakeside Overlook in Lakeside and an unpaved hiking trail over other portions of the Common Area, as Declarant deems appropriate in its sole discretion. Declarant may assign rights to use any such pedestrian



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easement to the River Green Association and its members, including members who do not own property or reside in Lakeside. The construction of any such pedestrian pathway is subject to obtaining certain rights with respect to property of River Green Association and other factors within Declarant's sole discretion. Nothing in this Declaration shall obligate Declarant to construct any such pedestrian pathway or to assign any such rights of use to any person.

11.11. Easements for Storm Water Runoff.

(a) The Declarant hereby reserves for itself and grants to the Association:

(i) a non-exclusive easement upon, across, above and under all storm water drainage easement areas shown on the recorded subdivision plat(s) of Lakeside at River Green for access, ingress, egress, installing, altering, repairing, replacing, and maintaining the storm water drainage system and related facilities serving any portion of Lakeside at River Green or any property described in Exhibit "B" attached hereto. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, and cut or fill within such easement areas; and

(ii) a blanket easement across all Units (but not through or under a dwelling) for purposes of creating and maintaining satisfactory drainage in Lakeside at River Green and surrounding properties.

(b) The Declarant hereby establishes reciprocal appurtenant easements over, under, across and through each portion of Lakeside at River Green (but not through or under a dwelling) for the benefit of each other portion of Lakeside at River Green, for the flow of storm and surface waters; provided, such easement shall not authorize any Owner or occupant to alter the grading or drainage patterns established by the Declarant, except in accordance with plans and specifications approved pursuant to Article IV hereof.

Each Owner, by accepting title to a Unit, acknowledges that creation and expansion of impervious surfaces within and in the vicinity of Lakeside at River Green as a result of construction and development activities will likely result in an increase in surface waters and storm water runoff across Units located downstream or down slope from such activities. The Declarant, the Association, their respective officers, directors, representative and agents, and any Builder or Owner constructing improvements in accordance with plans and specifications approved under Article IV hereof, shall have no liability to any Owner or occupant of a Unit due to the increased flow or increased velocity of surface water or storm water runoff resulting from such construction and development activities.

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## ARTICLE XII DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

### 12.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Owners and other Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (each a "**Bound Party**" and collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving Lakeside at River Green without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to any Claim described in Section 12.1(b), without first submitting such Claim to the alternative dispute resolution procedures set forth in Section 12.2, and then subject to the provisions of Section 12.3, if applicable;

and act in good faith to resolve such Claim. Nothing herein shall be construed to require any dispute to be submitted to more than one of the processes described in clauses (i) and (ii) of this Section 12.1(a).

(b) The term "**Claim**" as used in this Article shall refer to any claim, grievance or dispute, other than a claim subject to Section 12.1(a)(i), arising out of or relating to:

(i) the interpretation, application, or enforcement of the Lakeside Documents; or

(ii) the rights, obligations, and duties of any Bound Party under the Lakeside Documents; or

(iii) the design or construction of improvements within Lakeside, other than matters of aesthetic judgment exercised by the Reviewer, which shall not be subject to review;

e that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 12.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner; and

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Articles III, IV or V of this Declaration; and

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(iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Lakeside Documents; and

(iv) any suit in which any indispensable party is not a Bound Party;

(v) any suit which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 12.2;

(vi) any suit by the Association to enforce the Governing Documents where the Association has given the violator notice and either a hearing or an opportunity to cure the violation, or both, prior to the Association filing suit;

(vii) any suit by the holder of a Mortgage recorded prior to this Declaration and encumbering any portion of Lakeside to enforce the terms of such Mortgage or such holder's rights under this Declaration; and

(viii) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 12.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

#### 12.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice by U.S. Mail or personal delivery to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

Rec: \$25.00

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ParticipantIDs: 8471017776

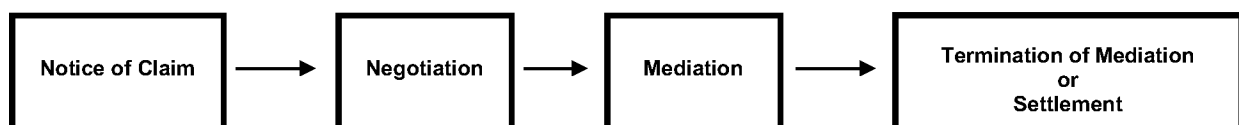
(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 12.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 12 months from the date of the notice to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the metropolitan Atlanta, Georgia area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

Each Bound Party shall present the mediator with a written summary of the Claim. If the Parties do not settle the Claim within 90 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate, subject to the approval requirements set forth in Section 12.3, if applicable, and subject to the terms of any written agreement entered into between the Owner and a Builder or other Bound Party requiring the Claim to be submitted to binding arbitration. If suit is filed, each Bound Party shall execute and file a written stipulation to waiver of trial by jury on such Claim.

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

#### **Alternative Dispute Resolution Process**



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section 12.2, but subject to the provisions of Section 12.3, if applicable. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

(e) Satisfaction of Requirements. In the event that any Claim would be subject to the dispute resolution procedures set forth in this Section 12.2 and also to the dispute resolution procedures set forth in the River Green Declaration, compliance with the procedures set forth in the River Green Declaration shall constitute compliance with the procedures set forth in this Section 12.2.

### 12.3. Initiation of Actions by Association.

Litigation involving the Association can create a significant financial burden and exposure for the Association and its Members in terms of legal fees and costs as well as potential liability to third parties, interfere with the resale and refinancing of Units, and create uncertainty and tension within Lakeside, all of which can negatively impact property values and marketability of Units and impose financial burdens on Owners for their share of the costs. Litigation of certain types of disputes may be quite protracted, causing such impacts to continue for an extended period of time. Therefore, this Section imposes the following requirements that must be met prior to the Association initiating litigation or arbitration (with certain exceptions as specified in subsection (a) below), in order to ensure that the membership is fully informed and supports the initiation of such proceedings:

(a) Membership Approval. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, neither the Association nor any claimant or group of claimants acting on behalf of or in the name of the Association shall initiate any judicial, arbitration, or administrative proceeding unless first approved by a vote of persons entitled to cast at least 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

(i) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against the Association:

(ii) initiated during the Class "B" Control Period, unless the Declarant, by written notice to the Association, elects to have the proposal to initiate judicial or administrative proceedings be approved by the Members hereunder, in which case such approval shall be required; or

(iii) initiated to collect assessments, foreclose the Association's liens, or otherwise enforce the provisions of the Lakeside Documents; or

(iv) initiated to challenge ad valorem taxation or condemnation proceedings;  
or

(iv) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract with the Association for services or supplies;

or if otherwise prohibited by Georgia law.

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ParticipantIDs: 8471017776

(b) Information to be Provided to Members. Prior to any vote required under Section 12.3(a):

(i) the Board shall comply with Section 10.5, if applicable; and

(ii) if the Association's claim involves alleged defects in the design or construction of improvements in Lakeside, the Board shall engage an independent professional engineer licensed by the State of Georgia to conduct an inspection and provide a report detailing the condition of such improvements, describing and providing photographs of the alleged defects in design or construction, providing the engineer's recommendations for remediation and/or repair, and providing estimated costs of such remediation and repairs, which estimates shall be obtained from qualified, independent third-party contractors holding all necessary licenses to perform the recommended work; and

(iii) the Board shall provide written notice to each Member of the meeting at which the vote is to be conducted, which notice shall be accompanied by: (A) a copy of any report required under clause (i); (B) a description of the claim, the relief sought, the anticipated duration of the proceedings, and the estimated likelihood of success; (C) a copy of a proposed engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the claim setting forth the proposed financial arrangements between the Association and such lawyer or law firm; (D) a description and estimate of the legal fees, consultant fees, expert witness fees, and court costs, which the Association may incur directly or indirectly, or for which it may be liable, as a result of pursuing the claim; (E) a description of the manner in which the Association proposes to fund such costs; (F) a summary of the steps previously taken by the Association to resolve the claim; and (G) a statement that initiating the lawsuit or arbitration proceeding to resolve the claim may affect the market value, marketability, or refinancing of a Unit while the claim is being pursued.

### **ARTICLE XIII MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units.

#### **13.1. Notices of Delinquency and Violations.**

Upon written request of an institutional holder, insurer, or guarantor of a first priority Mortgage stating the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, the Association shall provide a statement of any delinquency in the payment of assessments or charges owed for such Unit or any other violation of the Lakeside Documents of which the Board is aware relating to such Unit or the Owner of Occupant thereof and which has not been cured.

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ParticipantIDs: 8471017776

13.2. Right to Examine Books and Records.

Upon written request of any Mortgagee stating the name and address of such Mortgagee and the street address of the Unit to which its Mortgage relates, the Association shall provide the Mortgagee with a copy of the Association's most recent financial statement and shall permit such Mortgagee or its agent to inspect the books and records of the Association during normal business hours, subject to the terms of the By-Laws.

13.3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

13.4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

## **ARTICLE XIV RIVER GREEN ASSOCIATION**

14.1. Membership in River Green Association.

Lakeside at River Green is a neighborhood within the larger community known as River Green. In addition to holding membership in the Association, each Owner shall be a member of the River Green Association and shall fulfill the responsibilities and be entitled to exercise the privileges of membership under the River Green Documents. Each Owner shall be subject to and pay assessments and fees levied by the River Green Association pursuant to the River Green Declaration in addition to assessments levied by the Association under this Declaration.

14.2. Management and Operating Agreements.

The Association may enter into agreements with the River Green Association delegating to the River Green Association such management, maintenance, operational or other duties of the Association as the Board deems appropriate, or assuming any such duties of the River Green Association, on such terms and conditions and for such consideration as the Board deems appropriate.

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## **ARTICLE XV CHANGES IN OWNERSHIP OF UNITS**

### **15.1. Notice of Lease or Transfer of Unit.**

Any Owner desiring to lease, sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the lessee, purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. In the case of a transfer of title, the Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

### **15.2. Administrative Fee.**

The Association may charge a reasonable administrative fee for preparation of a statement of unpaid assessments and may require that such fee be paid in advance, either to the Association or its management agent.

## **ARTICLE XVI CHANGES IN COMMON AREA**

### **16.1. Condemnation.**

If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award. Any condemnation award shall be payable to the Association and shall be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, during the Development and Sale Period, and Members entitled to cast at least 67% of the total Class "A" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply as if the condemnation proceeds were insurance proceeds.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as if proceeds from the sale of Common Area pursuant to Section 16.3.



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ParticipantIDs: 8471017776

## 16.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action seeking the partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration, subject to such approval as may be required under Section 16.3.

## 16.3. Transfer, Dedication or Conveyance of Common Area.

The Association may dedicate portions of the Common Area to any local, state, or federal governmental or quasi-governmental entity or utility company, may subject Common Area to a security interest, or may transfer or convey Common Area, as follows:

(a) upon request of the Declarant pursuant to Section 7.1;

(b) if Common Area other than Exclusive Common Area, upon approval of Members entitled to cast at least 67% of the total Class "A" votes in the Association and the Declarant during the Development and Sale Period, except that no Class "A" approval shall be required for (i) the Declarant to designate Exclusive Common Area pursuant to Section 11.1(b) or grant specific easements as authorized elsewhere in this Declaration, or (ii) the Board to grant easements over the Common Area for access, utilities, or other purposes not inconsistent with the intended use of such Common Area by the Owners; or

(c) if Exclusive Common Area, upon written agreement of the Owner(s) of Unit(s) to which such Exclusive Common Area is assigned.

No dedication or conveyance of Common Area may deprive any Unit of rights of access.

The proceeds from the sale or mortgaging of Common Area other than Exclusive Common Area shall be an asset of the Association to be used as the Board determines, unless otherwise directed by the Class "A" Members at the time such sale or mortgage is authorized pursuant to subsection (b) above. The proceeds from the sale or mortgaging of Exclusive Common Area shall be used as directed by the Owners of Units to which such Exclusive Common Area was assigned at the time such sale or mortgage is authorized pursuant to subsection (c) above

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## ARTICLE XVII AMENDMENT OF DECLARATION

### 17.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Development and Sale Period, the Declarant may unilaterally amend this Declaration for any purpose, except that any amendment shall be subject to the approval requirements set forth in Section 17.3, if applicable.

### 17.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Persons entitled to cast at least 67% of the total Class "A" votes in the Association, and during the Development and Sale Period, the Declarant's written consent. In addition, any amendment shall be subject to the approval requirements set forth in Section 17.3, if applicable.

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

Any amendment pursuant to this Section 17.2 shall be prepared, executed, certified, and recorded on behalf of the Association by any officer designated for such purpose or, in the absence of such designation, by the Association's President.

### 17.3. Limitations on Amendments; Validity and Effective Date.

No amendment to this Declaration may:

(a) remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege);

(b) alter the rights or responsibilities of the Association or the Owners with respect to the River Green Association without the prior written consent of the River Green Association; or

(c) impose greater restrictions on use of a Unit than previously set forth herein without the written consent of the Person who is the Owner of the Unit at the time the amendment is recorded.

Any amendment to this Declaration which would be inconsistent with, or cause Lakeside at River Green to become ineligible for, the HOPA Exemption described in Section 3.2(a), shall require the prior written consent of any Builder who then owns Units

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in Lakeside at River Green or is under contract to purchase Units in Lakeside at River Green from the Declarant.

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

Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within 6 months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. The Association shall provide a copy of any Declaration amendment to each Member within 30 days after recordation of the amendment.

#### 17.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. Exhibit "C" is incorporated by this reference and may be amended pursuant to Section 3.5 or this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

### **ARTICLE XVIII      TERMINATION OF DECLARATION**

Subject to the rights to amend set forth in Article XVII and elsewhere in this Declaration, this Declaration shall remain in effect for 20 years from the date of recording and thereafter shall be extended automatically for successive 20-year periods unless the then Owners of at least 51% of the Units each sign a document verifying that such Owner is the record Owner of a Unit subject to this Declaration, which document (i) contains a legal description of Lakeside and a list of the names of all Owners of Units subject to this Declaration, and (ii) references this Declaration and states the date upon which this Declaration shall terminate; and (iii) is recorded within the 2-year period immediately preceding the expiration of the initial 20-year term or any subsequent 20-year extension, in which case this Declaration shall terminate on the date specified in such termination document. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

If any provision of this Declaration would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

**Rec: \$25.00**

**Patty Baker, Clerk of Superior Court - Cherokee County, GA**

**ParticipantIDs: 8471017776**

[continued on next page]

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

**DECLARANT:** **JWC LAKESIDE, LLC**, a Georgia limited liability company (formerly known as River Green Land, LLC)

By:

Name:

Its:

*Russell L. Brown*  
*Russell L. Brown*  
*Manager*

Signed, sealed and delivered this

27 day of September, 2022,

in the physical presence of:

*Michelle Horstemeyer*

Unofficial Witness

(Print Name) Michelle Horstemeyer

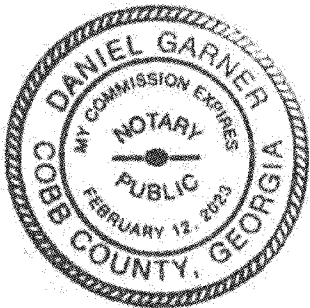
*Daniel Garner*

Notary Public

(Print Name) Daniel Garner

My commission expires: 2/12/23

[NOTARIAL SEAL]



617701/Lakeside/CCR /080222/jps

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

## JOINDER AND CONSENT OF LENDER

The undersigned, as holder of that certain Deed to Secure Debt, Assignment of Leases and Rents, Security Agreement, and Fixture Filing dated July 8, 2022 and recorded July 11, 2022 in Deed Book 14807, Page 1740, *et seq.*, in the office of the Clerk of Superior Court of Cherokee County, Georgia ("**Security Deed**"), which Security Deed encumbers all or a portion of the real property described on Exhibit "A" to this Declaration of Covenants, Restrictions and Easements for Lakeside at River Green ("**Declaration**"), hereby joins in execution of such Declaration to evidence its consent to and approval of such Declaration.

IN WITNESS WHEREOF, the undersigned has duly executed this Joinder and Consent of Lender by and through its authorized representative this 7<sup>TH</sup> day of OCTOBER 2022.

TEXAS CAPITAL BANK, a Texas state bank

By: Tom Miller  
Name: TOM MILLER  
Its: VICE PRESIDENT

Signed, sealed and delivered this  
7<sup>TH</sup> day of OCTOBER 2022,  
in the physical presence of:

Erica Holt

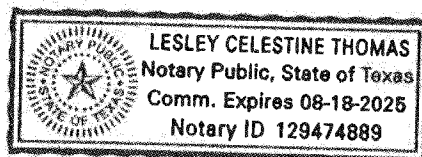
Unofficial Witness

(Print Name) Erica HoltLesley Celestine Thomas

Notary Public

(Print Name) Lesley Celestine ThomasMy commission expires: 8/18/25

[NOTARIAL SEAL]



Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

## EXHIBIT "A"

### Land Initially Submitted

All that tract or parcel of land lying and being in Land Lots 57 and 88 of the 14th District, 2nd Section, City of Canton, Cherokee County, Georgia, and being more particularly described as follows:

**COMMENCING** at an angle iron (bent) found at the Land Lot Corner common to land lots 57, 58, 87, and 88; Thence along the land lot line common to land lots 87 and 88 South 88 Degrees 41 Minutes 57 Seconds East a distance of 304.27 feet to a point, said point being the **POINT OF BEGINNING**.

**FROM THE POINT OF BEGINNING AS THUS ESTABLISHED,**

Thence continuing along the land lot line common to land lots 87 and 88 South 88 Degrees 41 Minutes 57 Seconds East a distance of 990.66 feet to a point

Thence leaving said land lot line South 00 Degrees 01 Minutes 55 Seconds East a distance of 637.21 feet to a point;

Thence South 21 Degrees 09 Minutes 30 Seconds West a distance of 437.16 feet to a point;

Thence South 69 Degrees 37 Minutes 38 Seconds West a distance of 198.57 feet to a point;

Thence North 71 Degrees 18 Minutes 39 Seconds West a distance of 201.18 feet to a point;

Thence South 65 Degrees 12 Minutes 20 Seconds West a distance of 170.10 feet to a point;

Thence South 00 Degrees 18 Minutes 17 Seconds West a distance of 100.00 feet to a point;

Thence South 07 Degrees 48 Minutes 17 Seconds West a distance of 80.00 feet to a point;

Thence South 42 Degrees 00 Minutes 17 Seconds West a distance of 110.00 feet to a point;

Thence South 53 Degrees 48 Minutes 17 Seconds West a distance of 100.00 feet to a point;

Thence South 75 Degrees 42 Minutes 17 Seconds West a distance of 130.00 feet to a point;

Thence South 41 Degrees 18 Minutes 17 Seconds West a distance of 60.00 feet to a point;

Thence South 05 Degrees 23 Minutes 43 Seconds East a distance of 50.00 feet to a point;

Thence South 19 Degrees 12 Minutes 17 Seconds West a distance of 70.00 feet to a point;

Thence South 39 Degrees 54 Minutes 17 Seconds West a distance of 120.00 feet to a point;

Thence South 43 Degrees 56 Minutes 56 Seconds West a distance of 111.58 feet to a point;

Thence North 55 Degrees 27 Minutes 23 Seconds West a distance of 326.55 feet to a 1/2" rebar set;

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

**EXHIBIT "A"**

**Land Initially Submitted**

(continued)

Thence North 59 Degrees 30 Minutes 28 Seconds West a distance of 200.25 feet to a 1/2" rebar found on the easterly right of way of River Green Avenue (R/W Varies);  
Thence along said easterly right of way along a curve to the right, an arc distance of 93.49 feet, said curve having a radius of 450.00 feet and being subtended by a chord of 93.32 feet, at North 21 Degrees 27 Minutes 36 Seconds East to the end of the easterly right of way of River Green Avenue (R/W Varies);  
Thence North 62 Degrees 35 Minutes 17 Seconds West a distance of 50.00 feet to the end of the westerly right of way of River Green Avenue (R/W Varies);  
Thence along said westerly right of way along a curve to the left, an arc distance of 132.41 feet, said curve having a radius of 500.00 feet and being subtended by a chord of 132.03 feet, at South 19 Degrees 41 Minutes 13 Seconds West to a point;  
Thence along the mitered intersection of River Green Avenue (R/W Varies) and Generals Place (R/W Varies) South 55 Degrees 19 Minutes 57 Seconds West a distance of 16.16 feet to a point on the northerly right of way of Generals Place (R/W Varies);  
Thence along said right of way along a curve to the right, an arc distance of 23.97 feet, said curve having a radius of 462.00 feet and being subtended by a chord of 23.96 feet, at North 79 Degrees 45 Minutes 31 Seconds West to a point;  
Thence leaving said right of way North 11 Degrees 43 Minutes 01 Seconds East a distance of 117.00 feet to a point;  
Thence North 71 Degrees 06 Minutes 09 Seconds West a distance of 22.65 feet to a point;  
Thence North 38 Degrees 38 Minutes 05 Seconds East a distance of 128.97 feet to a point;  
Thence North 38 Degrees 38 Minutes 09 Seconds East a distance of 50.00 feet to a point;  
Thence along a curve to the left, an arc distance of 0.20 feet, said curve having a radius of 274.90 feet and being subtended by a chord of 0.20 feet, at South 51 Degrees 23 Minutes 07 Seconds East to a point;  
Thence South 51 Degrees 23 Minutes 25 Seconds East a distance of 36.85 feet to a point;  
Thence South 89 Degrees 14 Minutes 04 Seconds East a distance of 15.34 feet to a point;  
Thence along a curve to the right, an arc distance of 148.30 feet, said curve having a radius of 500.00 feet and being subtended by a chord of 147.76 feet, at North 51 Degrees 03 Minutes 11 Seconds East to a point;  
Thence North 30 Degrees 27 Minutes 00 Seconds West a distance of 103.90 feet to a point;  
Thence North 07 Degrees 40 Minutes 35 Seconds East a distance of 27.23 feet to a point;  
Thence North 17 Degrees 19 Minutes 03 Seconds West a distance of 10.12 feet to a point;  
Thence North 52 Degrees 24 Minutes 05 Seconds East a distance of 19.47 feet to a point;  
Thence North 73 Degrees 55 Minutes 33 Seconds East a distance of 202.34 feet to a point;  
Thence North 01 Degrees 26 Minutes 31 Seconds East a distance of 497.84 feet to a point;  
Thence North 11 Degrees 43 Minutes 20 Seconds East a distance of 127.49 feet to a point;  
Thence North 28 Degrees 08 Minutes 08 Seconds East a distance of 125.91 feet to a point;  
Thence North 34 Degrees 47 Minutes 46 Seconds East a distance of 206.55 feet to a point;



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Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

**EXHIBIT "A"**

**Land Initially Submitted**

(continued)

Thence North 00 Degrees 21 Minutes 07 Seconds West a distance of 66.85 feet to a point;  
Thence North 53 Degrees 23 Minutes 09 Seconds East a distance of 110.82 feet to a point,  
said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land containing 40.646 acres.

Being the same property shown and described on that certain Final Plat of Lakeside at  
River Green recorded in the office of the Clerk of the Superior Court of Cherokee County,  
Georgia on May 25, 2022 at Plat Book 119, Pages 2341-2349.

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

## **EXHIBIT "B"**

### **Potential Expansion Property**

Any real property located in the City of Canton, Cherokee County, Georgia, which has first or simultaneously been submitted to the River Green Declaration in accordance with the terms thereof.

### **Note to clerk and title examiners:**

**This Declaration is not intended to create an encumbrance on title to the property described on this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplement in accordance with Article IX.**

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

**EXHIBIT "C"****Initial Rules**

In addition to the use and occupancy restrictions contained in Article III of this Declaration, the use restrictions contained in the River Green Declaration and the rules of the River Green Association (all of which are incorporated herein by this reference and may be enforced by the Association within Lakeside at River Green as if fully set forth in this Exhibit "C"), the following Rules shall apply within Lakeside at River Green until such time as they are amended, modified, repealed or limited pursuant to Article III of the Declaration:

**1. Qualification for Occupancy; Verification**

(a) In order to monitor compliance with the occupancy requirements set forth in Article III of the Declaration, the Association shall conduct surveys at least every two years and maintain a data base to verify compliance with the requirements of Article III as required by law. The occupants of Units must participate in surveys and comply with all requests from the Association to verify compliance with such occupancy requirements, including signing and returning in a timely manner any certification or affidavit which the Association may request for such purpose. Proof of occupancy by at least one Qualifying Occupant (as defined in Article III of the Declaration) must be provided in response to the survey. Any of the following documents will be acceptable evidence of the age of the Qualifying Occupant, provided that it contains specific information about current age or date of birth:

- Driver's license
- Birth certificate
- Passport
- Immigration card
- Military identification
- Any other state, local, national or international official documents containing a birth date of comparable reliability

If the occupants of a Unit refuse to comply with such verification procedures, the Association may, in its discretion, rely upon other forms of verification to determine whether the Unit is occupied by at least one Qualifying Occupant, including:

- Government records or documents such as a local household census
- Prior forms or applications; or
- A statement from an individual who has personal knowledge of the age of the occupants, setting forth the basis for such knowledge and signed under penalty of perjury.

A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any Person.

Rec: \$25.00

Patty Baker, Clerk of Superior Court - Cherokee County, GA

ParticipantIDs: 8471017776

## **EXHIBIT "C"**

### **Initial Rules**

(continued)

#### **2. Disclosure of 55+ Occupancy Policies**

(a) Any Owner or real estate broker or agent who sells, leases, or assists in selling or leasing real property in Lakeside at River Green shall disclose in any advertisements and marketing materials and media and in the purchase or lease documents that Lakeside at River Green is a 55+ age-qualified community, intended and operated to provide housing for persons age 55 and older. The purchase contract or lease shall contain a disclosure in substantially the following form, to be initialed by the purchaser or lessee:

OCCUPANCY OF UNIT. Purchaser acknowledges that Lakeside at River Green is designed and intended to provide housing for persons age 55 and older. Purchaser has reviewed the Declaration of Covenants, Restrictions and Easements for Lakeside at River Green ("Declaration") and understands that the Declaration requires, with limited exceptions, that each occupied Unit have, as a permanent resident, at least one occupant who is age 55 or older.

Purchaser agrees to provide, at closing of the purchase hereunder, evidence acceptable to Seller of the names and ages of the intended occupants of the Unit and to execute at such closing an affidavit, in such form as Lakeside at River Green Homeowners Association, Inc. (the "Association") may require, affirming that occupancy of the Unit will be in compliance with the occupancy requirements set forth in the Declaration. Purchaser acknowledges and understands that the Declaration requires the Purchaser to report changes in occupancy of the Unit to the Association and to cooperate with the Association in responding to surveys and providing such information as the Association may request to monitor compliance with the occupancy requirements of the Declaration.

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Purchaser's Initials

(b) Any sales contract or lease of real property in Lakeside at River Green shall include the certification of the buyer or lessee, in such form as the Board shall make available, certifying that at all times after taking occupancy of the Unit, at least one permanent resident of the Unit will be 55 years of age or older and specifying the current age or date of birth of such person. The Owner shall provide a copy of such certification to the Association prior to the buyer taking title to, or the lessee taking occupancy of, the Unit.

(c) The Board shall prepare and make available to Owners a disclosure statement setting forth the occupancy policies applicable to Lakeside at River Green consistent with Article III of the Declaration and these Rules and a form of certification to

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## **EXHIBIT "C"**

### **Initial Rules**

(continued)

be executed by the buyer or lessee, acknowledging the same. Each Owner shall attach a copy of such disclosure statement to any contract for the sale or lease of a Unit in Lakeside at River Green.

3. Parking. No garage shall be used for storage or other purposes that would preclude the parking in such garage of that number of vehicles for which the garage was originally designed, as indicated on the plans approved pursuant to Article IV. A recreational vehicle, motor home, camper, boat or other watercraft, trailer, golf cart, inoperable vehicle, or stored vehicle, may be parked only in the garage on a Unit except temporarily while loading and unloading. Except as provided below, no other vehicle may be parked in places other than the garage or driveway of the Unit occupied or being visited by the vehicle driver, and no vehicle shall be parked in the driveway of a Unit unless the garage is already occupied by at least two other vehicles. However, occasional visitors may temporarily park in the driveway or on the street in front of a Unit while loading or unloading, making a delivery, or providing services to the Unit. This Rule shall not restrict parking of construction vehicles on Units or on the street during construction on a Unit.

4. Operation of Motor Vehicles. The operation of motor vehicles (including golf carts) within Lakeside at River Green shall be subject to all provisions of state and local laws concerning the operation of motor vehicles on public streets, notwithstanding that the streets within Lakeside at River Green are private. Only drivers properly licensed to operate motor vehicles on public streets within the State of Georgia may operate motor vehicles on streets within Lakeside at River Green. Drivers shall comply with all signs regulating traffic within Lakeside at River Green, shall not exceed posted speed limits, and shall operate their vehicles in a careful, prudent, safe and quiet manner. No vehicle with an internal combustion engine may be operated in Lakeside at River Green without a properly functioning muffler operating in a manner which keeps noise emissions to a level consistent with that typical of motor vehicles as originally designed and sold by the vehicle manufacturer.

5. Window Treatments. Any window coverings visible from outside of a dwelling that do not appear as white, off-white, cream, or a similar light or pale, neutral color when viewed from the street or adjacent properties shall be subject to prior approval in accordance with the procedures set forth in Article IV of the Declaration.

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**EXHIBIT "D"**

**By-Laws of Lakeside at River Green Homeowners Association, Inc.**

[see attached]

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**BY-LAWS**

**OF**

**LAKESIDE AT RIVER GREEN HOMEOWNERS ASSOCIATION, INC.**

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**BY-LAWS  
OF  
LAKESIDE AT RIVER GREEN HOMEOWNERS ASSOCIATION, INC.**

**Article 1  
Name, Principal Office, and Definitions**

**1.1. Name.**

The name of the corporation is Lakeside at River Green Homeowners Association, Inc. (the "**Association**").

**1.2. Principal Office.**

The Association may have such offices in the State of Georgia as the Board may determine or as the Association's affairs may require.

**1.3. Definitions.**

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Declaration of Covenants, Restrictions and Easements for Lakeside at River Green executed and recorded by JWC Lakeside, LLC, a Georgia limited liability company (the "**Declarant**"), in the Office of the Clerk of the Superior Court for Cherokee County, Georgia, as it may be amended (the "**Declaration**"). The term "**majority**," as used in these By-Laws, means those votes, Members, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

**Article 2  
Membership: Meetings, Quorum, Voting, Proxies**

**2.1. Membership.**

The Association shall have two classes of membership: Class "A" Membership and Class "B" Membership, as more fully described in the Declaration. The Owner of each Unit, by accepting record title to such Unit, is deemed to consent to membership in the Association and such membership shall be resigned or transferred only upon transfer of title to the Unit giving rise to such membership. The provisions of the Declaration pertaining to membership and the designations, qualifications, rights, privileges and obligations of each class of membership set forth in the Declaration are incorporated in these By-Laws by this reference.

**2.2. Place of Meetings.**

The Association shall hold meetings at the Association's principal office or at such other suitable place the Board may designate.

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### 2.3. Membership Meetings.

(a) **General.** The first Association meeting, whether an annual or special meeting, shall be held within one year after the conveyance of the first Unit to a Class "A" Member other than the Declarant or a Builder.

(b) **Annual Meetings.** The Board shall schedule regular annual meetings of the Members to occur within 90 days before the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine.

(c) **Special Meetings.** The President may call special meetings of the Members. In addition, the President or the Secretary shall call a special meeting if so directed by Board resolution or within 30 days after receipt of a petition stating the purpose of the meeting and signed by Members holding at least 20% of the total votes in the Association. No business may be transacted at a special meeting except as described in the meeting notice pursuant to Section 2.4.

### 2.4. Notice of Meetings; Membership List.

(a) **Timing of Notice; Content.** At least 10 but not more than 60 days before any meeting of the membership, the President, the Secretary, or the officers or other persons calling the meeting shall deliver or cause to be delivered to each Member a written notice stating the place, day, and hour of the meeting and the items on the agenda for such meeting, including (i) the general nature of any matters to be considered at such meeting that require approval of the members under the Governing Documents or the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-101, *et seq.* (the "**Act**"); and (ii) any matter that a Member intends to raise at the meeting, if at least 10 days prior to the date the Association gives notice of the meeting the President or Secretary of the Association receives a request in writing or by email from any person or group of persons entitled to call the meeting to include such matter in the notice of the meeting. If proxies are permitted, the notice shall also state the procedures for appointing proxies. If the meeting is to be held solely by electronic communications or if participation in the meeting is permitted by remote communications, as described in Section 2.6 below, the notice shall state the form of communications system to be used for the meeting and the means of accessing the communications system. Such notice shall be delivered by such means as permitted under Section 9.5.

(b) **Record Dates for Notice and Voting.** The Board may set a record date for determining who is entitled to receive notice of a meeting or any action proposed to be taken without a meeting, which shall not be earlier than the 60<sup>th</sup> day before the date of the meeting or close of balloting for any action to be taken without a meeting. Subject to the foregoing, and unless the Board fixes an alternative record date for mailing of notices, the date upon which the Association or its agent prepares the mailing list for the notice shall be the record date for purposes of receiving notice. The record date for notice of a meeting shall also be effective for any adjournment of such meeting to a date within 120 days after the date scheduled for the original meeting, unless the Board fixes a new record date.

Notwithstanding the record date set for notices, any Owner who is shown as a Member in the records of the Association as of the last business day prior to either the date of the meeting or close of balloting for any action to be taken without a meeting, as applicable, shall be eligible to cast the vote for its Unit at such meeting or on such action, unless the Board fixes an alternative record date for voting and announces the same in the notice.

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(c) **Membership List.** The Board shall prepare an alphabetical list of the names of all Members entitled to notice of a meeting or other action requiring approval of the Members, identifying all Members entitled to vote at the meeting as of the date the list is prepared, indicating the address of each Member and the number of votes each Member is entitled to cast. The list need not include email addresses or other information for delivery of electronic transmissions. Not later than the second business day after the date notice is given, and continuing through the meeting or balloting, the list shall be made available for inspection and copying by Members entitled to vote on any matter for which notice was given, or their agents, for the purpose of communication with other Members concerning such meeting or action. The list shall be made available either: (i) on a reasonably accessible electronic network, with the information needed to gain electronic access to such list provided with the notice or upon request; or (ii) during ordinary business hours at the Association's principal office or at a reasonable place in the municipality in which the meeting will be held, as identified in the notice of the meeting. If a meeting is to be held solely by means of remote communication, the list shall be made available as described in clause (i) above. The Association shall also make the list available at the meeting for inspection at any time during the meeting or any adjournment of the meeting.

## **2.5. Waiver of Notice.**

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Member may waive, in writing or by electronic transmission, notice of any Association meeting, either before or after such meeting. Attendance (in person or remotely) at a meeting by a Member or the Member's duly-appointed proxy shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless the Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance (in person or remotely) at a special meeting by a Member or the Member's duly-appointed proxy also shall be deemed a waiver of notice of (a) the time, date, and place thereof, unless the Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order; and (b) consideration of any matter raised at the meeting that was required to be, but was not, described in the meeting notice, unless the member objects to consideration of such matter on the basis of lack of proper notice before the matter is put to a vote.

## **2.6. Remote Participation in Meetings.**

The Association may hold Association meetings and/or allow Members to participate in any Association meeting by conference telephone or similar communications equipment or another suitable electronic communications system, including videoconferencing technology or the Internet, if each person entitled to participate in the meeting consents to the meeting being held by means of that system and system permits each person participating in the meeting to communicate concurrently with all other persons participating in the meeting. If voting is to take place at the meeting, the Association must implement measures to verify that every Member voting at the meeting by means of remote communication is sufficiently identified.

## **2.7. Voting.**

(a) **Voting Rights.** Members shall have such voting rights as are set forth in the Declaration, which provisions are specifically incorporated by this reference. In any situation where a Member's voting rights have been suspended, the suspended vote shall not be considered for any purpose, including, but not limited to, calculating the total number of votes in the Association, de-

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termining the number of votes necessary to constitute a quorum, or the number of votes or required to approve an action.

**(b) Notice of Vote.** Not later than the 10 days or earlier than 60 days before the date of any election or vote, the Association shall give written notice of the election or vote to each Member entitled to vote.

**(c) Method of Voting.** A membership vote on any matter may be conducted by ballots cast in person or by proxy at a meeting, or if such method is authorized by the Board, by ballots cast by mail, by electronic transmission (including facsimile transmission, electronic mail, or an internet-based voting system), or by any combination of those methods. All proxies must comply with Section 2.8. Any membership vote in which ballots may be cast by mail or electronic transmission must comply with Section 2.11.

**(d) Tabulation of Votes.** A ballot cast at a meeting shall revoke and supersede any ballot casting the same vote submitted by other means. A ballot cast prior to a meeting (i) may be counted as a Member present and voting for the purpose of establishing a quorum only for items appearing on the ballot; (ii) may not be counted if the Member attends the meeting to vote in person; and (iii) may not be counted if the motion was amended at the meeting so as to deviate from the exact language on the ballot previously cast.

The person who tabulates votes on any matter shall not disclose to any other person how any particular Member's votes were cast. No person who is a candidate for election or is the subject of any other Association vote, nor any spouse, parent or child of any such candidate or subject, may tabulate ballots cast in any election or vote hereunder. No person other than a person designated by the Board to tabulate the votes shall be given access to the ballots cast other than as part of a recount process authorized by law.

## **2.8. Proxies.**

Any Member may vote in person or by proxy, subject to the limitations of Georgia law and subject to any specific provision to the contrary in the Declaration or these By-Laws. A Member or the Member's attorney in fact may appoint a proxy to vote or otherwise act for the Member by signing, dating and delivering to the Secretary of the Association or other person designated by the Board to tabulate votes, either personally or by an electronic transmission, an appointment form naming the person appointed to vote on behalf of the Member and identifying the Unit for which it is given. An electronic transmission must contain or be accompanied by information from which it can be determined that the member, the member's authorized agent, or the member's attorney in fact authorized the electronic transmission. A proxy for a meeting must be received by the Association's Secretary or other officer or agent authorized to tabulate votes prior to the start of the meeting for which it is to be effective, or by such earlier date as may be specified in the notice. Unless the proxy specifically provides otherwise, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable by signing and delivering to the Secretary or other person designated by the Board to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a later dated appointment form, and shall automatically be revoked: (a) if the

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Member attends the meeting and votes in person, (b) upon conveyance of any Unit for which it was given, or (c) 11 months from the date of the proxy, unless a different period is specified in the proxy. The death or incapacity of the Member appointing a proxy does not affect the Association's right to accept the proxy's authority unless notice of the death or incapacity is received by the Association's Secretary or other person authorized to tabulate votes before the proxy exercises his or her authority under the appointment.

## **2.9. Quorum.**

(a) Except as these By-Laws or the Declaration otherwise provide(s), the presence of Members or their proxies entitled to cast at least 20% of the total votes in the Association shall constitute a quorum at any membership meeting, and the casting of ballots representing at least 20% of the total votes in the Association shall constitute a quorum for any membership vote conducted by means other than at a meeting; provided, if a quorum is not established at any meeting when initially called or for any membership vote when initially conducted, then the quorum for any subsequent attempt to convene such meeting or conduct such membership vote shall be reduced to 10%. A ballot cast by mail or electronically may be counted for purposes of establishing a quorum only as to those action items appearing on the ballot.

(b) If a quorum is not represented at a meeting when originally called, the Board may:

(i) adjourn the meeting to a later time within 120 days of the original date and no notice shall be required other than announcement at the time of adjournment of the date, time and place for reconvening. Upon reconvening, if a quorum is represented, any business may be transacted that might have been transacted on the original date of such meeting or vote. If the date, time and place for reconvening is not announced at the time of adjournment, or is more than 120 days after the original date, or if for any reason a new date is fixed for reconvening after adjournment, the Board shall provide notice of the time and place for reconvening in the same manner prescribed for the original meeting or balloting on any action to be taken without a meeting; or

(ii) call another meeting or vote for the same purpose to be held within 60 days of the date originally scheduled and provide notice in accordance with Section 2.4, in which event the required quorum for such meeting or vote shall be one-half (1/2) of the required quorum for the original meeting or vote; provided, at any regular or annual meeting, unless at least 20% of the voting power is represented in person or by proxy, only those matters described in the meeting notice may be voted upon.

(c) If the quorum requirement is not met for any proposed action in which votes are cast by means other than at a meeting, the Board may extend the deadline for voting to a date within 30 days of the original deadline by written notice to the Members setting forth the new deadline.

(d) Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Members to leave less than a quorum; however, at least a majority of the votes required to constitute a quorum, or such larger percentage as may be required under the Declaration or applicable law for specific actions, must approve any action taken.

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## **2.10. Conduct of Meetings.**

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are prepared, reflecting all resolutions adopted and all other transactions occurring at such meetings. The minutes shall be kept with the Association's books and records.

## **2.11. Action Without a Meeting.**

Any action that is required or that may be taken at a meeting of the Members may be taken without a meeting if:

(a) the Association mails, personally delivers, or electronically transmits to every Member entitled to vote on such action:

(i) a ballot describing each proposed action and providing an opportunity to vote for or against each proposed action, along with instructions for delivery of the completed ballot, including the delivery location; or

(ii) notice of the posting of such a ballot on an Internet website, with instructions for obtaining access to such website and casting the ballot; and

(b) the number of votes cast equals or exceeds the quorum required for a meeting to consider such action; and

(c) the number of votes cast in favor of the proposed action equals or exceeds the number of votes required to approve such action if the vote were conducted at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Voting instructions or solicitations of votes to be cast by written or electronic ballot pursuant to this Section must indicate the number of responses needed to satisfy the quorum requirement, the percentage of votes necessary to approve any action other than election of directors, and the deadline for receiving the ballot in order to be counted. In addition, if the Act requires membership approval for the proposed action, any materials which the Act requires to be included in the notice of a meeting to consider such action must be furnished to the Member.

Any ballot cast by electronic transmission must set forth or be delivered with information from which the Association can determine (i) that the Member, the Member's authorized agent, or the Member's attorney in fact authorized the electronic transmission; and (ii) the date on which such Member, the Member's authorized agent, or the Member's attorney in fact transmitted such ballot by electronic transmission, which shall be deemed to be the date on which such ballot was signed. A ballot cast by electronic transmission in compliance with this paragraph shall be deemed to be written, signed and dated by the Member.

A written or electronic ballot, once cast, may not be revoked unless otherwise expressly authorized in the solicitation materials.

The Board shall notify the Members of the results of the vote within 30 days after the expiration of the voting period.

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### **Article 3**

#### **Board of Directors: Selection, Meetings, Powers**

#### **A. Composition and Selection.**

##### **3.1. Governing Body; Qualifications.**

The Board shall govern the Association's affairs. Each director shall have one vote. Except as otherwise provided in this Section 3.1, directors shall be Owners or Qualifying Occupants. However, no Owner and Qualifying Occupant of the same Unit may serve on the Board at the same time.

If an Owner is not an individual, any officer, director, partner, trustee of such Owner or other individual authorized in a writing signed by the Owner and filed with the Secretary of the Association shall be eligible to serve as a director, unless and until the Association receives written notice of revocation of such authority signed by the Owner. In addition, any employee of the Class "B" Member shall be eligible to serve as a director. However, no Owner may have more than one such representative serving on the Board at a time, except in the case of directors that the Class "B" Member appoints.

##### **3.2. Number of Directors.**

The Board shall consist of three to five directors, as provided in Section 3.3.

##### **3.3. Selection of Directors; Term of Office.**

(a) **Initial Board.** The initial Board shall consist of the three directors identified in the Articles of Incorporation, who shall serve until their successors are appointed or elected as provided in this section.

(b) **Directors During Class "B" Control Period.** Except as otherwise provided in this subsection (b) and in Section 3.5, the Class "B" Member may appoint, remove, and replace Board members until termination of the Class "B" Control Period. During such period, the Class "A" Members other than the Declarant shall be entitled to elect a minority of the total number of directors according to the following schedule (directors elected by the Class "A" Members other than Declarant are referred to as "**Owner Directors**");

(i) Not later than 60 days after the time that Owners other than the Declarant, Declarant Affiliates, or Builders own 50% of the Permitted Units, the President shall call for an election by which the Class "A" Members other than the Declarant shall be entitled to elect one of the three directors. The remaining directors shall be appointees of the Declarant. The Owner Director shall be elected for a term of two years or until the happening of the event described in subsection (b)(ii) below, whichever is shorter. If such Owner Director's term expires prior to the happening of the event described in subsection (b)(ii), a successor shall be elected for a like term.

(ii) Not later than 60 days after the time that Owners other than the Declarant, Declarant Affiliates, or Builders own 70% of the Permitted Units, the Board shall be increased to five directors and the President shall call for an election by which the Class "A" Members other than the Declarant shall be entitled to elect two of the five directors. The Declarant shall appoint



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the remaining three directors. The Owner Directors shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such Owner Directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

**(c) Directors After the Class "B" Control Period.** Not later than termination of the Class "B" Control Period, the President shall call for an election by which the Class "A" Members other than Declarant shall be entitled to elect four of the five directors. Two Owner Directors shall be elected to serve until the second annual meeting following their election and two Owner Directors shall be elected to serve until the third annual meeting following their election, as such Owner Directors determine among themselves. The Declarant shall be entitled to continue to appoint one director to serve until the termination of the Class "B" Membership, unless it earlier relinquishes such right in a written instrument signed by the Declarant.

Upon expiration of the term of office of each director elected or appointed pursuant to this subsection (c), the Class "A" Members (including the Declarant in its capacity as the Class "A" Member for Units which it owns) shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Directors may serve any number of consecutive terms.

The diagram below illustrates the concept of transition of control of the Board during and after the Class "B" Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS				
Initial Board	50% of Total Units Conveyed	70% of Total Units Conveyed	Termination of Class "B" Control Period	Termination of Class "B" Membership
Declarant	Owner	Owner	Owner	Owner
Declarant	Declarant	Owner	Owner	Owner
Declarant	Declarant	Declarant	Owner	Owner
		Declarant	Owner	Owner
		Declarant	Declarant	Owner

### 3.4. Nomination and Election Procedures.

**(a) Nomination of Candidates.** At least 30 days prior to any election of directors by the Class "A" Members, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve until the close of the election for which they were appointed. The names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Class "A" Members at such election. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates. Nominations shall also be permitted from the floor at the meeting at which any election is held or, if the election is to be

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held without a meeting pursuant to Section 2.12, the Board shall establish a reasonable procedure by which any Owner may declare his or her candidacy for election to the Board prior to the solicitation of ballots under that Section. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

In addition to or in lieu of appointing a Nominating Committee, the Board may give notice to the Members for the purpose of soliciting candidates interested in running for any position on the Board to be filled by such election. Such notice shall be given at least 10 days prior to disseminating any ballots for purposes of voting in an election of directors and must contain instructions for an eligible candidate to notify the Association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request, which deadline may not be earlier than the 10th day after the date of such notice. The notice shall either be: (i) mailed to each Member; or (ii) provided by e-mail to each Member who has registered an e-mail address with the Association and posted (A) in a conspicuous manner reasonably designed to provide notice to the Members, either on the Common Area or on other property within Lakeside at River Green, with the permission of the owner of such property, or (B) on an Internet website maintained by the Association or on other Internet media. The Association shall include on the ballot for such election the name of each eligible candidate from whom the Association received a request to be placed on the ballot in accordance with this section.

**(b) Election Procedures.** At each election, voting shall be by ballot, which may be cast in any manner authorized by the Board consistent with Section 2.7(c). Notwithstanding this, if the number of candidates equals the number of positions to be filled and there are no nominations from the floor, any Member may move to accept the slate of candidates nominated by the Nominating Committee, and, if approved, no balloting shall be required. Otherwise, the candidates receiving the most votes shall be elected.

Except as otherwise provided in Section 2.7, a Member may cast the vote allocated to its Unit for each position to be filled by such election. Alternatively, a Member that owns more than one Unit may cumulate the votes allocated to its Unit by multiplying the number of votes the Members is entitled to cast by the number of directors for whom the Member is entitled to vote and casting the product for a single candidate or distributing the product among two or more candidates; provided, cumulate voting shall be permitted in a particular election only (i) if so stated in the notice of the election or in a statement accompanying the notice, or (ii) if a Member gives notice of intent to cumulate the Member's votes at the meeting at which the election is to be held, in which case all Members shall be entitled to cumulate their votes without giving further notice.

In the event of a tie vote, the Members shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the Board shall flip a coin to determine the winner. Such election shall be held by mail, with ballots to be sent by first class mail to each Member entitled to vote within 10 days after the meeting at which the original election was held.

### **3.5. Removal of Directors and Vacancies.**

Any Owner Director may be removed, with or without cause, by the vote of Class "A" Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Up-

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on removal of a director by the Class "A" Members, the Class "A" Members shall elect a successor for the remainder of the term of such director.

If the Board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a director was convicted of a felony or crime involving moral turpitude not more than 20 years before the date the Board is presented with such evidence, the director shall be automatically considered removed from the Board and ineligible for future service on the Board.

In the event of a vacancy in any position on the Board previously filled by an Owner Director, the Board may appoint a successor to fill the vacancy for the remainder of the unexpired term.

The Declarant shall have no unilateral right to remove or replace Owner Directors, and during any period that the Declarant is entitled to appoint a director to fill a position on the Board: (i) neither the Class "A" Members nor the Board shall have any right to remove or replace a director appointed by the Declarant to fill such position; and (ii) the Declarant may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Declarant to fill such position.

## **B. Meetings.**

### **3.6. Organizational Meetings.**

The Board shall hold an organizational meeting within 10 days following each annual meeting of the membership, at such time and place (subject to Section 3.10) as the Board shall fix, for the purpose of electing officers.

### **3.7. Regular Meetings.**

The Board shall hold regular meetings at such time and place (subject to Section 3.10) as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

### **3.8. Special Meetings.**

The President, Vice President, or any two directors may call a special meeting of the Board.

### **3.9. Notice; Waiver of Notice.**

(a) Notices of Board meetings shall specify the date and time of the meeting and, unless the meeting is being held solely by use of a conference telephone or other remote communications system in accordance with Section 3.10, the location of the meeting. Notice of any meeting which is conducted or which may be attended by conference telephone or other remote communications system in accordance with Section 3.10 shall specify the form of communications system to be used for the meeting and the means of accessing the communications system.

(b) The Board shall notify each director of Board meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such

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notice promptly to the director; or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the day of the meeting. Notices sent by personal delivery, telephone, or electronic communication shall be delivered at least 48 hours before the time set for the meeting. No notice shall be required for regular meetings conducted in accordance with a published schedule, provided notice of the schedule was delivered to each director in accordance with this subsection (b).

(c) Except as provided in Sections 3.14 and 3.15, notice of all Board meetings shall be posted at least 48 hours prior to the Board meeting:

(i) in a conspicuous manner reasonably designed to provide notice to the Members, either on the Common Area or at another location within Lakeside at River Green reasonably accessible to the Members that the Board has previously designated by resolution and communicated to the membership for the posting of such notices (with the permission of the owner of the property on which it is posted); and

(ii) via email to all Members who have provided email addresses for the purpose of receiving communications from the Association.

If the Board recesses a Board meeting for a period of less than 48 hours, the Board is not required to post notice of the continued meeting, provided the recess is taken in good faith and not to circumvent the requirements of this Section. Otherwise, the Board shall give notice of the continuation in at least one manner prescribed in this Section.

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

### **3.10. Place of Meetings; Participation by Telephonic or Electronic Means.**

(a) All Board meetings shall be held within Cherokee County or an adjacent county, except for meetings held by telephone or other communications system pursuant to subsection (b).

(b) A meeting of the Board, or of any committee the Board appoints, may be held using a conference or speaker telephone or similar communications equipment, or another suitable electronic communications system, including videoconferencing technology or Internet-based conference system, or any combination thereof, provided that:

(i) the electronic or telephonic system used allows each director or committee member, as applicable, to communicate concurrently with every other director or committee member;

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(ii) except for any portion of the meeting conducted in executive session as described in Section 3.13, all Members in attendance may hear all directors or committee members;

(iii) Members are allowed to listen using any electronic or telephonic communication method used or expected to be used by any director or committee member; and

(iv) notice of the meeting includes instructions for accessing the meeting using any such communication method.

Participation in a meeting pursuant to this section shall constitute presence at such meeting, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the ground that the meeting has not been lawfully called or convened.

### **3.11. Quorum of Board; Voting.**

(a) At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless Georgia law, these By-Laws, or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken.

(b) Board members may not vote by proxy. Voting may be conducted at a meeting, or without a meeting in accordance with Section 3.14.

### **3.12. Conduct of Meetings.**

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that written minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

### **3.13. Open Meetings; Executive Session.**

(a) Subject to the provisions of Section 3.13(b) and Section 3.14, all Board meetings shall be open to attendance by all Members or their representatives, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak. The Board shall make agendas for its meetings reasonably available for examination by all Members or their representatives prior to the meeting.

(b) Notwithstanding the above, any Board meeting may be adjourned and reconvened in executive session, and attendance at such meeting restricted to directors and such other persons as the Board may specifically invite and announce during the open portion of the Board meeting, to discuss pending or threatened litigation, personnel matters, contract negotiations, enforcement actions, confidential communications with the Association's attorney, delinquencies in assessments or other charges owed to the Association, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes,

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in general terms, using good faith efforts to avoid breaching the privacy of any Members, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

### **3.14. Action Without a Formal Meeting.**

(a) Except as provided in subsection (b), the Board may take action outside of a meeting, by written consent to such action in the manner authorized in the Articles of Incorporation, or by voting by electronic or telephonic means, without prior notice to the Members, if each Board member is given a reasonable opportunity to express his or her opinion to all other board members and to vote or execute a consent to such action. Except as provided in Section 3.15, any action taken without notice to Members under Section 3.9 must be summarized orally at, and documented in the minutes of, the next Board meeting, including an explanation of any known actual or estimated expenditures approved at the meeting.

(b) Except as provided in Section 3.15, the Board may not consider or vote on any of the following matters except in an open meeting for which prior notice was given to the Members pursuant to Section 3.9: levying of special assessments; lending or borrowing money; the adoption or amendment of any of the Retreat Documents; the approval of an annual budget or revised budget reflecting an increase of more than 10 percent over the prior budget; the sale or purchase of real property; the filling of a vacancy on the Board; or the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements.

### **3.15. Board Action During Development and Sale Period.**

The requirements and limitations set forth in Sections 3.9(c), 3.10(a), 3.13, and 3.14 shall not apply to meetings of the Board conducted during the Class "B" Control Period unless conducted for the purpose of:

- (a) adopting or amending the Retreat Documents;
- (b) increasing the amount of the Base Assessment or adopting or increasing a Special Assessment;
- (c) electing Owner Directors or establishing or modifying the process for their election;  
or
- (d) changing the voting rights of Members.

Nothing in this Section 3.15 shall be construed to authorize the Board to take action on any matter listed in clauses (a) through (d) of this Section in contravention of the approval that would otherwise be required under the Retreat Documents or Georgia law.

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**C. Powers and Duties.****3.16. Powers.**

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights as set forth in the Retreat Documents and as provided by law. The Board may do, or cause to be done on the Association's behalf, all acts and things except those which the Retreat Documents or Georgia law require(s) to be done and exercised exclusively by the Owners or the membership generally.

**3.17. Duties.**

The Board's duties shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;
- (b) levying and collecting assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;
- (d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and, where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) opening bank accounts on the Association's behalf and designating the signatories required;
- (f) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;
- (g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Retreat Documents;
- (h) determining when action to enforce the Retreat Documents is appropriate and the nature of any sanctions to be imposed, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; however, the Association's obligation in this regard shall be conditioned in the manner provided in the Declaration;
- (i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (j) paying the cost of all services rendered to the Association;
- (k) keeping a detailed accounting of the Association's receipts and expenditures;

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(l) making available to any prospective purchaser of a Unit, any Member, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Retreat Documents and all other books, records, and financial statements of the Association as provided in Section 9.4; and

(m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Georgia law, the Articles of Incorporation, or these By-Laws.

## **Article 4**

### **Officers**

#### **4.1. Officers.**

The Association's officers shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Vice-Presidents, Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

#### **4.2. Election and Term of Office.**

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the membership, to serve until their successors are elected.

#### **4.3. Removal and Vacancies.**

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

#### **4.4. Powers and Duties.**

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

#### **4.5. Resignation.**

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.



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## **Article 5 Committees**

### **5.1. General.**

In addition to such committees as the Declarant or Board may appoint pursuant to the Declaration, the Board may appoint such other committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

### **5.2. Covenants Committee.**

In addition to any other committees that the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article 8 of these By-Laws. The Covenants Committee shall have no responsibility for seeking out violations of the Retreat Documents.

## **Article 6 Standards of Conduct; Liability and Indemnification; Conflicts**

### **6.1. Standards for Directors and Officers.**

The Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Retreat Documents.

Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Georgia law.

### **6.2. Liability.**

In performing their duties, directors and officers shall be insulated from liability as provided for directors of corporations under Georgia law and as otherwise provided by the Retreat Documents. The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for any action taken or omitted in such capacities, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members).

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### **6.3. Indemnification.**

Subject to the limitations of Georgia law, the Association shall indemnify every present and former officer, director, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Georgia law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Association; or

(ii) intentional misconduct or knowing violation of the law; or

(iii) an unlawful distribution to members, directors or officers; or

(iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

### **6.4. Advancement of Expenses.**

In accordance with the procedures and subject to the conditions and limitations set forth in Georgia law, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

### **6.5. Conflicts of Interest.**

(a) A director shall promptly disclose to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. Notwithstanding this, the fact that a director appointed by the Declarant may be employed by or otherwise transact business with the Declarant or a Declarant Affiliate, and that the Declarant may transact business with the Association or its contractors, shall not require disclosure as a potential conflict of interest hereunder.

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(b) Except as provided herein and in subsection (c), the Association shall not enter into a contract with a current Board member, a person related to a current Board member within the third degree by consanguinity or affinity (a "**Board Relative**"), a company in which a current Board member has a financial interest in at least 51% of profits, or a company in which a Board Relative has a financial interest in at least 51% of profits, unless all of the following conditions are satisfied:

(i) the Board member, Board Relative, or company bids on the proposed contract and the Association has received at least two other bids for the contract from persons not associated with the Board member, Board Relative, or company, if reasonably available;

(ii) the Board member is not given access to the other bids, does not participate in any Board discussion regarding the contract, and does not vote on the award of the contract;

(iii) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the Board and the Board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of a majority of the directors who do not have an interest governed by this Section; and

(iv) the Board certifies that the other requirements of this Section 6.5 have been satisfied by a resolution approved by an affirmative vote of the majority of the Board members who do not have an interest governed by this Section.

(c) This Section does not apply to any contract entered into by the Association during the Development and Sale Period with the Declarant or any Declarant Affiliate.

#### **6.6. Board and Officer Training.**

The Board may, as a Common Expense, conduct or provide for seminars (live or recorded) and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. However, the Board shall not incur or reimburse travel expenses for long distance or overnight travel for such purposes unless approved by 100% of the Board at a Board meeting open to and noticed to the members.

The Board may also provide, or provide for, Owner and resident education designed to foster a better understanding of the Association's governance and operations, and leadership training classes designed to educate Members and Owners as to the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

The Board may apply for and maintain, as a Common Expense, membership for the Association, its officers and directors, in the Community Associations Institute or any similar nonprofit organization that provides educational opportunities for Association directors, officers and managers in operation and management of Associations.

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## **Article 7**

### **Management and Accounting**

#### **7.1. Compensation of Directors and Officers.**

The Association shall not compensate directors and officers for acting as such unless Members representing a majority of the total votes in the Association approve such compensation at an Association meeting. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

#### **7.2. Right of Class "B" Member to Disapprove Actions.**

So long as there is a Class "B" Membership, the Class "B" Member shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Class "B" Member's sole judgment, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, interfere with development or construction of any portion of River Green, or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this Section have been met.

**(a) Notice.** The Association shall give the Class "B" Member written notice of all meetings of the membership, the Board, and committees, and any actions proposed to be taken by any of them by written consent in lieu of a meeting. Such notice shall comply, as to Board meetings, with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

**(b) Opportunity to be Heard.** At any such meeting, the Association shall give the Class "B" Member the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

The Class "B" Member, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action.

The Class "B" Member may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

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### **7.3. Managing Agent.**

(a) The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.17. The Board may employ the Declarant or its affiliate as managing agent or manager. The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

(b) The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest which it may have in any firm providing goods or services to the Association.

### **7.4. Accounts and Reports.**

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

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

(ii) the Association's cash accounts shall not be commingled with any other accounts.

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution).

(c) An annual report consisting of at least the following shall be made available for Members' review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year.

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Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines. If prepared by a public accountant, the accountant's report shall be included. If not prepared by a public accountant, the report shall include a statement of the President or Treasurer or other person responsible for the Association's financial accounting records, stating his or her reasonable belief as to (A) whether the report was prepared on the basis of generally accepted accounting principles and, if not, describing the basis on which it was prepared; and (B) describing any respects in which the report was not prepared on a basis of accounting consistent with the statement prepared for the preceding year.

(d) The Board shall report in writing to the Members any indemnification of or advancement of legal expenses to any officer, director, or committee member.

#### **7.5. Borrowing.**

The Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain membership approval in the same manner provided in the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year.

#### **7.6. Right to Contract.**

The Association shall have the right to contract with any Person for the performance of various duties and functions, subject to the provisions of Section 6.5, if applicable. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with the Master Association or other owners or residents associations, if any, within and outside Lakeside.

#### **7.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.**

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

### **Article 8 Enforcement Procedures**

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Retreat Documents. To the extent specifically required by the Declaration or Georgia law, the Board shall comply with the following procedures prior to imposition of sanctions:

#### **8.1. Notice and Response.**

The Board or its delegate shall serve the alleged violator and the responsible Owner, if the alleged violator is not an Owner, with written notice, by certified mail, return receipt requested, to the Owner's last known address as shown in the Association's records:

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(a) describing the alleged violation or property damage which is the basis of the proposed sanction or amount due to the Association, as applicable;

(b) describing the proposed sanction to be imposed; and

(c) informing the alleged violator and/or Owner that:

(i) he or she has 21 days after receipt of the notice to present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 5, and if the hearing is to be held before a Covenants Committee, that the alleged violator has the right to appeal the decision of the Covenants Committee to the Board;

(ii) he or she may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if serving on active military duty; and

(iii) the Association may recover from the Owner reasonable attorneys' fees and other reasonable costs incurred by the Association in enforcing the Retreat Documents after the date of the hearing pursuant to subsection (c)(i), or if no hearing is requested, after the deadline for requesting a hearing, including such fees and costs incurred in collecting amounts, including damages, due to the Association if not paid by a date specified in such notice.

If the alleged violation is continuing, the Board or its delegate may, but shall not be obligated to, provide the alleged violator with a reasonable cure period during which the proposed sanction may be avoided by curing the violation.

If the alleged violator fails to request a hearing within the allotted 21-day period, the Board may impose the sanction as stated in the notice without a hearing, except that no sanction shall be imposed if the alleged violator has been offered an opportunity to cure the violation and cures the alleged violation within the period provided in such notice.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. Regardless, the notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at a hearing.

## **8.2. Hearing.**

If a hearing is requested within the allotted 21-day period, the hearing shall be held before the Covenants Committee, or if one has not been appointed, then before the Board in executive session within 30 days after receipt of the alleged violator's request. Either the Board or the alleged violator may request a postponement of up to 10 days, and such postponement shall be granted. Additional postponements may be granted upon agreement of both the Association and the alleged violator. The Board shall notify the alleged violator at least 10 days prior to the hearing of the time, date, and place of the hearing. At the hearing, the alleged violator shall be afforded a reasonable opportunity to be heard and shall be entitled to make an audio recording of the hearing. If the alleged violator fails to appear, the hearing may be held in his or her absence. The

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minutes of the meetings of the Board or Covenants Committee, as applicable, shall contain a written statement of the results of the hearing (*i.e.*, the Board's or Committee's decision) and the sanction, if any, to be imposed. Written notice of the decision shall be mailed to the violator within three business days after the hearing.

### **8.3. Appeal.**

If a hearing is held before the Covenants Committee and a sanction is imposed, the violator shall have the right to appeal the Covenant's Committee's decision to the Board. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President, or Secretary within 10 days after the hearing date.

## **Article 9 Miscellaneous**

### **9.1. Fiscal Year.**

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

### **9.2. Parliamentary Rules.**

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law or the Retreat Documents.

### **9.3. Conflicts.**

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

### **9.4. Books and Records.**

(a) **Document Retention.** The Association shall keep originals or copies of the following records:

(i) the Articles of Incorporation, By-Laws, Declaration, and all amendments thereto;

(ii) minutes of meetings of the Members and the Board, executed consents evidencing all actions taken by the Members or Board without a meeting, records of all actions taken by a committee of the Board on behalf of the Association, and all waivers of notice of meetings of the Members, the Board, and its committees (whether delivered in writing or by electronic transmission);

(iii) all communications in writing or by electronic transmission to the membership generally within the past three years;



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(iv) a list of the names and home addresses of the Association's current directors and officers;

(v) a copy of the Association's most recent annual registration with the Secretary of State;

(vi) a membership list, in alphabetical order or in a form capable of being sorted alphabetically and printed, including the names and addresses of the Members and the number of votes each is entitled to cast (provided, such list may be compiled using information provided by the Members and the Association shall have no duty to conduct research or obtain title searches to verify the same);

(vii) financial books and records, including annual reports prepared pursuant to Section 7.4(c), audit records, and tax returns, which books and records shall be retained for at least seven years;

(viii) contracts with a term of one year or more, which shall be retained for four years after the expiration of the contract term.

**(b) *Inspection by Members and Mortgagees.*** Upon not less than five business days' notice to the Association specifying the records it wishes to inspect and copy, a Member is entitled to inspect and copy, at a reasonable time and location specified by the Board:

(i) any of the records described in clauses (i) through (v) of subsection (a) above, except the Board may limit inspection of the records described in subsection (a)(ii) to only those required to be made available for inspection under Georgia law; and

(ii) any of the records described in clauses (vi) through (viii) of subsection (a) above, but only if the Member's request 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 such purpose; and the Member agrees in writing that the records will be used only for the stated purpose.

A Member's right to inspect and copy hereunder shall extend to the Member's duly appointed agent or attorney; and the holder, insurer or guarantor of a first Mortgage on the Member's Unit, or its duly appointed agent or attorney. Nothing in this Section shall affect the right of a Member who is a party in litigation with the Association to inspect the Association's records to the same extent as any other litigant, nor shall it affect the power of a court to compel the production of corporate records for examination.

**(c) *Inspection by Directors.*** Every Association director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association, for purposes related to such director's role as a member of the Board. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

**(d) *Use of Membership List.*** Except or with the prior written consent of the Board, neither a membership list nor any part thereof may be: (i) purchased or sold; (ii) obtained or used

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by any person for any commercial purpose; (iii) obtained or used for any purpose unrelated to a Member's interest as a Member, or (iv) 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 of directors to the Board.

**(e) Rules for Inspection.** A written request for access to inspect or copies of books and records under subsection (b) or (c) shall be mailed by certified mail to the Association's mailing address or that of its authorized representative as reflected in the current records of the Secretary of State. The request shall identify the specific books and records or information desired and shall specify whether the requestor desires to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records. If the request is to inspect, then the Association shall notify the requestor of the location at the Association's office or within River Green and time during normal business hours that the person making such request may inspect the requested books and records, to the extent such person is entitled to do so under subsection (b). If the request is for copies of identified books and records, then within five (5) business days after the date the Association receives the request, the Association shall produce copies of the requested books and records, to the extent required under subsection (b) or (c) and Georgia law.

The Association may require advance payment of the estimated costs of labor and materials to compile and produce or reproduce the requested information ("**Authorized Charges**"). If the Authorized Charges vary from the estimate, the Association shall submit a final invoice to the Member on or before the 30th business day after the date the information is delivered reflecting the variance and any balance or refund due. Any balance due which is not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Member may be added to the Member's account as an assessment. Any amount paid in excess of Authorized Charges shall be refunded to the Member not later than the 30th business day after the date the invoice is sent to the Member.

**(f) Turnover of Books and Records.** Within 60 days after termination of the Class "B" Control Period, the Declarant shall deliver to the Association or its manager all property, books and records of the Association in the Declarant's possession.

## 9.5. Notices.

**(a) Form of Notice and Method of Delivery.** Except as otherwise provided in the Declaration or these By-Laws or by Georgia law, all notices, demands, bills, statements, or other communications to be given under the Declaration or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has provided a telephone facsimile number or an email address for use by the Association, by facsimile or electronic mail with written confirmation of transmission. It is the responsibility of each Member to give notice to the Association of any change in the Member's address, facsimile number, or email address. Where the Retreat Documents or applicable law require notice to an Owner or Member, notice given to any co-Owner of a Unit shall be deemed notice to all co-Owners of such Unit.

**(b) Delivery Address.** Notices shall be delivered or sent to the intended recipient as follows:

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(i) if to a Member, at the mailing address, telephone facsimile number, or e-mail address which the Member has designated by notice to the Secretary in accordance with this Section 9.5 or, if no such address or number has been designated, at the address of the Unit owned by such Member;

(ii) if to the Association, the Board, or a committee of either, at the mailing address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association has designated by notice to the Members in accordance with this Section 9.5; or

(iii) if to the Declarant, at the Declarant's principal address as it appears on the Secretary of State's records, or at such other address as the Declarant has designated by notice to the Association in accordance with this Section 9.5.

**(c) Effective Date.** Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U. S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

## **9.6. Amendment.**

Until termination of the Class "B" Control Period, the Class "B" Member may amend these By-Laws for any purpose. Thereafter, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least a majority of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, no amendment to these By-Laws may conflict with the Declaration and the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment by the membership shall be prepared and signed by the President or Vice President and by the Secretary or Treasurer of the Association certifying that the requisite approval was obtained.

Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within one year of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

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**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Lakeside at River Green Homeowners Association, Inc., a Georgia nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of Lakeside at River Green Homeowners Association, Inc. as duly adopted by resolution of the Board of Directors thereof on the 10th day of October, 2020. 2022

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 10<sup>th</sup> day of October, 2022

[SEAL]

  
Secretary