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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND
EASEMENTS FOR MODA-CHURCH

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STATE OF GEORGIA
COUNTY OF DEKALB

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS

AND

EASEMENTS FOR MODA-CHURCH

THIS DECLARATION is made on the date set forth below by FORKNER TH, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant");

W I T N E S S E T H

WHEREAS, Declarant is the owner of that certain real property described in Section 2.1 of this Declaration;

WHEREAS, Declarant desires to subject the real property described in Section 2.1 to the provisions of this Declaration to create a residential community of attached townhomes and to provide for the subjecting of other real property to the provisions of this Declaration; and

NOW, THEREFORE, Declarant hereby declares that subject to the provisions of Section 18.2 of this Declaration, the real property described in Section 2.1 of this Declaration, including the improvements constructed or to be constructed thereon, is subjected to the provisions of this Declaration, and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged r otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors in title, and assigns and shall be for the benefit of all owners of the property subject to this Declaration.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO CREATE A CONDOMINIUM REGIME SUBJECT TO THE GEORGIA CONDOMINIUM ACT, O.C.G.A. § 44 3 70, *ET SEQ.*

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



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ARTICLE 1. DEFINITIONS

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

Section 1.1. Additional Property shall mean the real property described in Exhibit "B" attached hereto and incorporated herein, which Declarant may, but shall have no obligation to, submit to the Community as provided in this Declaration

Section 1.2. Architectural Review Committee or ARC shall mean the committee established to exercise the architectural review powers set forth in Article 9 hereof, which shall be the Board of Directors of the Association unless by resolution the Board appoints a separate Architectural Review Committee.

Section 1.3. Area of Common Responsibility shall mean the Common Property, together with those areas, if any, which by the terms of this Declaration or by agreement with any other Person become the Association's responsibility to maintain.

Section 1.4. Articles or Articles of Incorporation shall mean the Articles of Incorporation of MODA-Church Townhome Association, Inc., which has been filed with the Secretary of State of the State of Georgia.

Section 1.5. Association shall mean MODA-Church Townhome Association, Inc., a Georgia non-profit corporation, its successors and assigns.

Section 1.6. Board or Board of Directors shall mean the appointed or elected body of the Association, as applicable, having its normal meaning under Georgia corporate law.

Section 1.7. Bylaws shall mean the Bylaws of MODA-Church Townhome Association, Inc., attached to this Declaration as Exhibit "D" and incorporated herein by this reference.

Section 1.8. Common Expenses shall mean all expenditures lawfully made or incurred by or behalf of the Association (including as required under the Stormwater Agreement) together with all funds lawfully assessed for the creation and maintenance of reserves pursuant to the Community Instruments.

Section 1.9. Common Profits shall mean all income collected or accrued by or on behalf of the Association other than income derived from assessments.

Section 1.10. Common Property shall mean any and all real and personal property and easements and other interests, together with the facilities and improvements located on the Community, now or in the future owned by the Association, including but not limited to, all landscape and grassy areas not included in a Lot, all roads, sidewalks and other concrete and paved areas not included in a Lot, and all personal property of the Association in any of these areas.

Section 1.11. Community shall mean that certain real property and interests herein described in Exhibit "A" attached hereto and incorporated herein by this reference and any of the Additional Property that is later submitted to the provisions of this Declaration.

Section 1.12. Community Instruments shall mean this Declaration and all exhibits to this Declaration, including the Bylaws of the Association, and the Survey, all as may be supplemented or amended from time to time.



Section 1.13. Community Wide Standard shall mean the standard of conduct, maintenance, or other activity generally prevailing on the Community. Such standard may be more specifically determined by the Board and the ARC. This determination however, must be consistent with the Community-Wide Standard originally established by the Declarant.

Section 1.14. Declarant shall mean Forkner TH, LLC, a Georgia limited liability company, and such of its successors-in-title who shall (i) acquire, from a predecessor “Declarant,” for the purpose of development or sale, all or any portion of the real property described in Exhibit “A” or Exhibit “C” hereto, and (ii) be designated as the “Declarant” in the deed of transfer by which such successors-in-title shall so acquire its interest in such real property, or by written assignment of Declarant rights in an instrument recorded in the Official Records. In all events there shall only be one (1) “Declarant” at any one time; in no event shall more than one (1) Person have the right to exercise the power and authority of the “Declarant” at any one time. The expiration of the Declarant Control Period shall not terminate or alter the status of the above-referenced entity and its successor-in-title and/or assign, as Declarant hereunder, or divest it of other rights specifically reserved to Declarant herein.

Section 1.15. Declarant Control Period shall mean the period of time during which the Declarant is entitled to appoint and remove the members of the Board of Directors as provided in Section 3.2 of the Bylaws.

Section 1.16. Development Period shall mean the period of time commencing on the Effective Date and terminating at the time Declarant does not own any Lot primarily for the purpose of sale or lease or does not have an unexpired right to submit Additional Property to this Declaration.

Section 1.17. Domestic Partner shall mean any adult who cohabits with an Owner and who has been designated as the Owner’s Domestic Partner in a written statement, signed by the Owner and filed with the Association’s Secretary. A Person shall no longer be a Domestic Partner upon the Secretary’s receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

Section 1.18. Effective Date shall mean the date that this Declaration is recorded in the Official Records.

Section 1.19. Electronic Document shall mean information created, transmitted, received or stored by electronic means and retrievable in humanly perceivable form including, without limitation, e-mail, web pages, electronic documents, and facsimile transmissions.

Section 1.20. Electronic Signature shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

Section 1.21. Eligible Mortgage Holder shall mean those holders of first Mortgages secured by a lien on a Lot who have requested written notice of certain items as set forth in this Declaration.

Section 1.22. Exclusive Common Property shall refer to that portion of the Common Property which is reserved for the exclusive use of the Owner or Occupant of one (1) Lot as more particularly set forth in this Declaration.

Section 1.23. Legal Requirements shall mean all applicable federal, state and local laws, orders, rules and regulations.

Section 1.24. Lot shall mean any plot of land on the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single family residence site as shown on the Survey.



Section 1.25. Majority shall mean more than fifty percent (50%) of the total eligible number.

Section 1.26. Mold shall collectively mean mold, mildew, fungi, mycotoxins, and/or microbiological organisms.

Section 1.27. Mortgage shall mean any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.

Section 1.28. Mortgagee or Mortgage Holder shall mean the holder of a Mortgage.

Section 1.29. Occupant shall mean any Person occupying all or any portion of a Lot for more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year, regardless of whether such Person is a tenant or the Owner of such property.

Section 1.30. Official Records shall mean the official land records of the Clerk of the Superior Court of DeKalb County, Georgia.

Section 1.31. Owner shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot located on the Community, but shall not include a Person who is only a Mortgage Holder. Person shall mean any individual, corporation, firm, association, partnership, trust, or other legal entity.

Section 1.32. Residence shall mean the structure and related improvements situated on a Lot designated and intended for use and occupancy as a single-family residential home.

Section 1.33. Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 1.34. Special Assessment shall mean an assessment uniformly levied by the Board equally against each Lot to fund an expense of the Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Association.

Section 1.35. Specific Assessment shall mean an assessment levied by the Board against a Lot as provided below:

(a) Any Common Expenses benefiting less than all of the Lots (including, but not limited to, Common Expenses associated with the maintenance, repair, renovation, restoration, or replacement of any Exclusive Common Property) may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefited Lots according to the respective benefit received.

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

(c) Any Common Expenses significantly disproportionately benefiting all the Lots may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefited Lots according to the respective benefit received.

Additionally, fines and other charges assessed against less than all the Lots shall be deemed Specific Assessments.



Section 1.1. Stormwater Agreement shall mean that certain Stormwater Management, Inspection, Maintenance and Easement Agreement recorded in Deed Book 25371, Page 601, DeKalb County, Georgia records, as amended or as may be amended.

Section 1.2. Statutory Overnight Delivery shall have the meaning set forth in O.C.G.A. § 9-10-12, as amended.

Section 1.3. Supplementary Declaration shall mean an amendment or supplement to this Declaration that subjects additional property to this Declaration or imposes additional restrictions and obligations on the property, or both.

Section 1.4. Survey shall mean the plat or plats for MODA-Church, as amended, recorded in the Official Records. The Survey is incorporated herein by reference as fully as if the same were set forth in its entirety herein.

Section 1.5. Total Association Vote shall mean all of the eligible votes attributed to members of the Association (including votes attributable to Declarant), and the consent of Declarant for during the Development Period.

ARTICLE 2. PROPERTY SUBJECT TO THIS DECLARATION, CONVEYANCE AND PARTITION OF COMMON PROPERTY

Section 2.1. Property Hereby Subjected To This Declaration. The real property described in Exhibit "A" attached hereto and by this reference made a part hereof is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration.

Section 2.2. Conveyance of Common Property by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section.

Section 2.3. Partition of Common Property. The Common Property shall remain undivided, and no Owner or any other Person, but excluding Declarant, shall bring any action for partition or division of the whole or any part of the Common Property without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

Section 2.4. Exclusive Common Property.

(a) Any patio, balcony, or deck attached to and exclusively serving a Residence but not located on a Lot shall be Exclusive Common Property to the Lot upon which such Residence is located.

(b) Any driveway exclusively serving a Residence but not located on a Lot shall be Exclusive Common Property to the Lot upon which such Residence is located.

(c) The Association's Board of Directors, without need for a membership vote, is hereby authorized to assign and to reassign Exclusive Common Property and Common Property not previously assigned as Exclusive Common Property in accordance with this Section. Common Property not previously assigned as an Exclusive Common Property may be so assigned and an Exclusive Common



Property may be reassigned by the Board, without need for a vote of the Association, upon written application to the Association by the Lot Owner or Owners for whose exclusive use such Common Property parking spaces is requested or whose use of the Exclusive Common Property previously assigned is directly affected. Upon such application, the Association shall prepare and execute an amendment to the Declaration assigning the Common Property parking spaces as an Exclusive Common Property or reassigning the Exclusive Common Property, which amendment shall be executed by the Owner or Owners making such application. For so long as the Declarant owns a Lot primarily for the purpose of sale, an amendment to assign a Common Property, not previously assigned as an Exclusive Common Property shall be executed by the officers of the Association, if the request is made by the Declarant. The Board has the right to approve or disapprove any such request made by any Person other than Declarant.

ARTICLE 3. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

All Owners, by virtue of their ownership of a fee or undivided fee interest in any Lot in the Community, excluding Persons holding such interest under a Mortgage, are members of the Association, and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to this Declaration and in accordance with the Bylaws. Subject to the provisions of the Community Instruments, the Owner or collective Owners of each Lot shall be entitled to one (1) vote for each such Lot

ARTICLE 4. ASSOCIATION RIGHTS AND RESTRICTIONS; VARIANCES

Section 4.1. Association Rights and Restrictions. The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of all other rights it may have, to:

(a) enter into Lots for maintenance, emergency, or life-safety purposes, which right may be exercised by the Board of Directors, and/or its officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot. For the purposes of this Section, an emergency justifying immediate entry into a Lot shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a Person or animal might be injured or sick and require immediate medical attention. No one exercising the rights granted in this subparagraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights. The failure to exercise the rights herein granted or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Lot shall exist;

(b) make and to enforce reasonable rules and regulations governing the use of the Community, including the Lots and the Common Property;

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

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



(e) control, manage, operate and, in the Board's discretion, maintain, replace, alter or improve all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration;

(f) acquire, lease, hold, and dispose of tangible and intangible personal property and real property;

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

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

(i) approve contractors or subcontractors who have access to the Condominium for the purpose of making repairs or improvements to Lots based on rules and regulations promulgated and adopted by the Board that may include, without limitation: financial stability of the contractors and/or subcontractors; history of compliance with the Community Instruments and rules and regulations of the Association; adequate insurance and bonding of the contractors and/or subcontractors; and other factors that may be reflective of quality and ability. The Board may also impose insurance requirements and collect other non-refundable fees for use of the trash receptacle

(j) at the sole expense of the Association, without need for a membership vote, and without the consent of any affected Owner, to relocate any portion of the air conditioning, heating, plumbing, ventilating, exhaust or electrical system serving a particular Lot, provided that after such relocation, the system serving the Lot functions at least as well and at no greater cost to the Owner as existed prior to the relocation;

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

(l) to enter into joint agreement and contracts with other Persons for the provision of services, including, without limitation, management, landscaping, property monitoring services, and trash removal services.

Section 4.2. Variances. Notwithstanding anything to the contrary contained in this Declaration, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

ARTICLE 5. ASSESSMENTS

Section 5.1. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners and Occupants of the Lots as may be more specifically authorized from time to time by the Board.



Section 5.2. Types of Assessments. Each Owner of a Lot, by acceptance of a deed to a Lot whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following types of assessments with such assessments to be established and collected as hereinafter provided:

- (a) Annual Assessments;
- (b) Special Assessments; and
- (c) Specific Assessments.

Section 5.3. Annual Budget and Annual Assessments.

(a) Preparation of Budget. For each fiscal year, the Board shall prepare a budget listing by category the estimated Common Expenses for such year (including the establishment and maintenance of such reserves as the Board may consider appropriate). The Board shall cause the proposed annual budget and Annual Assessments roster based thereon to be delivered to each Owner at least twenty-one (21) days prior to the Association's annual meeting.

The budget and the assessment shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a Majority of the Total Association Vote; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called for at such meeting.

(b) Annual Assessments. Subject to Section 5.7 below, each Owner shall pay an equal Annual Assessment. The amount of the Common Expenses paid as an Annual Assessment shall be based on the total Common Expenses as estimated in the annual budget, less the following:

- (i) Any amounts in the budget to be funded by the payment of Specific Assessments; and
- (ii) Undistributed and unreserved Common Profits.

(c) Failure to Establish Annual Budget. In the event that the Owners disapprove the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and Annual Assessment shall be delivered to the Owners at least twenty-one (21) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

(d) Budget Adjustments. The Board of Directors shall have the right to:

- (i) not spend the full amount budgeted for any particular line item in the budget;
- (ii) spend more than what has been budgeted;
- (iii) shift revenues within the budget from one line to another; and
- (iv) adopt a revised budget during the fiscal year, provided, however, (A) such proposed revised budget and Annual Assessment shall be delivered to the Owners at least twenty-one (21) days prior to the proposed effective date thereof and at least seven (7) days prior to a special meeting of the Association, and (B) the revised budget and the Annual assessments shall become effective unless disapproved at a duly called and constituted special meeting of the Association by a vote of a Majority of the Total Association Vote, provided, if a quorum is not



obtained at such special meeting, the revised budget shall become effective even though a vote to disapprove the budget could not be called for at such meeting.

Notwithstanding anything to the contrary herein, during the Development Period, Declarant shall have the right to unilaterally adjust the budget and amount of Annual Assessments (without the prior consent of the Board or the other Owners) to reflect phases that Declarant anticipates (but does not warrant) will be part of the Community during the applicable year. Such budget may initially include expenses for items that are not part of the Community but that Declarant anticipates (but does not warrant) will be part of the Community during the applicable year. Owners shall pay Annual Assessment based on such budget irrespective as to whether the anticipated phases are actually submitted to the Declaration.

(e) Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the annual budget and Annual Assessment as provided above. A copy of the capital reserve budget shall be distributed to each Owner in the same manner as the operating budget. Notwithstanding anything to the contrary in this Declaration, Declarant shall have no obligation to fund or otherwise contribute toward the capital reserves of the Association.

Section 5.4. Special Assessments. The Board shall have authority at any time to levy a Special Assessment against all Owners. The Special Assessment shall be an equal amount for each Lot Owner. The Board shall send notice of any Special Assessment to all Owners.

Section 5.5. Specific Assessments.

(a) The Board may, at any time and in addition to any other rights it may have, levy a Specific Assessment against such Lots as, in its discretion, it shall deem appropriate. The Board shall send notice of which shall be sent to the applicable Owner(s).

(b) The Board may not levy Specific Assessments for periodic maintenance, repair, or replacement of any portion of the Common Property (excluding Exclusive Common Property) or the Lots which the Association has the obligation to maintain, repair, or replace.

(c) Failure of the Board of Directors to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority to assess as a Specific Assessment under this Section.

Section 5.6. Payment of Assessments.

(a) Annual Assessments. Unless otherwise provided by the Board of Directors, the Annual Assessments shall be paid in equal monthly installments due on the first day of each month.

(b) Special Assessment and Specific Assessments. The Board of Directors shall establish the date payment of any Special Assessment or Specific Assessment is due. In the Board's discretion, Special Assessments or Specific Assessment may be paid in installments.

(c) Exemptions. Except for Declarant during the Development Period as described below, no Owner may exempt itself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Elements, the Association's



failure to perform its obligations required hereunder or an inconvenience or discomfort arising from the Association's performance of its duties.

Section 5.7. Date of Commencement of Assessments.

(a) Assessments shall commence as to a Lot upon the conveyance of the Lot to a Person other than Declarant. Declarant shall not be responsible for the payment of any type of assessment, except that assessments shall commence on Lots containing occupied Residences (but excluding those Lots containing model homes or a sales center) that are owned by Declarant on the first day of the month following the occupancy of the Residence.

(b) During the Development Period, Declarant may (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the Annual, Special and Specific Assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of Declarant or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan. Notwithstanding anything to the contrary stated herein, Declarant shall have no obligation to fund budgetary deficits of the Association.

Section 5.8. Creation of the Lien and Personal Obligation For Assessments. All assessments, together with charges, interest, costs and reasonable attorneys' fees actually incurred, in the maximum amount permitted by this Declaration, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each such Owner of a Lot and its grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure

The equitable charge and lien provided for in this Section shall be in favor of the Association for the use and benefit of all Owners. Each Owner, by its acceptance of a deed to a Lot, vests in the Association or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose such liens. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant in the part of each Owner, and no diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 5.9. Non-Payment of Assessments.

(a) Any assessment and related charges that are due to the Association pursuant to this Declaration, or any portion thereof, that is not paid when due shall be delinquent and the Owner shall be in default. Without limitation, the Board may impose the following:



(i) If any assessment, any related charges or any portion thereof is not paid in full by the tenth (10th) day of the due date, a late charge equal up to ten percent (10%) of the amount not paid may be imposed without further notice or warning to the delinquent Owner and interest at the rate of twelve percent (12%) per annum (or such higher rate as may be permitted by applicable law) shall accrue from the due date.

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

(iii) If any assessment, any related charges or any portion thereof remains delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the Annual Assessment for the then-current fiscal year and of any Special Assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall be obligated to pay the entire amount so accelerated.

(iv) If any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided under Georgia law and herein, the Association shall have the right to suspend any utility, cable television, satellite, or internet service or any similar service services to the Lot paid for as a Common Expense by the Association upon ten (10) days written notice to the delinquent Owner. Any costs incurred by the Association in discontinuing and/or reconnecting any utility or service, including reasonable attorneys' fees actually incurred, shall be a Specific Assessment against the Lot. The utility or service shall not be required to be restored until the outstanding amounts are paid in full, at which time the Association shall make arrangements for restoration of the utility or service. An Owner whose utility or service has been suspended hereunder shall not be entitled to use any such utility or service from any source, and any such unauthorized use shall be considered a theft of services under O.C.G.A. Section 16-8-5.

(v) If any assessment or other charge is delinquent for thirty (30) days or more, in addition to all other rights provided under Georgia law and herein, the Association shall have the right to suspend an Owner's right to access and use any Common Property, provided, however, the Association shall not suspend an Owner's rights of ingress and egress to the Owner's Lot.

(vi) If assessments and other charges or any portion thereof remain unpaid for more than thirty (30) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws, the Act and Georgia law, including reasonable attorneys' fees actually incurred.

(b) Enforcement under this Section is not dependent upon or related to other restrictions and/or other actions.

Section 5.10. Surplus Funds and Common Profits.

(a) Common Profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such Common Profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners in equal amounts or credited to the next assessment chargeable to the Owners or added to the Association's capital reserve account.

(b) If the Board of Directors reasonably determines that during a fiscal year there will likely be a surplus of assessments paid by an Owner at the end of such fiscal year (excluding amounts



designated for reserves), the Board may, but shall not be required to, reduce the amount of the assessments to be collected from such Owner for the remainder of that fiscal year. Any Owner who has already paid such Owner's entire assessment obligation for the fiscal year at the time of such reduction shall, in the discretion of the Owner, either receive a refund of the overpayment or a credit of the amount of the overpayment towards the Owner's assessment obligation to the Association for the following fiscal year. Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

Section 5.11. Statement of Account. Any Owner, Mortgagee or a Person having executed a contract for the purchase of a Lot or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, or other charges against a Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

Section 5.12. Working Capital Fund. Declarant, on behalf of the Association, shall establish a working capital fund to meet unforeseen Association expenditures, to purchase any additional equipment or services for the Association, or to pay for capital improvements. A non-refundable contribution to the working capital fund of the Association shall be paid by the purchaser of a Lot at the closing of each sale or resale of a Lot in the amount of six (6) months of the Annual Assessment to be charged to such Lot or such other amount determined by the Board. Notwithstanding anything to the contrary herein, the contribution to the working capital fund shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of the grantor; (iii) any grantee to whom a Lot is conveyed by a will or through the law of intestacy; or (iv) any grantee of a Lot who obtains title pursuant to judicial or nonjudicial foreclosure of any first Mortgage of record or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot).

ARTICLE 6. INSURANCE

Section 6.1. Property Insurance.

(a) The Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy for the Community providing "special perils" coverage in an amount equal to full replacement cost, before application of deductibles, of all buildings and structures located on the Community including: foundations; roofs; roof structures; exterior walls; windows and doors and the framing therefor; the HVAC system serving a Residence; and Sheetrock and plaster board comprising the walls and ceilings of a Residence. Additionally, the policy shall include the following items within a Residence of the type and quality initially installed, or replacements thereof of like kind and quality in accordance with the original plans and specifications, or as they existed at the time the Lot was initially conveyed if the original plans and specifications are not available: floors and subfloors; wall, ceiling, and floor coverings; plumbing and electrical lines and fixtures; built-in cabinetry and fixtures; and appliances used for refrigeration, cooking, dishwashing, and laundry.

(b) If "special perils" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire and extended coverage for the Community, including coverage for vandalism and malicious mischief, in like amounts.

(c) The Association may exclude from coverage required by this Section items covered by builder's risk insurance, such coverage to be in an amount consonant with the full replacement value thereof, but only during such period of time as the builder's risk insurance remains in full force and effect.



(d) All property insurance obtained by the Association pursuant to this Declaration shall designate the Association as the named insured, individually and as agent for the Owners collectively, without naming them individually, and as agent for their respective Mortgagees.

Section 6.2. Liability Insurance.

(a) The Association, acting through the Board of Directors, shall obtain commercial general liability insurance of not less than One Million Dollars (\$1,000,000) for a single occurrence and Two Million Dollars (\$2,000,000) aggregate. The general liability policy or policies shall cover occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Common Property and other portions of the Community which the Association has the responsibility to maintain.

(b) All liability insurance obtained by the Association pursuant to this Declaration shall cover the Association and the officers, agents and employees of the Association, the Owners, and their respective Mortgagees. The Association shall be designated as the named insured, individually and as agent for the Owners collectively, without naming them individually, and as agent for their respective Mortgagees.

Section 6.3. Other Insurance. The Board shall obtain as a Common Expense:

(a) workers' compensation insurance if and to the extent necessary to meet the requirements of law;

(b) officers' and directors' liability insurance in such amounts as the Board may determine;

(c) if reasonably available, fidelity bonds or employee dishonesty insurance, covering officers, directors, employees, and other Persons who handle or are responsible for handling Association funds. Such bonds or insurance, if reasonably available, shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than three (3) months assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms: (i) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (ii) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (iii) two (2) members of the Board of Directors must sign any checks written on the reserve account; and

(d) such other insurance as the Board of Directors may determine to be necessary or desirable.

Section 6.4. Other Requirements.

(a) All policies of insurance shall be written with an insurance company licensed or authorized to do business in the State of Georgia. The company shall provide insurance certificates to each Lot Owner and each Mortgagee upon request.

(b) The Board shall use reasonable efforts to obtain policies that will provide the following:



(i) the insurer waives its rights of subrogation of any claims against directors, officers, and the Owners;

(ii) any "other insurance" clause contained in any policy obtained by the Association shall expressly exclude individual Owners' policies from its operation;

(iii) until the expiration of thirty (30) days after the insurer gives notice in writing to any Eligible Mortgage Holder, the Eligible Mortgage Holder's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Lot, the other Owners, the Board of Directors, or any of their agents or employees, provided, however, only ten (10) days written notice shall be required for cancellation for nonpayment of premiums;

(iv) the policies may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days prior notice in writing to the Board of Directors, the Owners, and all Eligible Mortgage Holders, provided, however, only ten (10) days written notice shall be required for cancellation for nonpayment of premiums; and

(v) an agreed amount endorsement waiving co-insurance limitations in the Association's property insurance policy waiving co-insurance limitations.

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

(d) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Lot Owners or their Mortgagees.

(e) The Board of Directors shall, at least every two (2) years, conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association and to satisfy the requirements of this Article. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent and/or other qualified Person verify that insurance policies in existence meet the needs of the Association and satisfy the requirements of this Article.

Section 6.5. Owners' Insurance Responsibilities. To the extent not insured by policies maintained by the Association, every Owner shall obtain and maintain at all times insurance covering the full insurable replacement value of improvements and betterments in such Owner's Lot and all personal property therein. Each Owner shall obtain and maintain personal liability insurance of not less than Two Hundred Thousand Dollars (\$200,000) per occurrence (or such higher amount as may be requested by the Board) for bodily injury and property damage. Such policies shall provide a waiver of recovery and subrogation in favor of the Association. Upon request by the Association, the Lot Owner shall furnish a copy of such insurance policy or policies to the Association. In the event that any such Owner fails to obtain insurance as required by this Section, the Association may (but shall not be obligated to) purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner as a Specific Assessment. In the event a Lot (or the improvements, betterments, or personal property therein) suffers a loss which is not covered by the insurance coverage maintained by the Association, the Owner of the Lot suffering such loss shall promptly report such loss to the Owner's insurance carrier.

Section 6.6. Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one (1) Lot or a Lot and the Common Property, the cost of the deductible may be apportioned equitably by the Board among the parties suffering loss in proportion to each affected Owner's portion of the total cost of repair.



Notwithstanding the foregoing, if the insurance policy provides that the deductible will apply to each Lot separately or to each occurrence, each Owner shall be responsible for paying the deductible pertaining to his or her Lot, if any. If any Owner or Owners fail to pay the deductible when required under this Section, then the Association may pay the deductible and assess the cost to the Owner or Owners as a Specific Assessment.

Section 6.7. No Priority Over First Mortgagees. Nothing contained herein gives any Owner or other party a priority over any rights of first Mortgagees as to distribution of insurance proceeds. Any insurance proceeds payable to the Owner of a Lot on which there is a Mortgagee endorsement shall be disbursed jointly to such Owner and the Mortgagee. This is a covenant for the benefit of any such Mortgagee and may be enforced by any such Mortgagee.

ARTICLE 7. DAMAGE AND DESTRUCTION.

In the event of damage or destruction as a result of fire or other casualty to all or any part of the Community for which insurance is maintained by the Association or which the Association is otherwise responsible for maintaining as provided in this Declaration, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of such portions of the Community. In the event of substantial damage or destruction, each holder of a first Mortgage shall be entitled to written notice of the damage and nothing in the Community Instruments shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Lot. Each Owner and the Association shall cooperate and communicate with each other in furtherance of the spirit and intent of the matters addressed in this Article 7.

Section 7.1. Cost Estimates. Immediately after a fire or other casualty causing damage to any part of the Community for which insurance is maintained by the Association or which the Association is otherwise responsible for maintaining as provided in this Declaration, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Community (including any damaged Lot) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

Section 7.2. Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair for any reason, the additional costs shall be assessed against the Owners of the Lot(s) and/or associated Exclusive Common Property damaged in proportion to the costs to repair or reconstruct the damage to such Lot(s) and/or associated Exclusive Common Property damaged or equally against all Owners in the case of insufficient funds to cover damage to the Common Property (other than Exclusive Common Property). This assessment shall be considered a Specific Assessment. Aside from its obligation to pay assessments for those Lots that it owns (and the associated Exclusive Common Property), Declarant shall have no obligation to fund any deficit arising from insufficiency of insurance proceeds. If there are surplus funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

Section 7.3. Floor Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the original plans and specifications under which the buildings and other improvements on the Community were constructed so as to exclude any upgrades or improvements made by or on behalf of any Owner, except where changes are necessary to comply with current applicable building codes or where upgrades and improvements not in accordance with the original plans and specifications are approved by the Board of Directors or ARC.

Section 7.4. Encroachments. Encroachments upon or in favor of Lots that may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding



or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the building and other improvements on the Community were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

Section 7.5. Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Section to be disbursed by the Association in reasonably appropriate progress payments to such contractor(s), supplier(s) and personnel performing the work or supplying materials or services for the repair and reconstruction of the Community as are designated by the Board of Directors.

ARTICLE 8. CONDEMNATION

(a) In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after the taking, Owners holding at least eighty percent (80%) of the Total Association Vote other than Declarant and the Declarant otherwise agree, the Association shall restore or replace the improvements taken on the remaining land included in the Common Property to the extent lands are available.

(b) If any portion of the Common Property is taken by eminent domain, the award therefor shall be allocated equally to each Lot Owner; provided, however, that the portion of the award attributable to the taking of any permanently assigned Exclusive Common Property shall be allocated to the Owner of the Lot to which that Exclusive Common Property was so assigned at the time of the taking. If any Exclusive Common Property is permanently assigned to more than one (1) Lot at the time of the taking, the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Lots to which it was so assigned.

(c) Any or all of the matters which, under this Section, are prescribed for the determination of a court may instead be resolved by Amendment to the Declaration agreed to by Owners holding a Majority of the Total Association Vote, including the Owner(s) of all Lots wholly or partially taken, or to which there is appurtenant any Exclusive Common Property wholly or partially taken, together with the Mortgagee of each such Lot.

ARTICLE 9. ARCHITECTURAL STANDARDS

Section 9.1. Architectural Review. The following must receive the prior written approval of the Architectural Review Committee:

- (a) All encroachments onto the Common Property or Exclusive Common Property;
- (b) Exterior change, alteration or construction (including painting);
- (c) Any erection, placement or posting of any object, sign, clothesline, speaker, light, fountain, flag, or thing on the exterior or roof, in any windows (except window treatments as provided herein), or on any Exclusive Common Property or any Common Property;
- (d) Any work that involves connecting to or relocating pipes, lines, conduits and/or other apparatus for access to common utilities; or



(e) Any work that places an excessive load on any structural or load bearing portions of a Residence.

Notwithstanding anything to the contrary herein, the following items are permitted and shall not require prior approval from the ARC: (x) national flags permitted by Section 9.3 below; (y) a mezuzah or comparable religious symbol not larger than three inches (3") in width and nine inches (9") in height may be posted on the doorframe of the Residence; and (z) reasonable seasonal decorative lights located within a Residence or on a balcony, deck, roof deck, or patio may be displayed between Thanksgiving Day and January 15.

Section 9.2. Declarant Exempt. Notwithstanding anything to the contrary stated herein, during the Development Period, any improvements or modifications made by Declarant or approved by Declarant shall not be subject to approval pursuant to this Article.

Section 9.3. Signs and Flags.

(a) General. Except as may be provided for herein or as may be required by legal proceedings and except for signs that may be erected by Declarant in connection with the development and sale or lease of Lots or portions thereof, no signs, advertising posters, political placards, banners, flags, stickers, billboards, speakers, lighting, awnings, canopies shutters of any kind, or other similar items visible from the exterior of a Residence shall be erected, placed or permitted to remain on the Community (except for such items existing as of the Effective Date or originally installed by Declarant) without the prior written consent of the ARC. The Board shall have the right to erect reasonable and appropriate signs or lighting of any kind on the Common Property on behalf of the Association.

(b) National Flags. Notwithstanding anything to the contrary herein, one (1) national flag of the United States not exceeding twelve (12) square feet in size may be displayed on a flag holder located on the exterior of a Residence or the balcony, deck or patio attached to a Residence. No flag shall be displayed in a manner inconsistent with any provision of the Freedom to Display the American Flag Act of 2005, or any applicable law. By taking title to a Lot, all Owners agree and acknowledge that the Board, on behalf of the Association, has a substantial interest in protecting the aesthetic appearance of the Community and therefore may adopt additional reasonable restrictions pertaining to the time, place, or manner of displaying the flag of the United States.

Section 9.4. Relocation of Boundaries.

(a) Boundaries between adjoining Lots may be relocated only in accordance with this Declaration.

(b) During the Development Period, the Owners seeking to relocate the boundaries of their Lots must submit an application to and obtain the prior written consent of Declarant and the Board of Directors in order to relocate the boundaries of such Lots. After the Development Period, the Owners must submit an application to and obtain the prior written consent only of the Board of Directors in order to relocate the boundaries of their Lots. Notwithstanding anything to the contrary herein, Declarant shall have the right to relocate boundaries between Lots owned by Declarant without the approval of the Board of Directors, and the Board of Directors shall execute the required amendment to the Declaration.

(c) An amendment to this Declaration shall identify the Lots involved and shall state that the boundaries between those Lots are being relocated by agreement of the Owners thereof.

Section 9.5. Subdivision of Lots. No Lot may be subdivided into a smaller Lot or Lots, provided, however, Declarant shall have the right to subdivide such any Lot(s) owned by it without the approval of the Board of Directors, and the Board of Directors shall execute the required amendment to the Declaration.



Section 9.6. Applications. Applications for approval from the ARC shall be in writing and shall provide such information as the ARC may reasonably require. Once an application and all required information is received by the ARC, the ARC shall stamp the application as being complete, and shall then forward to the applicant a written notice of application completion (the “Notice of Application Completion”). The ARC shall be authorized to retain an engineer, architect or other consultant to review such application and related documentation and plans, and all costs and expenses related thereto shall be borne solely by the applicant. Approval of an application may be withheld by the ARC until such time as all costs and expenses related to the review of an application have been paid by the applicant. The ARC shall be the sole arbiter of such application and may withhold approval for any reason (but not arbitrarily), including purely aesthetic considerations, materials to be used, harmony with the external design of the building and other structures that may be located on the Community, and it shall be entitled to stop any construction that is not in conformance with approved plans. The ARC may publish written architectural standards for exterior and Common Element alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the building and Lots, and the location in relation to surrounding structures and topography of the vicinity.

If the ARC or its designated representative fails to approve or to disapprove a complete application within thirty (30) days after the date of the Notice of Application Completion, its approval will not be required and this Section will be deemed complied with; provided, however, even if the requirements of this Section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is in violation of the Community Instruments, or rules and regulations promulgated and adopted by the Association or of any applicable zoning or other laws, and under no circumstances shall a Lot Owner commence any work without the written approval of the ARC if the work (A) involves connecting to or relocating pipes, lines, conduits and/or other apparatus for access to common utilities; (B) places an excessive load on any structural or load bearing portions of a Residence; or (C) requires penetration of any concrete floor or ceiling slab.

Section 9.7. Work Rules. Any work performed by or on behalf of a Lot Owner (except Declarant) related to the installation, construction, replacement, or repair of improvements to a Lot shall only be conducted between 8:30 a.m. and 6:30 pm on weekdays (excluding public holidays) except in the event of an emergency or upon written approval from the ARC.

Section 9.8. Encroachments onto Common Property. The ARC may permit Lot Owners to make encroachments onto the Common Property as it deems acceptable.

Section 9.9. Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, a Lot Owner, on behalf of him or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the ARC. It is the responsibility of every Lot Owner to determine for him or herself what architectural modifications have been made to his or her Lot by any predecessor-in-interest. In the discretion of the Board or ARC, a Lot Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Lot Owner on behalf of him or herself and all successors-in-interest.

Section 9.10. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither Declarant, the Board of Directors, the Association, nor ARC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. Neither Declarant, the Association, the Board of Directors, nor member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Lot.



Section 9.11. No Waiver of Future Approvals. Each Lot Owner acknowledges that the members of the ARC and Board will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Lot Owner further acknowledges that the ARC or Board may adopt different architectural standards for different parts of the Community, based on street visibility and location of the proposed modification in the Community. The approval of the ARC or Board of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the ARC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 9.12. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARC, Lot Owners shall, at their own cost and expense, promptly remove or cause the removal of such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should a Lot Owner fail to remove and restore as required hereunder, the ARC or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorneys' fees, may be assessed as Specific Assessments against the benefited Lot.

In addition to the foregoing, the Board of Directors at the request of the ARC shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Article and its decisions. Furthermore, the ARC and Board of Directors shall have the authority to record in the Official Records notices of violation of the provisions of this Article.

If any Lot Owner or Occupant makes any change, alteration, or construction (including landscaping) upon the Common Property or Exclusive Common Property in violation of this Article, he or she does so at his or her sole risk and expense. The Board of Directors or ARC may require that the change, alteration or construction be removed or that it remain on the Common Property or Exclusive Common Property without reimbursement to the Lot Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

Section 9.13. Commencement of Construction. All changes, modifications and improvements approved by the ARC and Board, as applicable, hereunder must be commenced within six (6) months from the date of approval. If not commenced within six (6) months from the date of such approval, then such approval shall be deemed revoked by the ARC, unless the ARC gives a written extension for commencing the work. All work approved by the ARC and Board, as applicable, hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the ARC. All approved changes, modifications, and improvements must be completed in their entirety. A Lot Owner may not construct only a portion or part of an approved change, modification, or improvement.

ARTICLE 10. USE RESTRICTIONS AND RULES

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of the Community Instruments and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, as a result of such Person's violation of the Community Instruments, the Association may take action under this Declaration



against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

In addition to the following use restrictions, the Board of Directors may adopt rules and regulations in accordance with the terms hereof and as specified in the Bylaws.

Section 10.1. Compliance with Zoning and Other Laws. Each Owner shall each be responsible for complying with all applicable zoning ordinances and other applicable Legal Requirements now or hereafter enacted or promulgated by the United States of America, State of Georgia, County of DeKalb, City of Decatur and any other governmental entity or agency now or hereafter having jurisdiction over the Community or any portion thereof. Additionally, the Association shall not make any modification or improvement that does not comply with applicable zoning ordinances and other applicable Legal Requirements now or hereafter enacted or promulgated by the United States of America, State of Georgia, County of DeKalb, City of Decatur and any other governmental entity or agency now or hereafter having jurisdiction over the Community or any portion thereof.

Section 10.2. Use of Lots. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, except that the Owner or Occupant residing in a Lot may conduct ancillary business activities within the Lot so long as, in the reasonable opinion of the Board of Directors:

- (a) the business activity is legal and conforms to all zoning requirements for the Community;
- (b) the business activity does not impair traffic in the Community;
- (c) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;
- (d) the business activity does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as determined in the Board's reasonable discretion;
- (e) the business shall operate in the interior of the residence of the Lot and shall not be readily visible from the exterior of the Lot;
- (f) the business shall not produce any odors or smells detectable on other Lots; and
- (g) the business activity does not result in a materially greater use of the Common Property or Association services.

Nothing herein shall be deemed to prohibit the visitation to the Lot of employees, clients, customers, suppliers, couriers, or other business invitees provided such otherwise complies with the provisions of this Section. The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (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 therefor. Notwithstanding the above, the use of a Lot by an on-site management agent operating on behalf of the Association shall not be considered a trade or business within the meaning of this Article.

Section 10.3. Number of Occupants. The maximum number of Occupants in a Residence shall be limited to two (2) people per bedroom. Upon written application, the Board shall grant variances



to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Lot is a corporation, partnership, limited liability company, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the Residence. The designated Person(s) to occupy the Residence may not be changed more frequently than once every six (6) months without the express written consent of the Board as determined in the Board's discretion. The designated natural person occupying the Residence shall not be deemed to be "leasing" and subject to Article 11 if such person is not paying any consideration to the Owner to reside in the Residence and such person is: a bona fide employee, officer, director, or owner of the legal entity that is the Owner; or, in the event the Owner is a trust, a beneficiary or grantor or immediate family member of a beneficiary or grantor.

Section 10.4. Use of Common Property Including Amenities.

(a) There shall be no obstruction of the Common Property, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Property without the prior written consent of the Board, except as specifically provided herein.

(b) With prior written Board approval, and subject to any restrictions imposed by the Board (including restrictions limiting the hours of operation), an Owner may reserve portions of the Common Property for use for a period of time as set by the Board. Any such Owner who reserves a portion of the Common Property as provided herein shall assume, on behalf of such Owner and his, her or its guests, Occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any Person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association.

(c) There shall be no gardening or landscaping on the Common Property by Owners or Occupants without the prior written consent of the Board. This Section shall not apply to Declarant during the Development Period.

Section 10.5. Use of Exclusive Common Property. Except as otherwise provided herein, the use of the Exclusive Common Property assigned to the Lots is restricted exclusively to the Owner of the Lot to which such Exclusive Common Property are assigned, and said Owner's family members, guests, tenants and invitees. The Exclusive Common Property are reserved for exclusive use, but shall not be construed or interpreted to be separate and apart from the Common Property in general, and the restrictions applicable to the Common Property shall also apply to the Exclusive Common Property.

Section 10.6. Balconies, Patios, Decks, and Roof Decks. Except as may be authorized by the Board, no objects other than a reasonable number of potted plants and patio furniture shall be placed on a balcony, patio, deck, or roof deck (except for national flags permitted as provided in Section 9.3 above, except for satellite dishes, antennas or other similar devices permitted as provided in Section 10.17 hereof, except for grills as provided in Section 10.18 hereof). This prohibition applies to objects such as, but not limited to, grills, umbrellas, bicycles, laundry garments, towels and objects other than potted plants and patio furniture, except as may be authorized by the Board. The Owner of the Lot upon which the balcony, patio, deck or roof deck is located shall maintain any potted plants on such balcony, patio, or roof deck in a neat condition, remove all dead plants, and utilize appropriate catch trays to capture any overflow water. Objects shall not be permitted to hang over or be attached to any exterior balcony, patio, deck, or roof deck wall, railing, or containment barrier, or to otherwise protrude outside of the vertical plane formed by the exterior surface of the balcony, patio, or roof deck wall, railing, or containment barrier. Penetration of the surfaces of a balcony, patio, or roof deck wall or floor is prohibited. Enclosure or screening of a balcony, patio, or roof deck is also prohibited unless installed by Declarant or approved by the ARC. As used herein, "enclosure" shall mean the permanent enclosure of a



balcony, patio, deck, or roof deck into the heated and cooled space within the Residence. Furthermore, notwithstanding anything to the contrary stated herein, the Owner and Occupant of a Lot shall be responsible for any damage caused by any objects blown from the applicable Lot's balcony, patio, deck, or roof deck by winds. Owners and Occupants shall refrain from engaging in any activity on a balcony, deck, or roof deck that may cause any object to fall or be thrown from a balcony, deck, or roof deck.

Section 10.7. Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Community, or any part thereof, which would increase the rate of insurance on the Community or any Lot or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

The Lots in the Community are built in close proximity to one another, resulting in the sharing of common walls. As a result, noise and vibration may be detectable between Lots or between Lots and the Common Property. Therefore, an Owner or Occupant shall not conduct activities within a Lot or use a Lot in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Lot by its respective Owner and/or Occupant.

Furthermore, noxious, destructive or offensive activity shall not be carried on within any portion of the Community. No Owner or Occupant of a Lot may use or allow the use of the Lot or any portion of the Community at any time, in any way or for any purpose that may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or Occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Lot may use or allow the use of a Lot or the Common Property in any manner that creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his, her or its property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Community or any structure thereon, would reduce the value thereof, or would impair any easement or other interest in the real property thereto, without, in every such case, the prior unanimous written consent of all members of the Association and their Mortgagees.

No damage to or waste of the Common Property, or any part thereof, shall be permitted by any Owner or member of his, her or its family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his, her or its family, guests, invitees, or Occupants of his, her or its Lot.

No Owner or Occupant shall store any explosives, or any flammable, odorous, noxious, corrosive, hazardous or pollutant materials or any other goods in a manner that would cause danger or nuisance to the Lots or other Owners and Occupants. Owners and Occupants shall not use Lots or any other portion of the Community for any purposes unlawful or contrary to any Legal Requirements. If an Owner or Occupant stores, uses, generates or disposes of hazardous or pollutant materials, or if a Lot becomes contaminated in any manner for which the Owner or Occupant thereof is legally liable, such Owner or Occupant shall indemnify and hold harmless Declarant, Association and the Board of Directors from any and all claims, damages, fines, judgments, penalties, costs, liabilities or losses and any and all sums paid in settlement of claims, reasonable attorneys' fees actually incurred, consultant and expert fees, arising as a result of that storage, use, generation, disposal, or contamination by such Owner or Occupant.

Section 10.8. Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Property or Exclusive Common Property is prohibited; provided, however, the display of



lawful firearms on the Common Property or Exclusive Common Property is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property or Exclusive Common Property to or from an Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. § 25-10-1, as amended.

Section 10.9. Animals. No Owner or Occupant may keep any animal on any portion of the Community except as expressly permitted in this Section. Each Owner or Occupant (regardless of the number of joint Owners and/or Occupants) shall keep no more than three (3) dogs and/or cats (for a combined total of three (3)) per Lot). In addition, a reasonable number of other generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each (including by way of illustration, but not limitation, fish and small birds) may be kept in a Lot. The keeping of pets on the Community shall be subject to the rules and regulations adopted by the Board. Notwithstanding anything to the contrary herein, no fish tank more than thirty (30) gallons in size shall be installed, kept, or used in a Lot without the prior written approval of the ARC.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Property, including Exclusive Common Property, without the prior written approval of the ARC. No pets are allowed on any portion of the Common Property, provided, however, an Owner or Occupant may walk a pet across the Common Property to enter or exit the Community or designated dog walk area, if any. An Owner may temporarily allow a pet onto a balcony, patio, deck, or roof deck so long as the pet is not left on the balcony, patio, deck, or roof deck without a person on the balcony, patio, deck, or roof deck attending to such pet. Notwithstanding the foregoing, pets must be kept on a leash and be under the physical control of a responsible Person at all times while on the Common Property. Feces left upon the Common Property by pets must be immediately removed by the owner of the pet or the Person responsible for the pet and such Person shall be responsible for the costs and expenses of all damages caused thereby.

No potbellied pigs, reptiles (except for turtles, lizards, and other reptiles approved by the Board and kept in fish tanks permitted or otherwise approved pursuant to this Section), or rodents may be brought onto or kept on the Community at any time. In addition, other animals determined in the Board's sole discretion to be dangerous or potentially dangerous shall not be brought onto or kept on the Community at any time. The Board may require that any animal that, in the Board's opinion, endangers or potentially endangers the health of any Owner or Occupant or creates or potentially may create a nuisance or unreasonable disturbance, be permanently or temporarily removed from the Community upon seven (7) days written notice. All Owners acknowledge that dogs will occasionally bark for a few seconds at a time, particularly when a stranger approaches the Residence, and such barking shall not be deemed a nuisance by the Board. However, periods of continuous barking and howling by a dog may be considered a nuisance by the Board. No dog shall be ordered removed from a Lot for periods of continuous barking and/or howling except if the Board of Directors has received at least two (2) reports of the same in any thirty (30) day period of which it has warned the Owner of the Lot in which the dog resides. Without limitation, examples of behaviors that could lead to an animal ordered removed from the Community include the following:

- (a) The animal making excessive noise, as determined in the Board' discretion;
- (b) The animal biting or acting in an aggressive and threatening manner to other Owners, Occupants, or their pets; or
- (c) The animal is kept in such a manner that strong odor of urine or feces emanates from the Lot.



If the Owner or Occupant fails to remove an animal after the aforementioned notice, the Board may (but shall not be required to) remove the animal. Any animal that in the Board of Director's sole discretion presents an immediate danger to the health, safety or property of any community member may be removed by the Board of Directors without prior notice to the animal's owner. The Association, and its directors, officers, and agents shall have no liability for any decision not to remove such an animal.

Any Owner or Occupant who keeps or maintains any pet upon the Community shall be deemed to have agreed to defend, indemnify and hold Declarant, the Association, and their directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Community.

Section 10.10. Parking. Parking is only permitted in garages, driveways exclusively serving a Residence, and other areas, if any, designated by the Board.

Disabled and stored vehicles are prohibited from being parked on the Community except in garages. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Community without being driven for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RVs and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriffs, Marshals, or police officers' vehicles marked as such, are also prohibited from being parked on the Community, except in areas, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily in the Community during normal business hours for the purpose of serving any Lot or the Common Property; provided, however, no such vehicle shall remain on the Common Property overnight or for any purpose unless prior written consent of the Board is first obtained.

If any vehicle is parked on any portion of the Community in violation of this Article or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the Person or entity that will do the towing or booting and the name and telephone number of a Person to contact regarding the alleged violation. If twenty four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's Residence, is obstructing the flow of traffic, is parked on any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed or booted immediately. If a vehicle is towed or booted in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage as a result of the towing or booting activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 10.11. Garages. Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. With the exception of a reasonable amount of short term temporary parking as



determined by the Board from time to time, no Owner or Occupant of a Lot that includes a garage shall park his or her car or other motor vehicle on any portion of the Community, other than in the garage, unless the maximum number of cars or similarly sized motor vehicles which can be parked in the garage according to its design capacity are already parked in said garage. All garages shall be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible, unless a garage is converted into livable residential space with the written approval of the ARC.

Section 10.12. Heating of Residences in Colder Months; Cooling of Residences in Warmer Months. In order to prevent breakage of water pipes during the colder months of the year and the growth of Mold during warmer months of the year resulting in damage to any portion of the Community, increased Common Expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Residences shall be maintained at a setting of no less than fifty-five degrees (55°) Fahrenheit and no more than eighty-two degrees (82°) Fahrenheit (except during power failures or periods when heating equipment is broken). Owners and Occupants of Lots shall take all steps possible on a timely basis to keep heating and cooling equipment, including, but not limited to, the thermostats, in good working order and repair. The Board of Directors may fine any Owner or Occupant and/or may cause the water service to the violator's Lot to be discontinued, for violation of this Section, in addition to any other remedies of the Association.

Section 10.13. Rubbish, Trash, and Garbage. No garbage or trash shall be placed on the Common Property temporarily or otherwise, except as provided herein. Rubbish, trash and garbage shall be disposed of in appropriate sealed bags and placed in proper trash receptacles for collection. No Owner or Occupant shall be permitted to place any garbage can, recycling bin, trash bag or any other form of rubbish in the area located within the Common Property, except on driveways exclusively serving an Owner's Lot within the twelve (12) hours preceding such Owner or Occupant's scheduled garbage or recycling pickup. All such garbage, trash and rubbish receptacles shall be removed from the driveway within twelve (12) hours after such scheduled garbage or recycling pickup.

Section 10.14. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Community. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Residence.

Section 10.15. Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board of Directors.

Section 10.16. Window Treatments. All windows in Residences must have window treatments except for windows adjacent to a stairwell or windows smaller than 2 ½ feet x 4 feet.

. The color of all window treatments visible from outside the Residence must be white or off-white or as approved by the ARC in accordance with this Declaration. Bed sheets, blankets, towels and other similar type coverings shall not be used as window treatments.

Section 10.17. Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained on any portion of the Community, including the Lot or Exclusive Common Property; provided, however, the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:

(a) No transmission antenna, of any kind, may be erected anywhere on the Community, including the Lots, without written approval of the Board of Directors or the Architectural Review Committee.



(b) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter shall be placed, allowed or maintained upon the Community, including the Lots and the Exclusive Common Property.

(c) DBS and MMDS satellite dishes or antennas one (1) meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, both as may be amended from time to time.

(d) In the event of a transfer of the Lot which includes a satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

Section 10.18. Grilling. The use of outdoor grills on any portion of the Community is prohibited except the following are permitted subject to compliance with applicable Legal Requirements:

(a) electric grills on any portion of the Residences, including without limitation, the balconies, decks, patios, or roof decks;

(b) grills located on the Common Property that were provided by Declarant or the Association, if any;

(c) gas grills on the rooftop deck of a Residence; or

(d) gas grills on decks, uncovered patios, or other portions of the Community upon a written request approved by the Board, subject to any further conditions required by the Board.

Section 10.19. Abandoned Personal Property. Personal property, other than vehicles as provided for in this Article, shall not be kept, or allowed to remain for more than twenty-four (24) hours upon any portion of the Common Property, other than on Exclusive Common Property, without prior written permission of the Board of Directors. If the Board determines that a violation exists, then, not less than two (2) days after written notice is placed on the personal property and/or on the front door of the property owner's Lot, if known, the Board may remove and either discard or store the personal property in a location which the Board may determine and shall have no obligation to return, replace or reimburse the owner of the property. The notice shall include the name and telephone number of the Person or entity that will remove the property and the name and telephone number of a Person to contact regarding the alleged violation.

The Board, in its discretion, may determine that an emergency situation exists and may exercise its removal rights hereunder without prior notice to the property owner; provided, however, in such case, the Board shall give the property owner, if known, notice of the removal of the property and the location of the property within three (3) business days after the property is removed.

Neither the Association nor any officer or agent thereof shall be liable to any Person for any claim of damage resulting from the removal activity in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

Section 10.20. Sale Period. Notwithstanding any provisions contained in this Declaration to the contrary, during the Development Period, Declarant, its contractors, agents, employees, assigns and representatives, shall have the right to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the completion and sale of the Lots, including, but without



limitation, business offices, signs, model units and sales offices. The right to maintain and carry on such facilities and activities shall include specifically the right to use the parking facilities on the Community for such purposes and to use the Lots owned by Declarant as model units and as offices for the sale of the Lots and related activities.

Section 10.21. Water Beds. No Owner or guest, lessee, invitee or Occupant of a Lot may keep a waterbed in a Residence.

Section 10.22. Lighting. Except as may be permitted by the ARC, exterior lighting shall not be permitted except for (a) approved lighting as originally installed on a Lot; and (b) illumination for all exterior lighting shall be generated from clear light bulbs or such other light bulbs specified by the Association.

Section 10.23. Mailboxes. Declarant may provide a mailbox or mail slot for each Lot. In the event Declarant provides a mailbox for each Lot, it shall not be replaced or removed, unless the ARC provides prior written approval.

Section 10.24. Air Conditioning Units. Except as may be permitted by written consent of the ARC, no window air conditioning units may be installed.

ARTICLE 11. LEASING

In order to preserve the character of the Community as predominantly owner occupied, the leasing of Lots is only permitted to the extent and on such terms and conditions as are provided herein. "Leasing" is defined as regular, exclusive occupancy of a Lot by any Person other than the Owner, including, but not limited to: (a) any Person who is occupying a Lot pursuant to a lease-purchase agreement prior to the closing of the acquisition of the Lot; and (b) any family member of an Owner who is exclusively occupying a Lot which is not also the residence of and occupied by the Owner thereof. Notwithstanding the foregoing, "Leasing" shall not include occupancy by a roommate or family member of an Owner who along with the Owner occupies a Lot as his or her residence. Except as provided for below, Owners desiring to lease their Lots may do so only if they have applied for and received from the Board of Directors a "Leasing Permit." Such a permit, upon its issuance, shall allow an Owner to lease his, her or its Lot provided that such Leasing is in accordance with the terms of the Leasing Permit and this Article. The Board of Directors shall have the authority to establish conditions as to the duration and use of Leasing Permits consistent with this Article. Except as provided for below, all Leasing Permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners but shall be transferable to successors in title to the same Lot.

Section 11.1. Leasing Permits. In addition to an Owner having the right to request a Leasing Permit, a Person who has a written contract to purchase a Lot ("Buyer") shall have a right to apply for and receive a Leasing Permit. The request of an Owner or Buyer for a Leasing Permit for a Lot shall be approved if current, outstanding Leasing Permits (excluding Lots that are owned and leased by the Declarant) have not been issued for more than twenty-five percent (25%) of the total number of Lots in the Community ("Leasing Cap"). An Owner who owes the Association any delinquent assessments, fines, or other charges shall not be eligible to receive a Leasing Permit nor shall any Buyer of a Lot be eligible to receive a Leasing Permit if the Owner of such Lot owes the Association any delinquent assessments, fines, or other charges. The Board shall also have the right, but not the obligation, in its discretion to deny a Leasing Permit to an Owner or the Buyer of an Owner's Lot if the Owner or the Owner's Occupants, tenants, guests, or invitees is in violation of the Community Instruments or any rules and regulations of the Association. A Leasing Permit shall be automatically revoked upon the happening of any of the following events:



(a) the failure of a Buyer to close on the acquisition of the Lot as contemplated in the purchase and sale agreement or in any amendment thereto, for any reason whatsoever;

(b) the failure of an Owner to lease his, her or its Lot within one hundred and twenty (120) days of the Leasing Permit having been issued or the failure of a buyer to lease his, her or its Lot within one hundred and twenty days (120) days after the date of the closing of the Lot;

(c) the failure of an Owner to have his, her or its Lot leased for any consecutive one hundred and eighty (180) day period thereafter;

(d) when an Owner fails to pay all delinquent assessments, fines, or other charges owed to the Association on or before the date being ten (10) days after the Association sends a written notice to the Owner stating that the Owner is more than thirty (30) days delinquent and that the Leasing Permit shall be revoked unless payment is received on or before such date being ten (10) days after the Association sends the written notice; and

(e) the occurrence of the date referenced in a written notification by the Owner to the Association that the Owner will, as of said date, no longer need the Leasing Permit.

The Board shall also have the right, but not the obligation, in its discretion, to revoke an Owner's Leasing Permit if the Owner or the Owner's Occupants, tenants, guests, or invitees violate the Community Instruments or any rules and regulations of the Association in a non-monetary manner, provided, however, the Board shall first provide written notice to the Owner and provide the Owner with a right to hearing in the same manner as for fines as set forth in the Bylaws. The Leasing Permit shall be revoked for such non-monetary violation if the Board so determines after a hearing, or upon the last day of the Owner's right to request a hearing if the Owner fails to request a hearing.

An Owner who has been placed on the waiting list for a Leasing Permit may not transfer or assign his, her or its position on the waiting list. The Board may remove an Owner from the waiting list of the Owner is more than thirty (30) days delinquent in the payment of any assessments, fines, or other charges owed to the Association or if the Owner or the Owner's Occupants, tenants, guests, or invitees violate the Community Instruments or any rules and regulations of the Association in a non-monetary manner.

Section 11.2. Hardship Leasing Permit. If the failure to lease will result in a hardship, the Owner may seek to lease on a hardship basis by applying to the Board of Directors for a Hardship Leasing Permit. The Board of Directors shall have the authority to issue or deny requests for Hardship Leasing Permits in its discretion after considering the following factors: (a) the nature, degree, and likely duration of the hardship, (b) the harm, if any, which will result to the Community if the Hardship Leasing Permit is approved, (c) the number of Hardship Leasing Permits which have been issued to other Owners, (d) the Owner's ability to cure the hardship, and (e) whether previous Hardship Leasing Permits have been issued to the Owner. A "hardship" as described herein shall include, but not be limited to the following situations: (i) an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six (6) months from the date that the Lot was placed on the market, sell the Lot after having made reasonable efforts to do so except at a price below the current appraised market value; (ii) where the Owner dies and the Lot is being administered by his or her estate; and (iii) the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot. Hardship Leasing Permits shall be valid for a term not to exceed one (1) year. Owners may apply for additional Hardship Leasing Permits. Hardship Leasing Permits shall be automatically revoked if during the term of the permit, the Owner is approved for and receives a Leasing Permit. The Board of Directors may revoke a Hardship Leasing Permit if an Owner fails to pay all delinquent assessments, fines, or other charges owed to the Association on or before the date being ten (10) days after the Association sends a written notice to the Owner stating that the Owner is more than thirty (30) days delinquent. The Board shall also have the right, but not the obligation, in its discretion, to revoke an Owner's Hardship Leasing Permit if the Owner or the Owner's Occupants,



tenants, guests, or invitees violate in a non-monetary manner the Community Instruments or any rules and regulations of the Association, provided that the Board shall first provide written notice to the Owner and provide the Owner with a right to hearing in the same manner as for fines as set forth in the Bylaws. The Hardship Leasing Permit shall be revoked for such non-monetary violation if the Board so determines after a hearing, or upon the last day of the Owner's right to request a hearing if the Owner fails to request a hearing.

Section 11.3. Leasing Provisions. Leasing which is authorized by Leasing Permit, shall be governed by the following provisions:

(a) Notice. At least seven (7) days prior to entering into the lease of a Lot, the Owner shall provide the Board with a copy of the proposed lease agreement. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(b) General.

(i) Lots may be leased (or subleased or assigned) only in their entirety; no fraction or portion may be leased (or subleased or assigned) without prior written Board approval.

(ii) All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship (but in no event less than thirty (30) days).

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

(iv) Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Lot. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations.

(v) Within ten (10) days after the execution a sublease or assignment agreement for a Lot, the Owner shall provide the Board with a copy of the sublease or assignment agreement and the name of the sub-lessee or assignee and all other people occupying the Lot. The Owner must provide the sub-lessee or assignee copies of the Declaration, Bylaws, and the rules and regulations.

(c) Compliance with Declaration, Bylaws, and Rules and Regulations. The tenant shall comply with all provisions of the Declaration, Bylaws, and rules and regulations and shall control the conduct of all other occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all occupants of his, her or its Lot to comply with this Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any such violation. If the tenant, or a Person living with the tenant, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the tenant, and such fine may be assessed against the tenant in accordance with the Bylaws. If the fine is not paid by the tenant within the time period set by the Board, the Owner shall pay the fine upon notice



from the Association of the tenant's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, Bylaws, or rules and regulations by the tenant, any occupant, or any guest of tenant, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the tenant for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations, including the power and authority to evict the tenant as attorney in fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the tenant, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Lot.

Section 11.4. Liability for Assessments. When an Owner who is leasing his, her or its Lot fails to pay any assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the tenant during the period of delinquency. Upon request by the Board, tenant shall pay to the Association all unpaid assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, tenant shall not be required to make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Board's request. All such payments made by 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 Declaration 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 the Owner would otherwise be responsible.

Section 11.5. Use of Common Property. The Owner transfers and assigns to the tenant, for the term of the lease of a Lot, any and all rights and privileges that the Owner has to use the Common Property as a result of owning that Lot, including but not limited to, the use of any and all recreational facilities and other amenities.

Section 11.6. Required Lease Provisions. Any lease of a Lot shall be required to contain or incorporate by reference the terms set forth in Sections 11.3 and 11.4 above. If such language is not expressly contained or incorporated by reference therein, then such language shall be incorporated into the lease by the existence of this covenant, and the tenant, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the above-referenced language into the lease.

Section 11.7. Applicability of this Section. Notwithstanding the above, this Article shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after the expiration of the Declarant Control Period), the Association, or the holder of any first recorded Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage (collectively the "Exempt Owners"). Such Exempt Owners shall be permitted to lease a Lot without first obtaining a permit in accordance with this Article and such Lots shall not be considered as being leased in determining the maximum number of Lots that may be leased in accordance with this Article. Notwithstanding the foregoing, Sections 11.3 and 11.4 above (except Section 11.3(b)(ii) above) shall apply to all such leasing transactions, provided, however, any such leases shall be required to have an initial term of at least thirty (30) days. For the purposes of clarification, this Article shall apply to any Person that acquires a Lot from an Exempt Owner (unless such Person is itself an Exempt Owner), including the obligations to obtain a Leasing Permit to lease the acquired Lot as required in this Article.



ARTICLE 12. SALE OF LOTS

An Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give the Board written notice of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish the Board, as part of the notice, the name and address of the intended grantee and such other information as the Board may reasonably require. This Article shall not be construed to create a right of first refusal in the Association or in any third party.

In addition, a non-refundable contribution to the working capital fund of the Association shall be paid to the Association by the purchaser of a Lot at the closing of each sale or resale of a Lot in the amount of two (2) months of the Annual Assessment charged to such Lot.

Within seven (7) days after receiving title to a Lot, the purchaser of the Lot shall give the Board written notice of his or her ownership of the Lot. Upon failure of an Owner to give the required notice within the seven day time period provided herein, the Board may levy fines against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

ARTICLE 13. MAINTENANCE

Section 13.1. Maintenance By the Owner. Each Owner shall have the obligation to maintain and keep in good repair all portions of his, her or its Lot and all improvements made by the Owner to the Exclusive Common Property assigned to the Lot except any portion of a Lot that is expressly made the maintenance obligation of the Association as set forth in this Article. This maintenance responsibility shall include, but not be limited to the following: all glass surfaces (excluding exterior cleaning and caulking), windows, window frames (except for periodic painting, staining and/or cleaning of the exterior window frames), casings and locks (including caulking of windows); all doors, doorways, door frames, and hardware that are part of the entry system of the Residence (except for periodic painting, staining and/or cleaning of the exterior surface of entry doors and door frames facing the exterior of the Lots that are not facing a patio, deck, roof deck, or balcony); all portions of the heating and air conditioning system, including the air conditioning compressor and the fan coil serving the Lot; lighting fixtures pertaining to a particular Residence and being located on the exterior façade of a Residence; foundations and footings including waterproofing above and below grade; and all pipes, lines, ducts, conduits, or other apparatus that serve only the Lot, whether located within or without a Lot's boundaries (including all electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the Lot).

In addition, each Owner shall have the responsibility:

(a) To keep in a neat, clean and sanitary condition any Exclusive Common Property serving his, her or its Lot;

(b) To perform his, her or its responsibility in such manner so as not to unreasonably disturb other Persons in other Lots;

(c) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible; and

(d) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his, her or its family, tenants, guests or Occupants, with the cost thereof to be added to and become part of the Owner's next chargeable assessment.



Section 13.2. By the Association. The Association shall maintain and keep in good repair as a Common Expense the “Area of Common Responsibility,” which includes the following:

- (a) all Common Property, including any Exclusive Common Property, but excluding all improvements made to such Exclusive Common Property; provided, however, the cost of maintenance and repair of Exclusive Common Property may be assessed against the Owner to whom the Exclusive Common Property is assigned as a Specific Assessment;
- (b) all obligations of the “Owner” as provided in the Stormwater Agreement;
- (c) all portions of the roofs and the roof support systems, including the roof joists and cross braces;
- (d) all gutters and all downspouts;
- (e) all lawn and landscape maintenance on Lots and Common Property;
- (f) periodic painting, staining and/or cleaning of exterior surfaces of the Residences, exterior window frames, and entry doors and door frames facing the exterior of the Residence (except balcony, roof deck, deck, and patio doors), on a schedule to be determined by the Board of Directors;
- (g) periodic cleaning of exterior window surfaces on a schedule to be determined by the Board of Directors;
- (h) garage doors, provided, however, the cost of maintenance and repair of garage doors may be assessed as a Specific Assessment against the Owner of the Lot on which the garage door is located; and
- (i) interior sprinkler systems.

Upon resolution of the Board of Directors and approval of a Majority of the Owners present or represented by proxy at a duly constituted meeting of the Owners, the Association may assume responsibility for providing additional exterior maintenance upon Lot improvements. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would be in the best interests of the Association.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Property by an Owner or Occupant that is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Property) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts such maintenance or repair.

The Association shall repair incidental damage to any Lot resulting from performance of work that is the responsibility of the Association. As finish levels can have varying degrees, such repairs will be complete only to the extent of being “paint-ready.” Such repair and subsequent cleaning shall be performed based on a reasonableness standard. In performing its responsibilities hereunder, the Board of Directors shall have the authority to delegate to such Persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

The Association shall not be liable for injury or damage to Person or property caused by the elements or by the Owner of any Lot, or any other Person, or resulting from any utility, rain, snow or ice that may leak or flow from any portion of the Common Property or from any pipe, drain, conduit, appliance or equipment that the Association is responsible to maintain hereunder, except for injuries or damages



arising after the Owner of a Lot has put the Association on notice of a specific leak or flow from any portion of the Common Property and the Association has failed to exercise due care to correct the leak or flow within a reasonable time thereafter. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property that may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Article where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements that are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

Section 13.3. Failure to Maintain. If the Board of Directors determines that any Owner has failed or refused to discharge properly his, her or its obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors.

Unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete such maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (a) an emergency exists or (b) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be a Specific Assessment to which such Owner is subject, shall become and be a lien against the Lot, and shall be collected as provided herein for the collection of assessments.

If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner, or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement as a Specific Assessment against the Owner's Lot, shall become a lien against the Lot, and shall be collected as provided herein for the collection of assessments.

Section 13.4. Measures Related to Insurance Coverage.

(a) The Board of Directors, upon resolution, shall have the authority to require all or any Owner(s) to do any act or perform any work involving portions of the Community that are the maintenance responsibility of the Owner, which will, in the Board's sole discretion, decrease the possibility of fire in, or other damage to, the Community, reduce the insurance premium paid by the Association for any insurance coverage or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to, requiring Owners to install and maintain smoke detectors, requiring Owners to certify that they have checked the batteries for their smoke detectors, requiring Owners to allow the Association to inspect the smoke detectors and replace batteries if needed on a schedule to be determined by the Board of Directors, requiring Owners to make improvements to the Owner's Lot, and such other measures as the Board may reasonably require so long as the cost of such work does not exceed Five Hundred Dollars (\$500) per Lot in any twelve (12) month period.

(b) In addition to, and not in limitation of, any other rights the Association may have, if any Owner does not comply with any requirement made by the Board of Directors pursuant to this Section, the Association, upon fifteen (15) days' written notice (during which period the Owner may perform the



required act or work without further liability), may perform such required act or work at the Owner's sole cost. Such cost shall be an assessment and a lien against the Lot as provided herein. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to this Article, including, but not limited to, a right of entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot, except that access may be had at any time without notice in an emergency situation.

Section 13.5. Mold Disclosure and Waiver.

(a) MOLD IS PRESENT IN SOIL, AIR AND ELSEWHERE IN THE ENVIRONMENT. MOLD CAN PROLIFERATE IN VARIOUS ENVIRONMENTS, INCLUDING, AMONG OTHERS, DAMP AREAS SUCH AS BATHROOMS AND WITHIN WALLS AND PARTITIONS. CONCERNS HAVE BEEN EXPRESSED ABOUT THE POSSIBLE ADVERSE EFFECTS ON HUMAN HEALTH FROM EXPOSURE TO MOLD. ACCORDING TO THE CONSUMER PRODUCT SAFETY COMMISSION AND THE AMERICAN LUNG ASSOCIATION, SOME DISEASES OR ILLNESSES HAVE BEEN LINKED WITH BIOLOGICAL POLLUTANTS IN THE INDOOR ENVIRONMENT, INCLUDING SOME FORMS OF MOLD. HOWEVER, IT IS BELIEVED THAT MANY OF THESE CONDITIONS MAY ALSO HAVE CAUSES UNRELATED TO THE INDOOR ENVIRONMENT. THEREFORE, AS OF THE EFFECTIVE DATE, IT IS UNKNOWN HOW MANY POTENTIAL HEALTH PROBLEMS RELATE PRIMARILY OR EXCLUSIVELY TO INDOOR AIR QUALITY OR MOLD. DECLARANT AND THE ASSOCIATION ARE NOT QUALIFIED AND HAVE NOT UNDERTAKEN TO EVALUATE ALL ASPECTS OF THIS VERY COMPLEX ISSUE. DECLARANT AND THE ASSOCIATION HAVE NOT PERFORMED ANY TESTING OR EVALUATION OF, AND MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PAST, CURRENT OR FUTURE PRESENCE OR ABSENCE OF MOLD IN ANY OF THE RESIDENCES OR ANY COMMON PROPERTY, OR WITHIN THE VICINITY OF THE COMMUNITY. DECLARANT AND THE ASSOCIATION RECOMMEND THAT EACH OWNER CONDUCT ITS OWN INVESTIGATION AND CONSULT WITH SUCH EXPERTS AS THE OWNER DEEMS APPROPRIATE REGARDING THE OCCURRENCE AND EFFECTS OF MOLD, AND THE POTENTIAL SENSITIVITY OR SPECIAL RISK THAT THE OWNER AND HIS, HER OR ITS OCCUPANTS, WHO WILL OCCUPY OR USE THE RESIDENCE, MAY BE SUBJECT TO.

(b) WHEN EXCESSIVE MOISTURE OR WATER ACCUMULATES INDOORS, MOLD GROWTH CAN AND WILL OCCUR, PARTICULARLY IF THE MOISTURE PROBLEM REMAINS UNADDRESSED. THERE IS NO PRACTICAL WAY TO ELIMINATE ALL MOLD IN AN INDOOR ENVIRONMENT. THE KEY TO CONTROLLING INDOOR MOLD GROWTH IS TO CONTROL MOISTURE. EACH OWNER SHALL MAINTAIN SUCH OWNER'S RESPECTIVE RESIDENCE IN SUCH A MANNER AS TO REDUCE THE POTENTIAL FOR INCREASED MOLD FORMATION OR GROWTH, INCLUDING, WITHOUT LIMITATION, MAINTAINING AND REPAIRING ALL HEAT, VENTILATION, AND AIR CONDITIONING SYSTEMS SERVING SUCH OWNER'S RESIDENCE IN GOOD CONDITION AND USING AND OPERATING SUCH SYSTEMS AT REASONABLE LEVELS, KEEPING VENTS AND/OR FANS CLEAR AND FUNCTIONING AND PREVENTING AND REPAIRING PLUMBING, WINDOW AND OTHER LEAKS AND SOURCES OF MOISTURE. EACH OWNER SHALL CONDUCT PERIODIC INSPECTIONS OF THE OWNER'S RESPECTIVE RESIDENCE AND ANY OTHER PORTION OF THE COMMUNITY FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, FOR THE PRESENCE OF MOLD OR CONDITIONS WHICH MAY INCREASE THE ABILITY OF MOLD TO PROPAGATE WITHIN THE RESIDENCE OR OTHER PORTIONS OF THE COMMUNITY. FURTHERMORE, EACH OWNER SHALL MONITOR THE RESPECTIVE RESIDENCE AND ANY OTHER PORTION OF THE COMMUNITY FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, ON A CONTINUAL BASIS FOR EXCESSIVE MOISTURE, WATER OR MOLD ACCUMULATION. IF WATER OR MOISTURE IS DISCOVERED IN OR AROUND SUCH AREAS, THE OWNER SHALL IMMEDIATELY SEEK TO ELIMINATE THE SOURCE OF THE WATER OR MOISTURE. FAILURE TO ELIMINATE THE SOURCE OF MOISTURE CAN RESULT IN ADDITIONAL DAMAGE AND THE GROWTH OF MOLD, AND DECLARANT SHALL NOT BE RESPONSIBLE FOR SUCH DAMAGES. EACH OWNER, BY TAKING TITLE TO A LOT, HEREBY WAIVES ALL RIGHTS TO DAMAGES AND SUBROGATION OF DAMAGES



RESULTING FROM MOLD IN THE RESIDENCE. EACH OWNER SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS DECLARANT AND THE ASSOCIATION FROM AND AGAINST ALL CLAIMS, DEMANDS, SUITS, COSTS, EXPENSES AND LIABILITIES, INCLUDING ALL CASES OF PERSONAL INJURY OR PROPERTY DAMAGE, CAUSED BY THE PRESENCE OF MOLD AND/OR WATER OR MOISTURE IN THEIR RESPECTIVE RESIDENCES AND ANY OTHER PORTION OF THE COMMUNITY FOR WHICH THE OWNER IS RESPONSIBLE TO MAINTAIN, TO THE EXTENT THAT THE DAMAGES ARE CAUSED BY: (I) THE OWNER'S NEGLIGENCE OR FAILURE TO PROPERLY MAINTAIN AND MONITOR SUCH AREAS; OR (II) THE OWNER'S FAILURE TO PROMPTLY TAKE APPROPRIATE CORRECTIVE MEASURES AND MINIMIZE ANY DAMAGE CAUSED BY WATER OR MOISTURE (INCLUDING, WITHOUT LIMITATION, FAILURE TO PROMPTLY NOTIFY AND ENGAGE THE HELP OF APPROPRIATE PROFESSIONALS OR EXPERTS).

Section 13.6. Inspection, Maintenance, Repair and Replacement of a High-Risk Component. The Board may, from time to time, after notice to all Owners and an opportunity for members comment, determine that certain portions of a Lot required to be maintained by the Owners, or certain objects or appliances within a Lot, pose a particular risk of damage to other Lots and/or the Common Property if they are not properly inspected, maintained, repaired or replaced. By way of example, but not limitation, these portions, objects or appliances may include washing machine hoses, smoke detectors and water heaters. Those items determined by the Board to pose such a particular risk are referred to herein as a "High-Risk Component." The Board may require one or more of the following with regard to a High-Risk Component:

(a) that it be inspected at specified intervals by a representative of the Association or by an inspector(s) designated by the Board;

(b) that it be replaced or repaired at specified intervals, or with reference to manufacturers' warranties, whether or not the individual component is deteriorated or defective;

(c) that it be replaced or repaired with items or components meeting particular standards or specifications established by the Board;

(d) that when it is repaired or replaced, the installation include additional components or installments specified by the Board;

(e) that it be replaced or repaired by contractors having particular licenses, training or professional certification or by contractors approved by the Board; and

(f) if the replacement or repair is completed by an Owner, that it be inspected by a Person designated by the Board.

The imposition of requirements by the Board in this provision shall not relieve an Owner of the Owner's obligations regarding a High-Risk Component, including, but not limited to, the obligation to perform and pay for all maintenance, repairs and replacement thereof. If any Owner fails or refuses to maintain, repair or replace a High-Risk Component in accordance with the requirements established by the Board hereunder, the Association may, in addition to all other rights and powers granted to it pursuant to the Community Instruments, enter the Lot for the purpose of inspecting, repairing, maintaining, or replacing a High-Risk Component, as the case may be, and charge all costs of doing so back to the Owner as a specific assessment.

Section 13.7. Inspection Obligations.

(a) Contract for Services. In addition to the Association's general maintenance obligations set forth in this Declaration, the Association shall, at all times, contract with (subject to the limitations otherwise set forth in this Declaration) or otherwise retain the services of independent, qualified, licensed



individuals or entities to provide the Association with inspection services relative to the maintenance, repair and physical condition of the Community.

(b) Inspection Responsibilities. Declarant shall provide the Association with maintenance criteria, maintenance manuals, and warranty requirements for the Area of Common Responsibility (collectively the “Maintenance Manual”). The inspectors shall inspect component parts of the Area of Common Responsibility in accordance with the Maintenance Manual. The Association shall update the Maintenance Manual on a regular basis. The Association shall be responsible for meeting all requirements under such Maintenance Manual.

(c) Schedule of Inspections. The inspections shall take place at least annually or as recommended in the Maintenance Manual. The inspectors shall provide written reports of their inspections to the Association promptly following completion thereof. The written reports shall identify any items of maintenance or repair that either require current action by the Association or will need further review and analysis. The Board of Directors shall report the contents of such written reports to the members of the Association at the next meeting of the members following receipt of such written reports or as soon thereafter as is reasonably practicable and shall include such written reports in the minutes of the Association. Subject to the provisions of this Declaration below, the Board of Directors shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors.

(d) Notice to Declarant. For a period of ten (10) years after the conveyance of the last Lot in the Community to an Owner other than Declarant, the Association shall, if requested by Declarant, deliver to Declarant ten (10) days advance written notice of all such inspections (and an opportunity to be present during such inspection, personally or through an agent) and shall provide Declarant (or its designee) with a copy of all written reports prepared by the inspectors.

Section 13.8. Applicability. The provisions of this Section shall not apply during the Declarant Control Period.

ARTICLE 14. PARTY WALLS AND FENCES

Section 14.1. General Rules of Law to Apply. Each wall or fence built as a part of the original construction on the Lots which shall serve and or separate any two (2) adjoining Lots shall constitute a party wall or party fence, as applicable. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding the party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No Owner shall make any modification to a party that may compromise the structural integrity of the adjacent Residence, acoustic privacy or fire rating.

Section 14.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared equally by the Owners who make use of the wall or fence.

Section 14.3. Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the party wall or fence may restore it. If other Owners thereafter use the wall or fence, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.



Section 14.4. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article, shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

ARTICLE 15. MORTGAGEE PROVISIONS

Section 15.1. Exemption from Liens Where the Mortgagee holding a first Mortgage of record, a secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money Mortgage is the seller of the Lot) or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable, nor shall the Lot be subject to a lien, for the share of the Common Expenses or assessments by the Association chargeable to such Lot that became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, and its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title of the Lot, including, but not limited to, the pro-rata share of the Annual Assessment levied against the Lot, as provided in this Declaration, for the applicable portion of the month in which the passage of title of the Lot occurred.

Section 15.2. Mortgage Holder Entitled to Notice. Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any Eligible Mortgage Holder, or insurer or guarantor of a first mortgage on a Lot, will be entitled to timely written notice of:

(a) any proposed amendment of the Community Instruments effecting a change in (a) the boundaries of any Lot or the exclusive easement rights appertaining thereto; (b) the interests in the Common Property or Limited Common Property appertaining to any Lot or the liability for Common Expenses appertaining thereto; (c) the number of votes in the Association appertaining to any Lot; or (d) the purposes to which any Lot or the Common Property are restricted;

(b) any proposed termination of the Declaration;

(c) any condemnation loss or any casualty loss that affects a material portion of the Community or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder;

(d) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder that remains unsatisfied for a period of sixty (60) days after notice, and any default in the performance by an individual Owner of any other obligation under the Community Instruments that is not cured within sixty (60) days after notice;

(e) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(f) any proposed action that would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

Section 15.3. Copy of Financial Statement. Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year.

Section 15.4. No Impairment of Rights. Notwithstanding anything to the contrary herein contained, the provisions of Article 11 and Article 12 hereof governing the leasing and sales of Lots, respectively, shall not apply to impair the right of any first Mortgagee to:



- (a) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; or
- (b) take a deed or assignment in lieu of foreclosure; or
- (c) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

Section 15.5. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 15.6. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of any Mortgagee encumbering such Owner's Lot.

Section 15.7. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request to approve an amendment to this Declaration or within sixty (60) days of the date of the Association's request for any other action, provided that such request is delivered to the Mortgagee by certified or registered mail, return receipt requested, or by Statutory Overnight Delivery.

Section 15.8. Construction of this Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Community Instruments or Georgia law for any of the actions set forth in this Article.

ARTICLE 16. EASEMENTS

Section 16.1. Use and Enjoyment. Each Owner and Occupant shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Property (including the right of access, ingress and egress to and from his, her or its Lot over those portions of the Community designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Lot, subject to (i) the rights of the Owners to the exclusive use of the Exclusive Common Property assigned to their respective Lots; (ii) to the right of the Association to control the use and enjoyment of the Common Property as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; and (iii) the right of the Association to have access to the Lots and Exclusive Common Property assigned to a Lot to discharge its rights and obligations, under the Community Instruments, including without limitation, the repair and maintenance responsibilities of the Association.

Section 16.2. Support. Every portion of a Lot contributing to the support of improvements on an abutting Lot shall be burdened with a non-exclusive easement of support for the benefit of such abutting Lot.

Section 16.3. Encroachments. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and adjacent portion of the Common Property or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). However, an easement for encroachment shall not exist if the willful conduct by an Owner, Occupant, or the Association caused the encroachment.

Section 16.4. Utilities. To the extent that the sprinkler system or any utility line, pipe, wire, or conduit serving any Lot, Lots or the Common Property shall lie wholly or partially within the boundaries of another Lot or the Common Property, such other Lot, Lots, or the Common Property shall be burdened



with a non-exclusive easement for the use, maintenance, repair and replacement of such sprinkler system, utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Lot, Lots, or Common Property served by the same and the Association. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Lot of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Lot resulting from performance of any such work. All Owners hereby covenant and agree that as finish levels can have varying degrees, such repairs will be complete only to the extent of being "paint-ready." Components that may require repair or replacement, such as tile and trim, will be reinstalled only to the extent of readily available materials or similar materials (trim and such will also be finished to "paint-ready"). Due to the uncontrollability of quality of repair, items such as faux paint treatment, wallpaper, ceiling/wall appliqué, and any other similar types of finishes, will not be the responsibility of the benefited Owner.

Section 16.5. Pest Control. The Association may but shall not be obligated to dispense chemicals for the extermination of insects and pests within the Lots and Common Property. In the event the Association chooses to provide such pest control, the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Lots (including Residences) for the purpose of dispensing chemicals for the exterminating of insects and pests within the Lots and Common Property. Owners shall either provide a key to the Lot for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Lot for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.

Section 16.6. Community Bulletin Board. As part of the Common Property maintained by the Association, Declarant and/or the Board shall have the right, but not the obligation, to erect on the Community a bulletin board primarily for the use of Owners in advertising their Lots for sale. For so long as the Association desires to maintain this bulletin board, each Owner and his licensed real estate broker and agent may use the Community for access, ingress and egress to and from this bulletin board; provided, however, the use of the bulletin board shall be subject to such reasonable nondiscriminatory rules and regulations as may be adopted or promulgated by the Board regulating the size and duration of such advertisements. Declarant or Board may terminate use of this bulletin board entirely at any time, and no property rights of any kind are created hereby.

Section 16.7. Easement for Association Maintenance. Declarant expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance and repairs required pursuant to this Declaration.

Section 16.8. Declarant Easements. During the Development Period, Declarant and its duly authorized contractors, subcontractors, representatives, agents, associates, employees, tenants and successors and assigns shall have: (a) a non-exclusive easement for access and ingress to, egress from and use of the Common Property for the placement and maintenance of signs, banners, balloons, decorations marketing materials and tables, a sales office, a leasing office, a business office, promotional facilities and model units on any portion of the Community, together with such other facilities as in the opinion of Declarant may be reasonably required, convenient or incidental to the completion, renovation, improvement, development, sale or lease of any Lot; (b) a non-exclusive easement to use the Common Property for special events and promotional activities; and (d) a transferable, non-exclusive easement on, over, through, under and across the Common Property and Exclusive Common Property for the purpose of making improvements on the Community or any portion thereof, for the purpose of constructing, installing, replacing, repairing, restoring and maintaining all utilities, buildings, driveways, landscaping and any other improvements in the Community or serving the Community, and for the purpose of doing all things reasonably necessary and proper in connection therewith.



Section 16.9. Easement for Entry Features and Street Signs. There is hereby reserved to Declarant, the Association, and the designee of either, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to grade the land under and around the entry features.

Section 16.10. Public in General. The easements and rights created in this Article do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, that nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Official Records. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon fifteen (15) days prior written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Community), all or any portion of the Community which, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Declaration.

ARTICLE 17. GENERAL PROVISIONS

Section 17.1. SECURITY. THE ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE THE SECURITY OF THE COMMUNITY; HOWEVER, EACH OWNER, FOR HIMSELF, HERSELF OR ITSELF, AND HIS, HER OR ITS TENANTS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, ACKNOWLEDGES AND AGREES THAT NEITHER THE ASSOCIATION NOR DECLARANT IS A PROVIDER OF SECURITY AND NEITHER ENTITY SHALL HAVE A DUTY TO PROVIDE SECURITY ON OR AT THE COMMUNITY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS ON THE COMMUNITY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS ON THE COMMUNITY WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS, HER OR ITS PERSON AND PROPERTY AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF ITS FAILURE TO PROVIDE ADEQUATE SECURITY OR THE INEFFECTIVENESS OF MEASURES UNDERTAKEN.

Section 17.2. Parking Spaces and Vehicles. Neither Declarant nor the Association shall be held liable for any loss or damage arising from theft, vandalism, malicious mischief, or any loss or damage to any property placed or kept in any parking space in the Community or in any area designated by the Board for other parking. Each Owner or Occupant with use of a parking space or in any area designated by the Board for other parking who places or keeps a vehicle and/or any personal property in the vehicle, parking space, or in any area designated by the Board for other parking does so at his, her or its own risk.

Section 17.3. Access. The Association may need access to the interior of a Residence from time to time for maintenance, emergency, or life-safety purposes (and for pest control, if necessary, as provided in Section 16.5 of this Declaration). Accordingly, each Owner shall provide the Association with emergency contact information of a Person capable for providing access to the Residence when necessary. Neither Declarant nor the Association shall be liable for any loss or damage due the Association's inability to timely access a Residence as a result of an Owner not providing timely access.



Section 17.4. Dispute Resolution. Prior to filing a lawsuit against the Association, the Board, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board of Directors. Any such request shall be in writing and shall be personally delivered to any member of the Board of Directors or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the Person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) or more than twenty one (21) days from the date of receipt of the request.

Section 17.5. Successor Declarants. Any successor to Declarant shall not be responsible or subject to liability by operation of law or through the purchase of Declarant's interest in the Community or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Declarant.

Section 17.6. Disclosures. Each Owner and Occupant acknowledge the disclosures set forth on Exhibit "C" attached hereto and incorporated herein.

Section 17.7. Services During Declarant Control. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by communities such as the Community including, but not limited to, management services. Each Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates.

Section 17.8. Stormwater Agreement. Every Owner, by acceptance of a deed to a Lot, acknowledges that, in addition to being subject to and bound by the Community Instruments, the Owner is subject to the Stormwater Agreement. In addition to all of the rights and obligations that have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws, or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Stormwater Agreement.

Section 17.9. Amendments.

(a) The Community Instruments may be amended unilaterally at any time and from time to time by Declarant (i) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (ii) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if an amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; (iv) correct any scrivener's error; or (v) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration. However, any such amendment shall not adversely affect the title to any Owner's Lot unless the Owner consents to the amendment in writing. Further, until the expiration of the Development Period, Declarant may unilaterally amend the Community Instruments for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner, nor shall it adversely affect title to any Lot without the consent of the affected Owner.

(b) Except where a higher vote is required for action under any other provision of the Community Instruments, in which case such higher vote shall be necessary to amend such provision, the Community Instruments may also be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding two-thirds



(2/3) of the Total Association Vote. Moreover, no amendment to the Community Instruments shall modify, alter, or delete any: (i) provision of the Community Instruments that benefits Declarant; (ii) rights, privileges, easements, protections, or defenses of Declarant; or (iii) rights of the Owners or the Association in relationship to Declarant, without the written consent of Declarant attached to and recorded with such amendment, until the later of the following: (A) the date upon which Declarant no longer owns any Lot; or (B) ten (10) years after the date on which this Declaration is recorded in the Official Records, whichever period of time is longer. Notice of any meeting at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the president and secretary of the Association and recorded in the Official Records.

(c) Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend the Community Instruments: (i) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (ii) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if an amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; (iv) correct any scrivener's error; or (v) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration, However, any such amendment shall not adversely affect the title to any Owner's Lot unless the Owner consents to the amendment in writing.

(d) This Declaration may be amended for the purpose of submitting the Community to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq., upon the written approval of a majority of the Board members and Declarant (during the Development Period).

(e) Any action to challenge the validity of an amendment adopted under this Section must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

Section 17.10. Severability. Invalidation of any one of these covenants, conditions, or restrictions contained in this Declaration by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

Section 17.11. Duration. The covenants, restrictions and easements of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of twenty (20) years, unless fifty-one percent (51%) of the Persons owning Lots execute a document to terminate the covenants containing a legal description of the entire area affected by the covenant, a list of all Owners affected by the covenant and a description of the covenant to be terminated or such other requirement as provided in O.C.G.A. § 44-5-60. A written instrument reflecting any termination must be recorded no sooner than, but within two years immediately preceding the beginning of a twenty (20) year renewal period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance, agrees that provisions of this Declaration may be extended and renewed as provided in this Section.



Section 17.12. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate the right or privilege.

Section 17.13. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 17.14. Agreements. Subject to the prior approval of Declarant (until the expiration of the Development Period) all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 17.15. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 17.16. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

ARTICLE 18. ANNEXATION OF ADDITIONAL PROPERTY

Section 18.1. Annexation. For ten (10) years from the Effective Date, Declarant shall be entitled to unilaterally annex a portion or all of the Additional Property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Official Records a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall require the signature of the Declarant only (and owner of the subjected property if not Declarant) and shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided in such Supplementary Declaration.

Section 18.2. Withdrawal of Property. Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Community pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Community then owned by the Declarant or its affiliates from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community desired to be effected by the Declarant.

Section 18.3. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Community submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant.

Section 18.4. Acquisition of Additional Common Property. Declarant may convey to the Association additional real estate, improved or unimproved, which upon conveyance or dedication to the



Association shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of all its members.

ARTICLE 19. DECLARANT'S RIGHTS

Section 19.1. Transfer of Declarant's Rights. Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or in the Bylaws, as applicable. Furthermore, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Official Records. Nothing in this Declaration shall be construed to require the Declarant or any successor to develop any of the property set forth in Exhibit "B" in any manner whatsoever.

Section 19.2. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the Bylaws, Articles of Incorporation of the Association, use restrictions, rules and regulations, design guidelines, and any amendments thereto, during the Development Period, Declarant reserves an easement across all property in the Community for Declarant to maintain and carry on, upon such portion of the Community or the Additional Property as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibits "A" or "C" to this Declaration, including, but without limitation:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot;

(b) the right to tie into any portion of the Community with driveways, parking areas and walkways;

(c) the right to tie into and/or otherwise connect and use (without a tap on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(d) the right to grant easements over, under, in or on the Community, including, without limitation, the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(e) the right to carry on sales, special events and promotional activities in the Community or Additional Property;

(f) the right to erect and maintain signs, banners, balloons, decorations, marketing materials and tables; and

(g) the right to construct and operate business offices, construction trailers, model Residences, and sales offices. Declarant may use Residences, offices, or other buildings owned or leased by Declarant as model Residences and sales offices.

Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as hereinabove provided.



[SIGNATURES COMMENCE ON THE FOLLOWING PAGE]



IN WITNESS WHEREOF, Declarant has executed this Declaration under seal this _____ day of _____, 201____.

DECLARANT:

FORKNER TH, LLC,
a Georgia limited liability company

By: _____(SEAL)
Name: _____
Title: _____

Signed, sealed, and delivered this _____
day of _____, 201____
in the presence of:

Witness

Notary Public
[NOTARY SEAL]



EXHIBIT "A"

Description of Submitted Property

NOTE: THE INITIAL PHASE WILL BE COMPRISED OF ALL OR A PORTION OF THE FOLLOWING DESCRIBED PROPERTY TO BE DETERMINED BY DECLARANT PRIOR TO THE RECORDATION OF THIS DECLARATION:

114 FORKNER DRIVE (Lot 1B)

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 7 of the 18th District of DeKalb County, Georgia, and being part of Lot 1, Block "B" of the Ben S. Forkner Realty Company property, as per plat recorded at Plat Book 12, Page 28, records of DeKalb County, Georgia, and being more particularly described as follows:

BEGINNING at a point on the northeasterly side of Forkner Drive, 120.0 feet southeasterly from a point where the southeasterly side of Lawrenceville Highway intersects the northeasterly side of Forkner Drive; running thence southeasterly along the northeasterly side of Forkner Drive 115.0 feet to a point; thence northeasterly 239.0 feet to a point; thence northwesterly 95.0 feet to a point; thence southwesterly 196.0 feet to the northeasterly side of Lawrenceville Highway and the Point of Beginning. Being improved property known as No. 114 Forkner Drive, according to the present system of numbering in DeKalb County, Georgia.

122 FORKNER DRIVE (Lot 1C)

THE LAND REFERRED TO IN THIS EXHIBIT IS LOCATED IN THE COUNTY OF DEKALB AND THE STATE OF GEORGIA IN DEED BOOK 9125 AT PAGE 489 AND DESCRIBED AS FOLLOWS:
ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 7, OF THE 18TH DISTRICT, DEKALB COUNTY, GEORGIA RECORDS, BEING LOT 1C, BEN S. FORKNER'S PROPERTY SUBDIVISION, AS PER PLAT RECORDED IN PLAT BOOK 12, PAGE 28, DEKALB COUNTY, GEORGIA, WHICH PLAT IS INCORPORATED HEREIN AND MADE A PART HEREOF.

[CONTINUED ON NEXT PAGE]



130 FORKNER DRIVE (Lot 4)

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 7 of the 18th District of DeKalb County, Georgia, and being part of Lot 4 of the Ben S. Forkner Realty Company property, according to plat of T. C. Jackson, County Surveyor, made February 1940, recorded in Plat Book 12, Page 28, DeKalb County Records, and being more particularly described as follows:

BEGINNING at a point on the north side of Forkner Drive 350 feet southeasterly from the northeast corner of Forkner Drive and Lawrenceville Highway, said point being at the southeast corner of Lot 1-C, said subdivision; running thence north along the line of said Lot 1-C, and Lot 2, said subdivision, 349.5 feet to a point on the south line of Lot 3, said subdivision; running thence east along the north line of said Lot 4, 65.5 feet to a point; running thence southeasterly 338.5 feet to the north side of Forkner Drive at the southwest corner of Lot 5, said subdivision; running thence west along the north side of Forkner Drive 100 feet to the Point of Beginning, and being improved property having a house located thereon and being known as No. 130 Forkner Drive, according to the present system of numbering houses in the City of Decatur, Georgia.



EXHIBIT "B"

Description of Additional Property

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 7 of the 18th District of DeKalb County, Georgia.



EXHIBIT "C"

Disclosures

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

(b) The Community is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.

(c) The natural light available to and views from an Owner's Lot may change over time due to, among other circumstances, additional development (including, but not limited to, construction by Declarant or its affiliates of adjacent properties) and the removal or addition of landscaping.

(d) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future.

(e) No representations are made regarding the schools that currently or may in the future serve the Community.

(f) Since in every community, there are conditions which different people may find objectionable, there may be conditions outside of the Community that an Owner or Occupant may find objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with community conditions that could affect the Lot.

(g) Drywall, drywall tape, concrete surfaces, and other rigid surfaces in portions of the Community are subject to cracking due to (i) water penetration, (ii) expansion and contraction due to temperature changes, (iii) building settlement, and (iv) other factors. Declarant shall not be liable for any such cracking.

(h) No representations are made that the Residences are or will be soundproof or that sound and/or vibrations may not be transmitted from one Residences to another or from the Common Property to a Residence. HVAC systems, plumbing, and concrete, tile and hardwood surfaces within a Residence may transmit noise, and such noise shall not constitute a use of a Residence that interferes with or causes disruption to the use and quiet enjoyment of another Residence by its respective Owner and/or Occupant.

(i) The Community is located in an urban environment. Sound and vibrations may be audible and felt from such things as sirens, whistles, horns, the playing of music, people speaking, trash being picked up, deliveries being made, equipment being operated, dogs barking, construction activity, building and grounds maintenance being performed, automobiles, buses, trucks, ambulances, airplanes, trains and other generators of sound and vibrations typically found in an urban area. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, streetlights, other buildings, car headlights and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living. While some steps may have been taken to mitigate sound in the design and construction of the building, the Residences are not constructed to be totally soundproof or free from vibrations. Sounds and vibrations can also be generated from sources located within a Residence or the Common Property including elevator motors, heating and air conditioning equipment, pump rooms, other mechanical equipment, dogs barking, amenity areas, and the playing of music.



(j) Declarant may be constructing portions of the Community and the Additional Property and engaging in other construction activities related to the construction of Common Property and finishing of Residences. Such construction activities may, from time to time, produce certain conditions on the Community, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the life or safety of Persons on the Community. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Community resulting from renovation and construction activities shall not be deemed a nuisance or discomfort and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.

(k) The Residences will trap humidity created by general use and occupation of such space (cooking, bathing, laundering etc.). As a result, condensation may appear on the interior portion of windows and glass surfaces, window framing, and window assembly, and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. Condensation is a naturally occurring phenomenon and cannot practically be prevented. However, if left unattended and not properly maintained by the Owner, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially Mold.

(l) During the course of the construction of any residence, variations from the original plans and specifications, some of which add scope, some of which reduce scope, and some of which alter scope, are inevitable and can, do, and may occur as a matter of intention and/or as a matter of necessity. Therefore, some code requirements may change during the interim period which may not be incorporated into the design of the Residence.

(m) Declarant shall have no liability should the Community be forced to change its name. Declarant shall have no duty to contest any claim asserting that the name should be changed. During the Declarant Control Period, Declarant shall have the right in its sole discretion to change the name of the Community without notice to any Person.

(n) Improvements may have been constructed on adjoining properties that encroach onto the Community. Declarant gives no representations or warranties as to property rights, if any, created by such any such encroachments.

(o) Declarant shall not be responsible for responding to or taking any affirmative action on behalf of the Association or an individual member of the Association to mitigate, alleviate, remedy or cure any off-site conditions that may directly impact the Community or any portion thereof, and such inaction by Declarant shall not constitute a breach of fiduciary duty by the directors and officers of the Association that are appointed by Declarant, pursuant to Article III, Section 3.2 of the Bylaws.

(p) The Community may be subject to erosion and/or flooding during intense or prolonged periods of rain.

(q) The performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Lot in relation to the sun. Declarant shall, therefore, have no obligation other than to install a heating and cooling system at a Residence which has been sized and designed based on industry standards for the type and size of unit to be constructed and which functions in accordance with industry standards.



(r) No representations are made that the systems in the Residence including, by way of example only, heating and air conditioning and electrical systems will operate or perform at a level or standard greater than the minimum specifications of the manufacturer.

(s) Water may pond on various portions of the Community having impervious surfaces, such as the patios and balconies, as applicable.

(t) Declarant makes no representation as to the location of mailboxes, utility boxes, street lights, common waste receptacles, fire hydrants or storm drain inlets or basins.

(u) Light may emit into Residences from Common Property exterior lighting. Light may also emit from structures located on adjacent properties.

(v) Natural wood has considerable variation due to its organic nature. There may be shades of white, red, black or even green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. It is these variations in wood that add to its aesthetic appeal. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some minor irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination. The foregoing conditions are normal conditions and shall not constitute a construction defect.

(w) Veins and colors of any marble, slate or other stone in a Lot, if any, may vary drastically from one piece of stone to another. Each piece is different. Marble, granite, slate and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble, granite, slate, and other stone finishes may be dangerously slippery and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, slate and other stone and it is the Owner's responsibility to properly maintain these materials in his, her, or its Residence. Marble, granite, slate, and other stone surfaces may scratch, chip or stain easily. Such substances may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

(x) All buildings contain products that have water, powders, solids and industrial chemicals, which will be used in construction. The water, powders, solids and industrial chemicals will and do contain mold, mildew, fungus, spores and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring and moisture will contribute to the growth of Mold. Declarant is not responsible for any illness or allergic reactions that a person may experience as a result of Mold. It is the responsibility of the Owner and/or Occupant to keep the Residence clean, dry, well ventilated and free of contamination.

(y) Due to the large quantity of paint used in the project, slight variations in paint shade or sheen may exist from Residence to Residence. Due to the properties within today's paints, paint may yellow somewhat with time. This is a normal occurrence and is therefore not covered as a warranty issue. Avoid washing or scrubbing painted walls. Lightly soiled areas may be cleaned using a sponge with water and lightly wiping over the soiled areas.



(z) Certain materials used for fixtures in the Residences (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are subject to discoloration and/or corrosion over time.

(aa) Carpets, hardwood floors, and other flooring surfaces are subject to fading and wear over time.

(bb) Hardwood flooring in a Residence can be damaged or scratched as a result of normal wear and tear including, but not limited to, moving furniture, wearing footwear in a Residence (particularly high-heeled shoes), and dropping items on the floor. In addition, spaces may appear between boards in hardwood floors due to expansion and contraction of the flooring material. Such damage and scratches are a normal attribute and expected consequence of having hardwood flooring, and such damage and scratches shall not constitute a construction defect.

(cc) Declarant makes no representations or warranties regarding the future development or use of other properties adjacent to or in the vicinity of the Community (collectively "Adjacent Properties"). Any floor plans, renderings, models, drawings, and the like, which purport to depict the Adjacent Properties, or any portion thereof, are merely projections, which are subject to change and do not reflect an actual commitment to develop the Adjacent Properties in any particular manner. No Owner and Occupant shall rely on any projected plans for the future development of the Adjacent Properties as an inducement to acquire or occupy a Lot. Adjacent Properties shall not necessarily be restricted exclusively to residential use, but shall be subject only to uses allowed by applicable zoning ordinances, which may include, without limitation, office, retail, and other commercial uses. No assurances are made that the improvements which may be built on all or any portion of the Adjacent Properties will be substantially identical to the improvements on the Community property in any way whatsoever, including but not limited to the quality of construction, the principal materials to be used in such construction and architectural style. The development of the Adjacent Properties may alter or block the views available from the Lot.

(dd) Insulation thickness may vary depending upon local conditions and construction factors, including, but not limited to, such items as wall openings and plumbing of other structures or obstructions within the walls that displace the insulation. Declarant makes no representation or warranty regarding the same and Declarant is not responsible for any errors or omissions made thereby.

(ee) The grading of the soil and other elements created by nature, as well as building materials developed by humans, many times create unwanted and undesired gases and other contaminants in homes and residential buildings, both new and used. Also, since energy conservation has become a concern, there is a need to build homes and residential buildings that are more airtight. As a result, these homes and residential buildings trap unwanted gases in different degrees depending on how each person lives within their home or such residential building. To date measurements of such unwanted gases (such as the radon gas described below and carbon dioxide) are reported as parts of the air they occupy. Since the quality of air a person breathes can affect his or her health, Declarant recommends frequent airing of a Residence to introduce fresh air uncontaminated with such gases.

The United States Environmental Protection Agency ("EPA") has indicated that a number of homes and residential buildings in the United States experience elevated levels of radon gas. Radon is a naturally occurring gas that is caused by radioactive decay of the element radium. Since radium is contained in the earth's crust and dissolves readily in water, radon can be found virtually everywhere and can enter the home or residential buildings through a variety of sources. Owners or Occupants seeking information about radon can contact the EPA or a state environmental office. Neither Declarant nor the Association has any expertise in the measurement or reduction of radon in homes or residential buildings or regarding acceptable levels or possible health hazards associated with radon. Neither Declarant nor the Association makes any warranty or representation of any kind, express or implied, regarding the



presence or absence of radon gas, or regarding the effectiveness of any architectural activities for reducing the presence of radon.

(ff) No representations are made that insects, pests, or vermin will not access the Residences.

(gg) Gas grills can be dangerous. Hoses can come loose or other parts of the apparatus come in contact with the flames and cause a fire. Full drip trays can also cause fires. Flames from a gas grill can come in contact with people nearby the grill or catch nearby improvements or dry grass on fire and cause additional damage. Blocked pipes, gas leaks and crimped hoses also can lead to fires. Gas leaks from propane tanks may cause sparks, flames and excessive heat may result in an explosion. Neither Declarant nor the Association shall be liable for any damage or injury arising from the use or existence of gas grills in the Community.

(hh) Cooking over an open flame of a gas grill is dangerous. Standard cooking utensils should not be used on the grill. Only long metal utensils designed for grilling should be used while grilling. Wait until the grill is completely cooled off, and ensure the gas is off before attempting to clean the grill.

(ii) Declarant or the Association may (but shall not be obligated to) establish a community garden. Any person consuming any item from such garden does so at his or her risk. Neither Declarant nor the Association shall have any duty or obligation to inspect any food grown in such garden to verify if such is appropriate for consumption.

(jj) Ice and/or snow may accumulate on sidewalks and paved areas during periods of cold weather temperatures. This may result in slippery and dangerous conditions unsuitable for pedestrian traffic. Each Owner and Occupant shall be deemed to assume the risk of injury and damages arising from such conditions.

(kk) Declarant makes no representations or warranties regarding the availability of guest parking.

(ll) Declarant makes no representations that the Community will be served by a security or limited access gate entry system.

(mm) Volatile organic compounds (VOCs) are organic chemicals that have a high vapor pressure at ordinary room temperature. There are many different types of VOCs. VOCs can be either man-made or naturally occurring. Certain VOCs may be dangerous to human health or have unappealing odors. VOCs can result from paint, construction materials as well as new furnishings and certain types of equipment. Good ventilation and air-conditioning systems may reduce VOCs in the indoor environment. Neither Declarant nor the Association has any expertise in the measurement or reduction of VOCs in homes or residential buildings or regarding acceptable levels or possible health hazards associated with VOCs. Neither Declarant nor the Association makes any warranty or representation of any kind, express or implied, regarding the presence or absence of VOCs, or regarding the effectiveness of any design or architectural activities for reducing the presence of VOCs.

(nn) The Community, or portions thereof, are subject to the following:

(i) Right of Way Easement from Brince H. Manning, Jr. to Georgia Power Company, recorded on March 5, 1979 and recorded in Deed Book 3996, Page 70, of the Official Records;

(ii) Matters shown on the certain plat recorded in Plat Book 12, Page 28 of the Official Records; and



(iii) Matters shown on the certain plat recorded in Plat Book 229, Pages 53-54 of the Official Records.

(oo) Declarant reserves the right to implement any legal marketing program as deemed necessary to market Lots within the Community. This includes, but is not limited to, the use of model units, signs, flags, banners, media advertising, modifications of model and production units, etc. Declarant also reserves the right to price Lots at, above, or below the current market value in an effort to sell Lots. There are other marketing strategies and incentive plans not noted herein that Declarant reserves the right to implement or discontinue.

(pp) Declarant makes no representations or warranties regarding the present or future availability of financing for the Lots. If any Owners has any concerns about obtaining financing now or in the future for a Lot, such Owner should conduct Owner's own investigations regarding the availability of financing.