

FRANK COKER 1/2 10.00 #1566
KNOX BRIDGE PARTNERS, INC.
3048 Lower Union Hill Rd.
CANTON, GA. 30115

BK PG

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BOOK 6818 PAGE 001

Return to: Jane C. Kotake, Esq.
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326

Cross-reference to Deed Book 6012
Deed to Secure Debt: Page 54

MORTGAGEE CONSENT

Regions Bank ("Mortgagee"), being the owner and holder of a Deed to Secure Debt and Security Agreement recorded in Deed Book 76, Page 182, Cherokee County, Georgia records (the "Security Instrument") hereby approves that certain Declaration of Protective Covenants for Brannon Estates At Sugar Pike (the "Declaration") which is to be recorded with this Mortgagee Consent.

IN WITNESS WHEREOF, the undersigned has executed this Mortgagee Consent, this 13th day of January, 2004.

MORTGAGEE: REGIONS BANK

By: [Signature]

Title: Banking Officer

Attest: [Signature]

Title: Senior Teller

[CORPORATE SEAL]

Signed, sealed, and delivered
this 13th day of January, 2004.

Witness

[Signature]
Notary Public

My Commission Expires: March 9, 2007

NOTARY SEAL

314640-1

Brannon Estates

fee 3-22-04

#1566

FRANK COKER

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98.00

KNOX BRIDGE PARTNERS, INC.

3048 Lower Union Hill Rd.

CANTON, GA 30115

FILED IN OFFICE
CLERK OF SUPERIOR COURT
DE KNOX COUNTY, GA

04 JAN 13 PM 1:13

BOOK 6818 PAGE 002

Anne M. Ransau

Return to: Seth G. Weissman, Esq.,
Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326

DECLARATION OF PROTECTIVE COVENANTS

FOR

BRANNON ESTATES AT SUGAR PIKE

WEISSMAN, NOWACK, CURRY & WILCO, P.C.

Attorneys

One Alliance Center, 4th Floor

3500 Lenox Road

Atlanta, Georgia 30326

(404) 926-4500

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THIS DECLARATION MAY BE USED ONLY IN CONNECTION WITH THE SALE OF
PROPERTY AT BRANNON ESTATES AT SUGAR PIKE AND THE OPERATION OF THE
BRANNON ESTATES AT SUGAR PIKE HOMEOWNERS ASSOCIATION, INC.

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6818 002

- TABLE OF CONTENTS -

	Page
I. DEFINITIONS	1
II. PROPERTY SUBJECT TO THIS DECLARATION, CONVEYANCE AND PARTITION OF COMMON PROPERTY	1
1. Property Hereby Subjected to This Declaration.....	1
2. Other Property	2
3. Conveyance of Common Property by Declarant to Association	2
4. Partition of Common Property.....	2
III. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.....	2
1. Membership.....	2
2. Voting	2
IV. ASSESSMENTS	2
1. Purpose of Assessment.....	2
2. Creation of the Lien and Personal Obligation for Assessments	2
3. Computation of Annual Assessment	3
4. Special Assessments.....	3
5. Specific Assessments	3
6. Date of Commencement of Assessments	4
7. Effect of Nonpayment of Assessments: Remedies of the Association.....	4
8. Lien for Assessments	5
9. Initiation Fee.....	5
10. Capital Reserve Budget and Contribution.....	5
V. MAINTENANCE.....	6
1. Association's Responsibility	6
2. Owner's Responsibility.....	7
3. Failure to Maintain.....	8
4. Maintenance Standards and Interpretation	9
VI. USE RESTRICTIONS AND RULES	9
1. General.....	9
2. Residential Use.....	9
3. Architectural Standards.....	9
4. Signs	11
5. Vehicles	11
6. Leasing.....	12
7. Occupants Bound	13

	PAGE
8. Animals and Pets	13
9. Nuisance	13
10. Unsightly or Unkempt Conditions	14
11. Antennas, Satellite Dishes	14
12. Tree Removal	14
13. Drainage	14
14. Sight Distance at Intersections	14
15. Rubbish, Trash and Garbage	15
16. Subdivision of Lot	15
17. Firearms	15
18. Fences	15
19. Utility Lines	15
20. Air Conditioning Units	15
21. Lighting	15
22. Artificial Vegetation, Exterior Sculpture, and Similar Items	15
23. Energy Conservation Equipment	16
24. Swimming Pools	16
25. Mailboxes	16
26. Exteriors	16
27. Clotheslines	16
28. Exterior Security Devices	16
29. Fuel or Water Tanks	16
30. Outbuildings and Similar Structures	16
31. Entry Features	16
32. Erosion Control; Contamination	16
33. Retaining Walls	18
34. Lakes	18
35. Wetlands	18
36. Additional Use Restrictions for a Lot in Excess of Two Acres	19
VII. INSURANCE AND CASUALTY LOSSES	19
1. Association Insurance	19
2. Individual Insurance	21
3. Damage and Destruction – Insured by Association	21
4. Damage and Destruction – Insured by Owners	22
5. Insurance Deductible	22
VIII. MORTGAGEE PROVISIONS	22
1. Notices of Action	22
2. No Priority	22
3. Notice to Association	23
4. Applicability of Article VIII	23
5. Failure of Mortgagee to Respond	23
6. Liability for Common Expenses	23
7. Financial Statement	23
8. Sales and Leases	23

	PAGE
IX. EASEMENTS	23
1. Easements for Use and Enjoyment	23
2. Easements for Utilities	24
3. Easement for Entry	24
4. Easement for Association Maintenance	25
5. Easement for Street Signs	25
6. Easement for Entry Features	25
7. Pedestrian Easements	25
8. Public in General	25
9. Construction and Sale Period Easement	26
10. General	26
11. Easement for Drainage	26
12. Approved Builder	26
X. ANNEXATION AND WITHDRAWAL OF PROPERTY	27
1. Unilateral Annexation by Declarant	27
2. Other Annexation	27
3. Withdrawal of Property	27
4. Additional Covenants and Easements	27
5. Acquisition of Additional Common Property	28
XI. DECLARANT'S RIGHTS	28
1. Transfer of Declarant's Rights	28
2. Construction and Sale Period	28
XII. GENERAL PROVISIONS	29
1. Enforcement	29
2. Self-Help	29
3. Duration	30
4. Amendment	30
5. Security	30
6. Gender and Grammar	31
7. Severability	31
8. Captions	31
9. Perpetuities	31
10. Indemnification	32
11. Books and Records	32
12. Financial Review	32
13. Notice of Sale or Lease	33
14. Implied Rights	33
15. Variances	33
16. Agreements	33

	PAGE
17. Dispute Resolution	33
18. Disclosures	33
19. Captions.....	34
20. Preparer.....	34

-TABLE OF EXHIBITS-

<u>Exhibit</u>	<u>Name</u>
"A"	Definitions
"B"	Legal Description of Property Subject to the Declaration
"C"	Legal Description of Additional Property That May be Subjected to the Declaration
"D"	Bylaws of Brannon Estates At Sugar Pike Homeowners Association, Inc.

6818 007

DECLARATION OF PROTECTIVE COVENANTS**FOR****BRANNON ESTATES AT SUGAR PIKE**

THIS DECLARATION is made on the date hereinafter set forth by Knox Bridge Partners, Inc., a Georgia corporation ("Declarant").

Background Statement

Declarant is the owner of the real property described in Article II, Section 1 of this Declaration and desires to subject such real property to the provisions of this Declaration to create a residential community of single-family housing, and to provide for the subjecting of other real property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the real property described in Article II, Section 1 of this Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and any and all easements, restrictions and/or requirements as set forth on the plat of the Community and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property made subject hereto, and shall be binding on all persons or entities having any right, title, or interest in all or any portion of the real property made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

Article I
Definitions

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A", attached hereto and by reference made a part hereof.

Article II**Property Subject To This Declaration, Conveyance and Partition Of Common Property**

Section 1. Property Hereby Subjected to This Declaration. The real property described in Exhibit "B" attached hereto and by reference made a part hereof is, by the recording of this Declaration, subject to the covenants and restrictions hereinafter set forth and any and all easements, restrictions and/or requirements as set forth on the plat of the Community 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.

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.

Section 2. Other Property. Only the real property described in Section 1 of this Article II is hereby made subject to this Declaration; provided, however, by one (1) or more Supplementary Declarations, Declarant and the Association have the right, but not the obligation, to subject other real property to this Declaration, as hereinafter provided.

Section 3. 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 that 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 Article II.

Section 4. Partition of Common Property. The Common Property shall remain undivided, and no Owner or any other Person, but excluding the 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 Mortgagees encumbering any portion of the Community.

Article III Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall automatically become a member of the Association upon taking title to a Lot and shall remain a member for the entire period of ownership. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast for each Lot owned.

Section 2. Voting. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

Article IV Assessments

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association (a) annual assessments or charges, (b) special assessments, such assessments to be established and collected as hereinafter provided, and (c) specific assessments against any

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

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

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

Section 3. Computation of Annual Assessment. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include, if necessary, a capital contribution or reserve in accordance with a capital budget separately prepared.

The common assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total revenue to the Association equal to the total budgeted operating costs of the Association. The Board shall cause the proposed budget and assessments to be levied against each Lot for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year (or at least thirty (30) days prior to the due date of the first installment in the case of the initial budget). The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments to cover unbudgeted expenses or expenses in excess of those budgeted if approved by a majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board 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

6818 010

the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article V of the Bylaws and the costs of maintenance performed by the Association for which the Owner is responsible for under Article V of this Declaration shall be specific assessments. The Board may also specifically assess Owners for the following Association expenses:

(a) expenses of the Association which benefit less than all of the Lots in the Community may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and

(b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Section 6. Date of Commencement of Assessments.

(a) Assessments shall commence as to each Lot as of the date on which the "Turnover Meeting" is conducted in accordance with Article III, Part A, Section 3 of the Bylaws. Notwithstanding anything to the contrary stated herein, with respect to those Lots owned by the Declarant or an Approved Builder after said Turnover Meeting is conducted, neither the Declarant nor an Approved Builder shall be responsible for the payment of any type of assessment; provided, however, assessments shall commence on such Lots containing occupied residences that are owned by Declarant or an Approved Builder on the first day of the month following the occupancy of the Lot. The first Assessment shall be adjusted according to the number of months then remaining in that fiscal year. Subsequent assessments shall be due and payable on the first business day of the Association's fiscal year, unless provided otherwise by the Board of Directors.

(b) Any residence constructed on a Lot that has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such residence constructed on a Lot is approved for use as a model home and is not occupied for residential purposes.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments thereof that are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine which shall not exceed fifteen percent (15%) of the assessment payment. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien, as herein provided, shall attach and, in addition, the lien shall include interest not to exceed the maximum rate permitted by law per annum on the principal amount due from the date first due and payable, all late charges, all costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease,

6818 011

mortgage, or convey the same. In addition to the other remedies provided herein, the Association shall have the right to suspend the voting rights of a Lot Owner for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid.

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.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Section 8. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association and the Association shall be entitled to file such a lien in the land records of Cherokee County, Georgia. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes and (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the land records of Cherokee County, Georgia and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument.

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

Section 9. Initiation Fee. An Owner of a Lot, other than the Declarant or an Approved Builder, shall pay to the Association an initiation fee in the amount of Eight Hundred Fifty and No/100 Dollars (\$850.00). The initiation fee shall not be deemed an advance payment of regular or special assessments. The Board shall have discretion to increase the initiation fee by resolution of the Board; provided, however, the initiation fee shall not be changed by the Board without Declarant's consent for so long as the Declarant owns any property in the Community, or property that is subject to annexation to the Community, primarily for development and/or sale. Notwithstanding anything to the contrary herein, no initiation fee shall be due from any Person who takes title through foreclosure (or deed in lieu of foreclosure) upon the lien of any first priority mortgage covering the Lot and the lien of any secondary purchase money mortgage covering the Lot. This initiation fee shall be an assessment, which is the personal obligation of the Owner, and shall constitute a lien, which may be collected as provided in this Article.

Section 10. Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget that 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 shall 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,

6818 012

shall be fixed by the Board and included within the budget and assessment as provided in Section 4 of this Article. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

Article V
Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include the following:

- (a) Maintenance, repair, and replacement, subject to any insurance then in effect:
 - (i) all entry features for the Community including any irrigation system and the expenses for water and electricity, if any, provided to all such entry features;
 - (ii) streetscapes located at other street intersections within the Community;
 - (iii) All cul-de-sac islands located in the Community;
 - (iv) Landscaping originally installed by the Declarant whether or not such landscaping is on a Lot or public right-of-way;
 - (v) All drainage and detention areas which were originally maintained by the Declarant, to the extent such areas are not maintained on an ongoing basis by a local governmental entity;
 - (vi) All street signs within the Community to the extent any such signs are not maintained on an ongoing basis by a local governmental entity;
 - (vii) Any lake(s), dam(s) or shorelines which may exist within the Community;
 - (viii) Any pedestrian easement areas around the perimeter of any lake(s) within the Community; and
 - (ix) All property outside of Lots located within the Community which was originally maintained by Declarant.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community, where the Board has determined that such maintenance would benefit all Owners.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

Upon resolution of the Board of Directors and approval of a majority of the members present or represented by proxy at a duly constituted meeting of the members, 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 benefit all Owners.

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 which may leak or flow from any portion of the Area of Common Responsibility or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. 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 which 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 V, Section 1 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 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.

The Association shall repair incidental damage to any Lot resulting from performance of work that is the responsibility of the Association. Repairs to improvements on a Lot shall be completed only to the extent of being "paint-ready." Such repair and subsequent cleaning shall be performed based on a reasonableness standard and at the sole discretion of the Board of Directors. In performing its responsibilities hereunder, the Association shall have the authority to delegate such Persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not completely covered or paid for by insurance, then the Association may perform the maintenance, repair or replacement at the expense of the Owner, and all costs shall be specifically assessed against the Owner and shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

In performing its responsibility hereunder, the Association 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.

Section 2. Owner's Responsibility. Except as provided in Article V, Section 1 above, all maintenance of the Lot and all structures, parking areas, driveways, landscaping and other improvements situated thereon shall be the sole responsibility of the Owner thereof. In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Lot located within the Lot's boundaries or, if located outside the Lot's boundaries, the portion of the pipe from the cutoff valve serving the Lot (including all gas, electricity, water, sewer and air conditioning pipes, lines, ducts, conduits and other apparatus and the cut off valves for same serving only the Lot). Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Any maintenance that involves an exterior change, including, without limitation, landscaping and planting or

6818 014

repainting of the exterior of improvements in a different color, shall require prior approval of the Board or its designee pursuant to Article VI, Section 3 of this Declaration.

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

Each Owner also shall be obligated:

(a) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Lots.

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

(c) 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 or her family, tenants or guests, with the cost thereof to be added to and become part of the Owner's next chargeable assessment.

(d) To aid and assist the Association and its agents and employees as requested by the Association or its agents and employees, including, without limitation, removing, covering, shielding, or otherwise protecting any and all personal property in the areas to be maintained or repaired by the Association and its agents and employees in order for the Association and its agents and employees to conduct its maintenance and repair obligations on the Lots. The Association and its agents and employees shall not be liable for any injury, damage or loss to such personal property that is not removed, covered, shielded or otherwise protected by the Owner or Occupant of the Lot on which such personal property is located as requested by the Association or its agents and employees.

Section 3. Failure to Maintain. If the Board of Directors determines that: (a) any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair or replacement of items of which he or she is responsible hereunder; or (b) that the need for maintenance, repair, or replacement which is in the Area of Common Responsibility is caused through the willful or negligent act of any Owner, his or her family, guests, lessees, or invitees, and is not covered or paid by insurance, in whole or in part, then, except in an emergency situation, the Association shall give the Owner written notice of the Association's intent 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. In the case of (a) above where the Owner has not discharged his or her responsibility, unless the Board of Directors determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair and diligently pursue completion thereof within ten (10) days. If the Board determines that an emergency exists or that an Owner has not complied with the demand given by the Association as herein provided, or that the need for maintenance or repair is in the Area of Common Responsibility as in the case of (b) above, then the Association may provide any such maintenance, repair or replacement at the Owner's sole cost and expense,

6818 015

and such costs shall be added to and become a part of the 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.

Section 4. Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary as the composition of the Board of Directors changes. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article V. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

Article VI

Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions that must be complied with by all Owners and Occupants of Lots. These use restrictions may only be amended in the manner provided in Article XII, Section 4 hereof regarding amendment of this Declaration. In addition, the Board may, from time to time, without consent of the members, promulgate, modify, or delete other use restrictions and rules and regulations applicable to the Community. Such use restrictions and rules shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled, or modified in a regular or special meeting by a majority of the Total Association Vote.

Section 2. Residential Use. 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, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in the residence on a Lot may conduct such ancillary business activities within the residence so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the residence; (b) the business activity does not involve persons coming onto the Community who do not reside in the Community or door-to-door solicitation of residents of the Community (other than deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services); (c) the business activity conforms to all zoning requirements for the Community; (d) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (e) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board of Directors.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section.

Section 3. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant, or as is approved in accordance with this Section, or as is otherwise expressly

6818 016

permitted herein. No exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee ("ARC"). The Board of Directors may sit as the ARC or may, in its sole discretion, appoint an ARC. The ARC may be established such that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. The Board may employ architects, engineers, or other Persons as it deems necessary to enable the ARC to perform its review. The ARC may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the committee for all matters delegated. Written design guidelines and procedures may be promulgated for the exercise of this review, which guidelines may provide for a review fee. So long as the Declarant owns any property for development and/or sale in the Community, the Declarant shall have the right to appoint all members of the ARC. Upon the expiration or earlier surrender in writing of such right, the Board shall appoint the members of the ARC.

If the ARC fails to approve or to disapprove submitted plans and specifications within forty-five (45) days after the plans and specifications have been submitted to it, the foregoing will be deemed approved. However, all activities commenced pursuant to plans which have been deemed approved shall be consistent with such plans and nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, Bylaws, or rules and regulations of the Association.

As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on any change, modification, addition, or alteration. In the discretion of the ARC, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The ARC shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. In addition to any other remedies available to the Association, in the event of noncompliance with this Section, the Board may, as provided in Article XII, Section 1 hereof, record in the appropriate land records a notice of violation naming the violating Owner.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ARC, THE BOARD OF DIRECTORS, THE MEMBERS THEREOF, NOR THE ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. NEITHER DECLARANT, THE ASSOCIATION, THE ARC, THE BOARD, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM SHALL BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS OR SPECIFICATIONS AND EVERY OWNER AGREES THAT SUCH

PERSON OR OWNER WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, THE ASSOCIATION, THE ARCHITECTURAL REVIEW COMMITTEE, THE BOARD, OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM TO RECOVER ANY DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY JUDGMENT, NEGLIGENCE, OR NONFEASANCE AND HEREBY WAIVES THE PROVISIONS OF ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

Section 4. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the ARC except (a) when offering a Lot or residence for sale or for lease, not more than one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard and having a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, (b) professional security signs consistent with the Community-Wide Standard, (c) any signs required by legal proceedings, and (d) signs erected by Declarant. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs. This Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first mortgage. No advertising, directional or vendor signs shall be permitted within the Community except as authorized by the Declarant under Article XI of this Declaration.

Section 5. Vehicles and Parking. The Board may adopt reasonable rules limiting the number and location of vehicles that may be parked at the Community. Notwithstanding the foregoing, an Owner or Occupant of a Lot shall be permitted to park the maximum number of cars or similarly sized motor vehicles that can be parked in a garage according to its design capacity. Parking may also be permitted on other areas authorized in writing by the Board.

Disabled and stored vehicles are prohibited from being parked on the Community, except in garages. For purposes of this Article VI, Section 5, 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 for fourteen (14) consecutive days or longer without being driven and without prior written Board permission.

Boats, trailers, buses, panel trucks, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini-vans or utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriff's, Marshall's or police officer's vehicles marked as such, are also prohibited from being parked on a Lot or on the Community, except in garages. Notwithstanding the foregoing, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on 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 Lot or the Common Property overnight 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 VI, Section 5 or in violation of the Association's rules and regulations, the Board 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 a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Community stating the name and telephone number of the person or entity that will do the towing or booting. 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 vehicle may be towed or booted in accordance with the notice, without further notice to the vehicle owner or user.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or 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 vehicle may be towed immediately. If a vehicle is towed or booted in accordance with this Article VI, Section 5, 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. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. 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.

This Section 5 shall be subject to those exceptions for a Lot in Excess of Two (2) Acres as more specifically set forth in Section 36 of this Article.

Section 6. Leasing. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section. Lots may be leased for residential purposes only. Except for Lots owned by the Declarant, all leases shall have a minimum term of six (6) months and a copy of all leases shall be given to the Board of Directors by the Owner of the Lot within thirty (30) days of entering into the lease. All leases shall require that the lessee acknowledge receipt of a copy of the Declaration, Bylaws and rules and regulations of the Association and shall also obligate the lessee to comply with these documents.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the lessee, 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 lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specifically assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

When a Lot Owner (other than the Declarant or an Approved Builder) who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not 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 Owner. 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 Article IV herein as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

This Section 6 shall not apply to any leasing transaction entered into by the holder of any first 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.

Section 7. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 8. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, except that dogs, cats, horses or other usual and common household pets in reasonable number, as determined by the Board, may be kept on a Lot; provided, however, those pets that are permitted to roam free, or, in the sole discretion of the Board endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or Occupants of other Lots or the owner of any property located adjacent to the Community may be removed by the Board. No dog houses, dog runs or other enclosures shall be permitted on a Lot unless first approved by the Board, except that the Board of Directors may in its sole discretion allow an Owner to install an invisible "Radio Fence" or other similar type of fence designed to restrain a pet. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash unless restrained by an invisible fence referenced to above. Feces left upon any portion of the Community outside of such fenced areas by a pet must be removed by the owner of such pet or the person responsible for such pet. Failure to remove such feces shall subject the Owner of the Lot responsible for such pet to fines levied pursuant to Article XII, Section 1 of this Declaration. Without prejudice to the Board's right to remove any such household pets, the Board may prohibit a household pet that has caused damage or injury from being walked in the Community. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law. This Section 8 shall be subject to those exceptions for a Lot in Excess of Two (2) Acres as more specifically set forth in Section 36 of this Article.

Section 9. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

6818 020

Section 10. Unightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, 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 in any part of the Community.

Section 11. 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; provided, however, the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners and Occupants:

(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 meter in diameter shall be placed, allowed or maintained upon the Community, including the Lots.

(c) DBS and MMDS satellite dishes or antennas one 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.

In the event of a transfer of a Lot that 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 12. Tree Removal. No trees that are more than six (6) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the ARC except for (a) trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, a sidewalk, a residence, or a driveway, (b) diseased or dead trees, and (c) trees removed by Declarant. This Section 12 shall be subject to those exceptions for a Lot in Excess of Two (2) Acres as more specifically set forth in Section 36 of this Article.

Section 13. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. If drainage grating and/or headwall are located on a Lot, the Owner of such Lot shall be responsible for ensuring that such drainage grating and/or headwall is clear of obstruction and debris to allow for proper drainage flow. Furthermore, no Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for the benefit of Declarant and the Association and their respective successors and assigns a perpetual easement across the Community property for the purpose of altering drainage and water flow. 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.

Section 14. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall

be placed or permitted to remain where it would create a traffic or sight problem.

Section 15. Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Declarant, however, hereby expressly reserves on behalf of itself and Approved Builders the right to dump and bury rocks on property within the Community as needed for efficient construction. Declarant and Approved Builders may not burn trash, garbage, debris, or other waste matter of any kind within the Community except during construction.

Notwithstanding anything to the contrary stated herein, the Board shall be authorized to designate one (1) company to provide exclusive trash removal services to the entire Community on a certain designated day(s); provided, however, the costs of such trash removal services shall not be a Common Expense, and shall be an individual expense of each Owner.

Section 16. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the ARC. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 17. Firearms. The display or discharge of firearms in the Community prohibited. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size.

Section 18. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any Lot without prior written approval in accordance with the provisions of Article VI, Section 3 hereof. Guidelines detailing acceptable fence styles or specifications may be issued pursuant to Article VI, Section 3, but in no event shall a chain link or barbed wire fence be approved; provided, however, the Declarant and the Association may erect any type of fence on the Common Property or elsewhere within the Community as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for the health and safety of the Owners and Occupants.

Section 19. Utility Lines. Except as may be permitted by the ARC, no overhead utility or cable television lines other than utility lines needed to supply power to homes, shall be permitted within the Community, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

Section 20. Air-Conditioning Units. Except as may be permitted by the ARC, no window air conditioning units may be installed.

Section 21. Lighting. Except as may be permitted by the ARC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one (1) decorative post light, (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; or (e) front house illumination of model homes, if any.

Section 22. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. Exterior sculpture, fountains, flags, and similar items must be approved by the ARC; provided, however, the display of flags for generally recognized holidays on which flags are customarily displayed shall be permitted for a period from one (1) week prior to the date of such holiday until one (1) week after the date of such holiday. No awnings, shades or window boxes shall be attached to or otherwise places on the exterior of any structure on a Lot without the prior

written consent of the ARC.

Section 23. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARC.

Section 24. Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without the prior written consent of the ARC and in no event shall any above-ground swimming pool be permitted.

Section 25. Mailboxes. The Approved Builders shall provide a mailbox for each Lot. In the event such mailbox is destroyed or damaged, it shall be replaced or restored to its original appearance, unless prior approval is given by the ARC for a different mailbox.

Section 26. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the dwelling or any fence located on a Lot, must be approved by the ARC.

Section 27. Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

Section 28. Exterior Security Devices. No exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Lot. Signs placed on the Lot or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior security device.

Section 29. Fuel or Water Tanks. No fuel tanks or water tanks shall be stored or maintained upon any Lot in such a manner as to be visible from any street or road or from any other Lot, unless used by Declarant, temporarily, in the ordinary course of developing the Community.

Section 30. Outbuildings and Similar Structures. No structure of a temporary nature, unless approved in writing by the ARC, shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, carport, barn or other structure may be used as a residence, either temporarily or permanently. However, this Section shall not be construed to prevent Declarant and those engaged in development, construction, marketing, property management or sales from using sheds, trailers or other temporary structures for any of the foregoing purposes. In addition, nothing in this Declaration shall be construed to prevent Declarant from developing, constructing, marketing, or maintaining model homes or speculative housing within the Community.

Section 31. Entry Features. Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any Lot, or any part of any easement area associated therewith without the prior written consent of the ARC.

Section 32. Erosion Control; Contamination. No activity which may create erosion or siltation problems in the Community shall be undertaken on any Lot without the prior written approval of the Board of Directors or its designee of plans and specifications for the prevention and control of such erosion or siltation. Such plans and specifications shall be designed by a professional engineer licensed in the State of Georgia and all costs and expenses related thereto shall be borne exclusively by the Lot Owner. The Board of Directors or its designee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way

6818 023

of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, clean-up activities and requiring landscaping as provided for herein. No activity which results in contamination of or any damage to any stream, water course or any other Lot shall be conducted on any Lot, and each Owner shall be liable for all resulting damages from such activity and for restoration of a property damaged from contamination resulting from or attributable to such activity.

In addition, prior to commencing any improvements on a Lot, the Owner of such Lot and any builders, subcontractors, or other agents of such Owner, shall fulfill their obligations to comply with the requirements of the State of Georgia Department of Natural Resources, Environmental Protection Division ("EPD") and the Permit, as defined in Exhibit "A" attached hereto and by reference made a part hereof, including, but not limited to the following obligations:

- (a) Submitting a Notice of Intent to the EPD in the manner required by the Permit and applicable law;
- (b) Implementing and complying with those portions of the Erosion, Sedimentation and Control Plan applicable to activities on each Owner's respective lot;
- (c) Executing the Erosion, Sedimentation and Control Plan or portion thereof in accordance with Part VI.G of the Permit; and
- (d) Complying with all inspection, notification, reporting, and record retention obligations relating to the Comprehensive Monitoring Plan as set forth in the Permit and applicable law.

If the Declarant or any governmental regulatory entity determines that an Owner has failed or refused to properly discharge its obligations under this Section, Declarant may give such Owner written notice of Declarant's intent to take such action as Declarant deems necessary, in its sole discretion, to maintain the condition of the Lot in compliance with the Permit. Owner shall authorize Declarant to enter upon the Lot to undertake any necessary corrective actions. Notwithstanding the foregoing, Declarant shall only make such entry after providing the violating Lot Owner with written notice of its intent to enter such Lot. The notice shall set forth with reasonable particularity the actions that Declarant intends to perform. Except in an emergency, Declarant shall have a reasonable period after receipt of such notice to promptly remedy the situation to the satisfaction of Declarant.

Furthermore, if Owner refuses or fails to do so within the time period identified in the notice, Declarant may then enter upon Lot to perform the actions specified in the written notice, on behalf of the Association with all such costs being deemed a Common Expense occasioned by the conduct of the violating Lot Owner. The Association then shall assess all such expenses including attorney's fees actually incurred, against the violating Lot Owner pursuant to Article XII, Section 1 of this Declaration. Additionally, the Association may assess fines against the violating Lot Owner hereunder not to exceed Five Hundred and No/100 Dollars (\$500.00) per incident. All costs incurred by the Association hereunder, including reasonable attorney's fees actually incurred, and any fines assessed hereunder, shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot. Each Owner of a Lot and any builders, subcontractors, or other agents of such Owner, shall indemnify and hold Declarant harmless against any and all expenses, including attorney's fees and legal expenses, in connection with any claim, cost, damage, fine, suit, other proceedings (including any settlement), or expense reasonably incurred or imposed upon Declarant as a result of any breach of any obligation under this Section or any other violation of the Permit by such Owner or any builders, subcontractors or agents of such Owner.

6818 024

Notwithstanding any other provisions of this Declaration, during the time in which the Declarant has the authority to appoint the directors and officers of the Association pursuant to Article III, Part A, Section 2 of the Bylaws, Declarant may delegate all of its rights, powers and responsibilities set forth in this Section to the Association.

Section 33. Retaining Walls. No retaining wall of any kind shall be placed, erected, allowed or maintained upon any portion of the Community, including any Lot, unless the type and location thereof shall have received the prior written consent of the ARC. Any retaining wall visible from the street shall be made of brick or stone, and shall be consistent with the architectural style of the structures and improvements located upon such Lot. Walls made of plain concrete or concrete block shall be prohibited.

Section 34. Lakes. This Section of the Declaration and rules, use restrictions, and design guidelines issued by the Board and the ARC shall govern the use of any lakes within the Community. Owners are prohibited from withdrawing water from the lakes which exist within the Community for irrigation of the lawns and gardens on a Lot; provided, however, Declarant and the Association may withdraw water from such lakes for irrigation of the Common Property or other areas which are the maintenance responsibility of the Association. Swimming is specifically prohibited in any lake located within the Community. Fishing shall be permitted by Owners only so long as a license is obtained from the appropriate governmental authority, if necessary. The use of boats or any other type of water vehicle is specifically prohibited on any lakes within the Community unless specifically authorized in writing by the Board. No docks shall be permitted on any lake within the Community except any such docks constructed by Declarant on the Common Property. Retaining walls and similar structures shall not be installed without the prior written approval of the ARC.

Declarant, the Owners, the Association, the Board, and the officers, directors, members, employees, and agents of any of them, shall not be held liable in any manner whatsoever for, and hereby disclaims any and all such liability and responsibility for, any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes within the Community. Each Owner of a Lot, by acceptance of a deed therefore, on behalf of such Owner and such Owner's family members, guests, and invitees, hereby agrees not to bring any action or suit against Declarant, other Owners (and such Owners' family members, guests, and invitees), the Association, the Board, or the officers, directors, members, employees, and agents of any of them, and hereby releases, remises, quitclaims, and covenants not to sue any or all of the foregoing, for any claims, demands, and causes of action arising out of or in connection with the authorized or unauthorized use of lakes within the Community and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

Notwithstanding anything contained in this Declaration to the contrary, the Board or the ARC, in enforcing the use restrictions contained in this Article VI of the Declaration or in promulgating, adopting or enforcing rules and regulations, may apply a stricter standard to any Lot which adjoins, abuts or contains any portion of a lake, if, in the discretion of the Board or the ARC, such is necessary to uphold the appearance of the Community, and especially any lake(s) within the Community.

Section 35. Wetlands. There are wetlands located within the Community as shown on the Survey. Under Section 404 of the Clean Water Act, 33 U.S.C., Sections 1251 *et seq.* (1977), the discharge of dredged or fill material into such wetlands is specifically prohibited unless a permit is first obtained from the U.S. Army Corps of Engineers. Any unauthorized work or activity that directly or indirectly impacts said wetlands may subject the responsible party to severe civil and/or criminal fines and/or prosecution.

Section 36. Additional Use Restrictions for a Lot in Excess of Two (2) Acres. Notwithstanding anything to the contrary stated herein, a Lot in Excess of Two (2) Acres shall be subject to the following use restrictions: (a) boats, recreational vehicles, and trailers (excluding horse trailers) may be permitted on a Lot in Excess of Two (2) Acres, provided that such vehicles are located in the rear of such Lot, and such vehicles are covered or shielded from the view of a neighboring Lot; (b) four-wheel and similar recreational vehicles shall not be ridden on any portion of the Common Property; (c) sod grass is not required on the front lawn of a Lot in Excess of Two (2) Acres; (d) horses and structures related to the shelter and care of such horses shall be permitted on a Lot in Excess of Two (2) Acres, provided that such structures shall be built in accordance with Section 3 of this Article; and (e) trees on a Lot in Excess of Two (2) Acres may be removed to create pasture areas, provided that the removal of such trees is performed in accordance with Community-Wide Standard and does not constitute the removal of more than fifty percent (50%) of all trees and other vegetation on a Lot in Excess of Two (2) Acres, unless approved by the Board of Directors.

Article VII Insurance and Casualty Losses

Section 1. Association Insurance. The Board of Directors or the duly authorized agent of the Association shall have the authority to and shall obtain or cause to be obtained insurance for all insurable improvements, which the Association is obligated to maintain whether or not such improvements are located on Common Property. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million and No/100 Dollars (\$1,000,000.00).

The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through the Declarant and to reimburse Declarant for the cost thereof, and Declarant shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant and the Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant in obtaining such coverage. Notwithstanding anything contained in this Declaration to the contrary, the Board shall not be required to comply with the provisions of this Article if the Board has contracted for or otherwise arranged to obtain the required insurance coverage through the Declarant.

Premiums for all insurance shall be Common Expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefited parties, as further identified in subparagraph (b) below. The provisions hereinafter set forth shall govern such insurance:

6818 026

- (a) All policies shall be written with a company authorized to do business in Georgia.
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.
- (d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.
- (e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
- (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;
 - (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - (iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;
 - (iv) that no policy may be cancelled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;
 - (v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
 - (vi) that no policy may be cancelled, subject to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be determined in the directors' best business judgment, and, if available, shall at least equal three months assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled, subject to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage

Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs ("VA"), or the U.S. Department of Housing and Urban Development ("HUD").

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a prepaid receipt within ten (10) days after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Lot as a specific assessment.

Section 3. Damage and Destruction – Insured by Association.

(a) In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least eighty percent (80%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

6818 028

In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 4. Damage and Destruction — Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XII, Section 1 of this Declaration.

Section 5. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

Article VIII Mortgagee Provisions

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

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

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

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

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

(d) any proposed action that would require the consent of a specified percentage of Mortgage holders.

Section 2. 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 any Common Property.

Section 3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. Applicability of Article VIII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Section 6. Liability for Common Expenses. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 7. 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, free of charge to the Mortgagee so requesting.

Section 8. Sales and Leases. Notwithstanding anything to the contrary herein contained, the provisions of this Declaration shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

Article IX **Easements**

Section 1. Easements for Use and Enjoyment.

(a) Except as otherwise provided herein, every Owner of a Lot shall have a right and easement of entry and exit, use and enjoyment in and to the Area of Common Responsibility, which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

(i) The right of the Association to suspend the voting rights of an Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against his or her Lot that is hereby provided for remains unpaid; and, for a reasonable period of time for a violation of the Declaration, Bylaws, or rules and regulations;

6818 030

(ii) The right of the Association to borrow money for the purpose of improving the Area of Common Responsibility, or for constructing, repairing, or improving any facilities located or to be located on the Area of Common Responsibility, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Area of Common Responsibility. However, the Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges reserved or established for the benefit of Declarant, any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community (Any provision in this Declaration or in any Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights in the Mortgage by the holder of the Mortgage in the event of a default shall not cancel or terminate any rights, easements or privileges reserved or established in this Declaration for the benefit of Declarant, any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community.);

(iii) The right of the Association to dedicate or transfer all or any portion of the Area of Common Responsibility subject to any conditions agreed on by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community) and the Owners representing at least two-thirds (2/3) of the Total Association Vote (other than Declarant so long as the consent of Declarant is required);

(iv) The right of the Association, acting through its Board of Directors, and without a vote of the Members, to dedicate or grant licenses, permits, easements and rights-of-way over, under and through the Area of Common Responsibility;

(vi) All other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration or in any deed conveying Area of Common Responsibility to the Association; and

(vii) All encumbrances and other matters shown by the public records affecting title to the Area of Common Responsibility.

(b) Any Owner may delegate his or her right of use and enjoyment in and to the Area of Common Responsibility and facilities located thereon to the members of his or her family and his or her tenants and guests. An Owner shall be deemed to have made a delegation of all these rights to the Occupants of such Owner's Lot, if leased.

Section 2. Easements for Utilities. There is reserved to the Declarant and the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (a) all utilities serving the Community, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (b) water runoff and storm drainage systems, and (c) any other services such as, but not limited to, a master television antenna system, or cable television system which may be installed to serve the Community (hereinafter collectively referred to as the "Utilities"). It shall be expressly permissible for the Declarant, the Association, or the designee of either, to do or to authorize the installation, repair, replacement and/or maintenance of the wires, conduits, cables and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or Board, as applicable, shall have the right to grant such easement.

Section 3. Easement for Entry. In addition to the right of the Board to exercise self-help as

provided in Article XII, Section 2, the Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. This right may also be exercised by the agents of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. The Board shall have the right, but not the obligation, to enter to cure any condition, which may increase the possibility of slope erosion, or other hazard if an Owner or Occupant does not cure the condition after request by the Board.

Section 4. 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 required under Article V, including, without limitation: (a) an easement over Lots on which landscape easements, sign easements or utilities easements are located as shown on the Survey for maintenance of the easement areas; and (b) an easement over Lots to allow for maintenance of any lake(s), dam(s) and shoreline(s) located within the Community. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect the property, and damage shall be repaired by the Person causing the damage at its sole expense. In order to allow the exercise of rights created pursuant to this easement concerning the maintenance of lake(s), no tree or structure may be placed within fifteen (15) feet of the line formed by the highest normal pool elevation of any lake without the prior written approval of the Board or its designee.

Section 5. Easement for Street Signs. There is hereby reserved to the 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 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 street signs.

Section 6. Easement for Entry Features. There is hereby reserved to the Declarant and the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon each Lot which is bounded by the right-of-way providing primary access to the Community and every other Lot located at the corner of a street intersection. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

Section 7. Pedestrian Easements. Declarant hereby expressly reserves perpetual pedestrian easements for access to the Common Property for the benefit of the Association and Owners if and to the extent any such easement is shown on any plat for the Community recorded by Declarant in the land records of the county where the Community is located. Except as may be authorized by the Board in its sole discretion, no motorized vehicles of any type whatsoever shall be permitted on any such easement area.

Section 8. Public in General. The easements and rights created in this Article IX do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Cherokee, Georgia 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

that, 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.

Section 9. Construction and Sale Period Easement. 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, so long as Declarant owns any property in the Community for development and/or sale, Declarant reserves an easement across all property in the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibit "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 and promotional activities in the Community; (f) the right to erect and maintain signs; (g) the right to construct and operate business offices, construction trailers, model residences, and sales offices; and (h) the right to use the parking facilities within the Community. Declarant may use residences, offices, or other buildings owned or leased by Declarant as model residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as hereinabove provided.

Section 10. General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded Survey(s) for the Community, as amended from time to time as well as the easements now or hereafter established by Declarant in this Declaration or by any other documents filed for record in the Office of the Clerk of Superior Court of Cherokee County, Georgia.

Section 11. Easement for Drainage. There is hereby reserved to the Declarant and granted to the Association a blanket easement across the Community for creating and maintaining satisfactory storm water drainage in the Community; provided, however, such easement area shall not include any portion of the Community within the boundaries of any improvements within the Community owned by a party other than the Association. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. It is anticipated that increased storm water run off across downstream property will result from the construction of impervious surface within or adjacent to the Community. Neither the Declarant, any Approved Builder, the Association or any Owner constructing according to plans and specifications approved under Article VI, Section 3 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within the Community.

Section 12. Approved Builder. Approved Builder shall have the same easement rights as

Declarant necessary for the construction and sales activities of Lots, including, without limitation, those easement rights granted to Declarant in this Article IX.

Article X
Annexation and Withdrawal of Property

Section 1. Unilateral Annexation By Declarant.

(a) As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time at any time until seven (7) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "C", attached hereto and by reference made a part hereof to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the county in which the property to be annexed is located a Supplementary Declaration describing the property being subjected. Any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless otherwise provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property.

(b) The rights reserved unto Declarant to subject additional land to the Declaration shall not impose any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 2. Other Annexation. Subject to the consent of the owner(s) thereof and the consent of the Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community), upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots (other than Lots owned by Declarant so long as the consent of Declarant is required), the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President of the Association whose signature shall be attested by the Secretary of the Association, and any such annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

Section 3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article for the purpose of removing any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

Section 4. 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 5. 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 XI

Declarant's Rights

Section 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 public records of Cherokee County. Nothing in this Declaration shall be construed to require the Declarant or any successor to develop any of the property set forth in Exhibit "C" in any manner whatsoever.

Section 2. Construction and Sale Period. Notwithstanding any provisions contained in the Community Documents, Articles of Incorporation of the Association, use restrictions, rules and regulations, design guidelines, and any amendments thereto, for so long as the Declarant owns any property in the Community, or property that is subject to annexation to the Community, primarily for development and/or sale, Declarant reserves an easement across all property in the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibits "B" and "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 and promotional activities in the Community;

(f) the right to erect and maintain signs (including, but not limited to, "For Sale" signs, directional signs, marketing and other promotional signs); and

(g) the right to construct and operate business offices, construction trailers, model residence on a Lot, and sales offices. Declarant may use Lots, offices, or other buildings owned or leased by Declarant as model residences and sales offices.

Notwithstanding anything to the contrary stated herein, for so long as the Declarant owns any property in the Community, or property that is subject to annexation to the Community, primarily for development and/or sale, Declarant shall have the right to keep open the gates leading into the Community during the sales office's hours of operation.

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.

Article XII

General Provisions

Section 1. **Enforcement.** Each Owner and Occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed to such Owner's Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or, in a proper case, by an aggrieved Owner. In any such action for damages or injunctive relief by the Association, the Association shall be entitled to recover reasonable attorney's fees actually incurred and court costs incurred by the Association in bringing such action. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions, or design guidelines and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing. In addition to the other remedies provided herein, the Association shall have the right to suspend the voting rights of a Lot Owner for a reasonable period of time for an infraction of the Declaration. Bylaws or rules and regulations promulgated pursuant to this Declaration.

Section 2. **Self-Help.** In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the Community to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

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Section 3. 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 (51%) percent 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 Paragraph.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith, (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration, (c) if such 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 such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration, or (d) if such 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; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant owns any property for development and/or sale in the Community, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the Community). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. Notwithstanding the foregoing, no provision of this Declaration which benefits, reserves or grants special rights to the Declarant shall be amended, modified, altered or deleted without the Declarant's prior written approval so long as the Declarant owns any property for development and/or sale in the Community.

Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in the Office of the Clerk of the Superior Court of Cherokee County, Georgia within one (1) year of the date of recordation of such amendment in the Cherokee County, Georgia land records.

Section 5. SECURITY. THE ASSOCIATION MAY, BUT SHALL NOT BE OBLIGATED TO, MAINTAIN OR SUPPORT CERTAIN ACTIVITIES WITHIN THE COMMUNITY DESIGNED TO MAKE THE COMMUNITY SAFER THAN THEY OTHERWISE MIGHT BE. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR

DECLARANT SHALL IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMUNITY. NEITHER THE ASSOCIATION, THE DECLARANT, NOR ANY SUCCESSOR DECLARANT SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE FOR FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. ALL OWNERS AND OCCUPANTS OF ANY LOT, AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE THAT THE ASSOCIATION, AND ITS BOARD OF DIRECTORS, DECLARANT, ANY SUCCESSOR DECLARANT, AND ACC DO NOT REPRESENT OR WARRANT THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM, OR OTHER SECURITY SYSTEM DESIGNATED BY OR INSTALLED ACCORDING TO GUIDELINES ESTABLISHED BY THE DECLARANT OR THE ARC, IF ANY, MAY NOT BE COMPROMISED OR CIRCUMVENTED; NOR THAT ANY FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS, IF ANY, WILL PREVENT LOSS BY FIRE, SMOKE, BURGLARY, THEFT, HOLD-UP, ASSAULT OR OTHERWISE; NOR THAT FIRE PROTECTION OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS, IF ANY, WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. ALL OWNERS AND OCCUPANTS OF ANY LOT, AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER, ACKNOWLEDGE AND UNDERSTAND THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT ARE NOT INSURERS. ALL OWNERS AND OCCUPANTS OF ANY LOT AND ALL TENANTS, GUESTS, AND INVITEES OF ANY OWNER ASSUME ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO LOTS, AND TO THE CONTENTS OF LOTS AND FURTHER ACKNOWLEDGES THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS, COMMITTEES, DECLARANT, OR ANY SUCCESSOR DECLARANT HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, OR ANY TENANT, GUEST, OR INVITEE OF ANY OWNER RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE AND/OR BURGLAR ALARM SYSTEMS OR OTHER SECURITY SYSTEMS, IF ANY, RECOMMENDED OR INSTALLED OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE PROPERTIES.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 9. 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 10. Indemnification. To the fullest extent allowed by applicable Georgia law, the Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Section 11. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by the duly appointed representative of any member and by holders, insurers, or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to such Person's interest as a member or holder, insurer, or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

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

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

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

Section 12. Financial Review. A review of the books and records of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, by a majority of the Total Association Vote, the Owners may require that the accounts of the Association be audited as a Common Expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within

ninety (90) days of the date of the request.

Section 13. Notice of Sale or Lease. In the event an Owner leases or sells such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sale, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably request.

Section 14. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, 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 therein or reasonably necessary to effectuate any such right or privilege.

Section 15. Variances. Notwithstanding anything to the contrary contained herein, 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.

Section 16. Agreements. 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. Dispute Resolution. Any Owner or occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or occupant files any lawsuit against the Association, the Board, any director, or any agent of the Association. The Owner or occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of the hearing by the person requesting the hearing.

Section 18. Disclosures. Each Owner and Occupant acknowledge the following:

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

(b) The views from an Owner's Lot may change over time due to, among other circumstances, additional development and the removal or addition of landscaping;

(c) Declarant makes no representations regarding the schools that currently or may in the future serve the Community;

(d) Since in every neighborhood, there are conditions which different people may find objectionable, it is acknowledged that 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

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Occupants to become acquainted with neighborhood conditions which could affect the Lot; and

(e) All Owners and Occupants acknowledge and understand that the Declarant will be engaging in other construction activities related to the construction of the Community. Such construction activities may, from time to time, produce certain conditions in the Community, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) noxious, toxic, or corrosive fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) unusual fire or explosion hazards; and/or (vii) temporary interruption of utilities and services; and/or (viii) other conditions that may threaten the security or safety of Persons in the Community. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions in the Community resulting from construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

Section 19. 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 20. Preparer. This Declaration was prepared by Seth G. Weissman and Jane C. Kotake, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

[SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the undersigned, the Declarant herein, hereby executes this instrument by and through its duly authorized officers and under seal this 7 day of Jan, ~~2008~~ 2004

DECLARANT:

KNOX BRIDGE PARTNERS, INC.,
a Georgia corporation

Signed, sealed and delivered
in the presence of:

Laura L. Nelson
Witness

Dale R. White
Notary Public

By: Frank Coker
Frank Coker
President

[CORPORATE SEAL]

My Commission Expires: _____
[NOTARY SEAL]

NOTARY PUBLIC, CHEROKEE COUNTY, GEORGIA
MY COMMISSION EXPIRES MAY 4, 2007

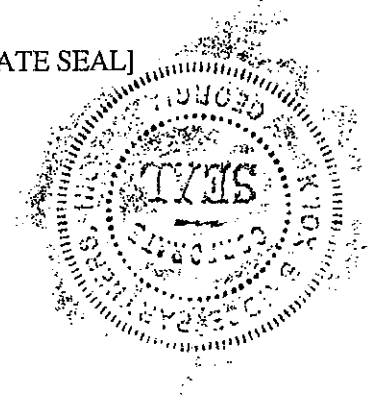
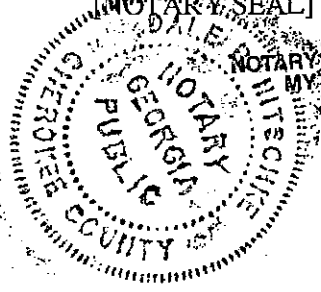


EXHIBIT "A"

Definitions

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

(a) "Approved Builder" shall mean any builder or developer that is designated by Declarant as an "Approved Builder". An Approved Builder shall continue to be an Approved Builder for so long as it owns at least one (1) Lot for the purpose of construction of a residence and resale of the Lot and residence.

(b) "Architectural Review Committee" or "ARC" shall mean the committee established to exercise the architectural review powers set forth in Article VII, Section 3 hereof, which shall be the Board of Directors of the Association unless by resolution the Board appoints a separate Architectural Review Committee.

(c) "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.

(d) "Association" shall mean Brannon Estates At Sugar Pike Homeowners Association, Inc., a nonprofit Georgia corporation, its successors and assigns.

(e) "Board of Directors" or "Board" of the Association shall mean the appointed or elected body, as applicable, having its normal meaning under Georgia law.

(f) "Bylaws" shall mean the Bylaws of Brannon Estates At Sugar Pike Homeowners Association, Inc. attached to this Declaration as Exhibit "D" and incorporated herein by this reference.

(g) "Common Expenses" shall mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Community, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, the Area of Common Responsibility.

(h) "Common Property" shall mean any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

(i) "Community" shall mean that certain real property and interests therein described in Exhibit "B", attached hereto and by reference made a part hereof, and such additions thereto as may be made by the Association by Supplementary Declaration of other real property.

(j) "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

(k) "Declarant" shall mean and refer to Knox Bridge Partners, Inc., a Georgia corporation, and its successors-in-title and assigns, provided that in a recorded instrument, such successor-in-title or assignee is designated as the "Declarant" hereunder; and, provided, further, upon the effective date of the designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that there shall be only one "Declarant" hereunder at any one point in time.

(l) "Electronic Document" shall mean information created, transmitted, received or stored by electronic means and retrievable in human perceivable form, such as email, web pages, electronic documents, facsimile transmissions, etc.

(m) "Electronic Signature" shall mean information created, transmitted, received or stored by electronic means and includes, but is not limited to, a secure electronic signature.

(n) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded in the land records of Cherokee County, Georgia.

(o) "Lot in Excess of Two (2) Acres" shall mean any Lot with an acreage of two (2) or more acres as shown on a plat recorded in the land records of Cherokee County, Georgia.

(p) "Mortgage" means any mortgage, deed to secure debt, deed of trust, and any and all other similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

(q) "Mortgagee" shall mean the holder of a Mortgage.

(r) "Occupant" shall mean any Person occupying all or any portion of a residence or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

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

(t) "Permit" shall mean the National Pollutant Discharge Elimination System Permit for Storm Water Discharges Associated with Construction Activity, General Permit No. 100000 issued by the State of Georgia, Department of Natural Resources Environmental Protection Division, or any substitute for or amendment thereof.

(u) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

(v) "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.

(w) "Supplementary Declaration" means an amendment or supplement to this Declaration that subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

(x) "Total Association Vote" means all of the votes attributable to members of the Association (including votes of Declarant), and the consent of Declarant so long as Declarant owns any property for development and/or sale in the Community.

EXHIBIT "B"
Legal Description of
Property Subject to the Declaration

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 208, 209, 223, 224, 225, 280, 281 and 282 of the 2nd District, 2nd Section of Cherokee County, Georgia, containing 74.13± acres, being more particularly described on that certain Final Plat of Brannon Estates, Unit 1, dated NOV 15, 2003, prepared by Michael C. Martin, Georgia Registered Land Surveyor No. 2149, and recorded on ~~December~~ JANUARY 9, 2004, in Plat Book 76, Page 182, 183 Cherokee County, Georgia land records.

EXHIBIT "C"

Legal Description of

Additional Property That May Be Subjected to the Declaration

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 208, 209, 223, 224, 225, 280, 281 and 282 of the 2nd District, 2nd Section of Cherokee County, Georgia.

Rec 3-22-04