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Gwinnett County, Georgia Records

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE SUMMIT AT PEACHTREE CORNERS TOWNHOMES**



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IMPORTANT NOTICE:

THIS DECLARATION CREATES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THE PROPERTY TO THE PROVISIONS OF THE GEORGIA CONDOMINIUM ACT, O.C.G.A. SECTION 44-3-70, *ET SEQ.*, OR THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, *ET SEQ.* CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/CHARGES DUE ON UNITS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS ON UNITS.

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**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS**

FOR

THE SUMMIT AT PEACHTREE CORNERS TOWNHOMES

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE SUMMIT AT PEACHTREE CORNERS TOWNHOMES ("Declaration") is made on the date hereinafter set forth by JONES MILL COMMUNITIES, LLC a Georgia limited liability company (hereinafter sometimes called "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" hereof;
and

WHEREAS, Declarant desires to subject the real property described in Exhibit "A" hereof 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 Exhibit "A" attached hereto and by this reference incorporated herein is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, mortgaged and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, hereinafter set forth, which are for protecting the value and desirability of and which shall run with the title to, the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof.

Article I - Definitions

The following words when used in this Declaration or in any Supplementary Declaration shall have the following meanings:

1.1 "Articles of Incorporation" means the Articles of Incorporation of The Summit at Peachtree Corners Property Owners Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference, as may be amended from time to time.

1.2 "Association" means The Summit at Peachtree Corners Property Owners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

1.3 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to operate and manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101 *et seq.*

1.4 "Bylaws" means the Bylaws of The Summit at Peachtree Corners Property Owners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference, as may be amended from time to time.

1.5 "Common Property" means any and all real and personal property, including, without limitation, easements and other interests therein, and the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.6 "Community" refers to that certain real property described in Exhibit "A", attached hereto, and such additions thereto as may be made by Supplementary Declaration as provided herein.

1.7 "Community-Wide Standard" means 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 and may be articulated in the Architectural Guidelines, as set forth in Section 6.3 hereof, but must be consistent with the Community-Wide Standard initially established by the Declarant.

1.8 "Declarant" means JONES MILL COMMUNITIES, LLC, a Georgia limited liability company and its successor, successor-in-title or assigns taking title to any portion of the property described in Exhibit "A" or Exhibit "B" hereof for the purpose of development and/or sale and designated as Declarant in a recorded instrument by the then holder of the rights of Declarant hereunder. Any or all of the rights of Declarant set forth in this Declaration, the Articles of Incorporation or the Bylaws may be transferred or assigned in whole or in part to other Persons, provided that the transfer or assignment shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration, the Articles of Incorporation, or the Bylaws. No transfer or assignment of the rights of Declarant provided for herein shall be effective unless it is in a written instrument signed by Declarant and recorded in the public real estate records of Gwinnett County, Georgia.

1.9 "Mortgage" means any and all instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of trust.

1.10 "Mortgagee" means the holder of a Mortgage.

1.11 "Occupant" means any Person occupying all or any portion of a Lot for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.12 "Owner" means 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.

1.13 "Person" includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under Georgia law.

1.14 "Supplementary Declaration" means a supplement to this Declaration which subjects additional property to the provisions of this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.15 "Total Association Vote" means the votes attributable to the entire membership of the Association (including votes of Declarant) as of the record date for such action, but specifically excluding the votes of any Owners whose voting rights have been suspended as provided herein, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast. If, for example, and without limitation, two-thirds (2/3) of the Total Association Vote is required to approve a matter, such matter must receive more than two-thirds (2/3) of the votes attributable to all existing members of the Association as of the record date for such action (and excluding the votes of any Owners whose voting rights have been suspended as provided herein), whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

1.16 "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 residential dwelling site, as shown on the subdivision plans) for the Community, recorded in the land records of Gwinnett County, Georgia. The residential dwelling located on each Lot shall be attached by one or more party wall(s) to one or more residential dwellings located on adjacent Units so that the boundary between such residential dwellings is a line running along the center of the party wall separating said residential dwellings. The ownership of each Lot shall include the exclusive right to use and possession of any and all portions of the heating and air conditioning units which are appurtenant to and serve each Lot (including, but not limited to, compressors, conduits, wires and pipes) and any garage, porch, deck, patio, steps, wall, roof, foundation, sunroom or any similar appurtenance as may be attached to a Lot when such Lot is initially constructed. The ownership of each Lot shall include, and there shall automatically pass with the title to each Lot as an appurtenance thereto, whether or not separately described, membership in the Association and all of the rights and interest of an Owner in and to the Common Property, as herein provided.

Article 2 - Property Subject To This Declaration

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

2.2 Unilateral Annexation by Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, the Declarant shall have the unilateral right, privilege, and option

from time to time at any time until ten (10) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "B" attached hereto and by this reference incorporated herein, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Gwinnett County, Georgia land records a Supplementary Declaration describing the property being subjected. Any annexation shall be effective upon the filing for record of a Supplementary Declaration, unless a later effective date is provided therein. Declarant intends to annex hereto the property contained in Declarant's land plan for the development, as amended from time to time, which property is a portion of the property described in Exhibit "B". However, inclusion of property on Declarant's land plan or in Exhibit "B" shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land plan bar Declarant from subjecting such property to the Declaration. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as the 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. If any 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, regardless of whether such uses are consistent with the covenants and restrictions imposed herein.

2.3 Annexation by Association. Upon the written consent of: (a) the owner(s) thereof; (b) the Declarant; and (c) the Owners of at least two-thirds (2/3) of the Units, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Gwinnett County, Georgia land records a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be executed on behalf of the Association by the President of the Association whose signature shall be attested by the Secretary of the Association. The annexation shall be effective only upon the filing for record of such Supplementary Declaration in the Gwinnett County, Georgia land records, unless a later effective date is provided therein.

2.4 Withdrawal of Property. So long as Declarant has a right to unilaterally annex additional property to the provisions of the Declaration pursuant to Section 2.2 hereof, Declarant reserves the right to amend the Declaration to remove any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration and the jurisdiction of the Association, 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. Any withdrawal shall be accomplished by filing an amendment to this Declaration describing the property to be removed and such amendment shall be effective upon filing for record in the Office of the Clerk of Superior Court of Gwinnett County, Georgia, unless a later effective date is provided therein. Such amendment shall be executed by the Declarant and the Owner(s) of the property being removed and shall not require the vote or consent of any other Lot Owners in the Community.

Article 3 - Association Membership and Voting Rights

3.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in a Lot that is subject to this Declaration shall have a membership in the Association. 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 an Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the spouse of a member, but in no event shall more than one (1) Person representing a single membership hold office at the same time. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of officers and directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to cast one vote for each Lot owned. When more than one Person holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Lot shall be suspended in the event more than one Person seeks to exercise it. The Board of Directors may suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid, and for a reasonable period of time for an infraction of the Declaration, Bylaws, rules and regulations, use restrictions, or Architectural Guidelines, as defined in Article 6 hereof.

Article 4 - Assessments

4.1 Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners of Units, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

4.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a 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) general assessments; (b) special assessments; and (c) specific assessments. All assessments, together with late charges (in the amount of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the assessment or installment not paid when due), interest at a rate of eighteen percent (18%) per annum on the principal amount due, and costs of collection, including, without limitation, reasonable attorney's fees actually incurred, shall, from the time the sums become due and payable, be a charge on the land and a continuing lien in favor of the Association on the Lot against which each assessment is made. As provided in O.C.G.A. Section 44-5-60(e), the obligation for the payment of assessments and fees arising hereunder shall also include the costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and the award of attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien shall be required. Each assessment, together with such late charges, interest and costs of collection, including, without limitation, reasonable attorneys' fees actually incurred, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner

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 the grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings. No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot or nonuse of the Common Property. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

4.3 Budget. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause the budget and the general assessment to be levied against each Lot for the year to be delivered to each member at least thirty (30) days prior to the due date of such general assessment. The budget and the general assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote and the Declarant; provided, however, the Board shall have no obligation to call a meeting of the members to consider disapproval of the budget except upon petition or the members as required for special meetings in the Bylaws. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for any period, then and until such time as a budget has been determined, as provided herein, the budget in effect shall continue.

4.4 General Assessments. General assessments shall be levied equally on all similarly situated Units 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 for delinquents. Unless otherwise provided by the Board, the general assessment shall be paid in one annual installment. General assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property, improvements to the Common Property, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper.

General assessments may include, without limitation, the following: (a) sums for property taxes for the Common Property; (b) insurance premiums; (c) legal and accounting fees; (d) management fees; (e) charges for utilities provided by the Association, if any; (f) cleaning and janitor services; (g) Community trash collection as provided in Section 5.11 hereof; (h) landscape maintenance; (i) costs incurred to maintain the Community entry features, including the costs of irrigation and/or lighting associated therewith; (j) costs incurred to maintain the storm water drainage facilities serving the Community; (k) expenses associated with the maintenance of the private Community streets, sidewalks and any street medians or islands; and (l) expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

4.5 Special Assessments. The Association, acting through the Board of Directors, may levy a special assessment against all Owners for any unbudgeted or unanticipated expenses or expenses

in excess of those budgeted in an amount not to exceed twenty-five percent (25%) of the general assessment applicable to a Lot in one (1) fiscal year without a vote of the members. Except for special assessments levied pursuant to Section 9.3 hereof: a special assessment in an amount greater than twenty-five percent (25%) of the general assessment applicable to a Lot in one (1) fiscal year must be approved by two-thirds of the Total Association Vote and the Declarant in order to become effective. Special assessments shall be paid as determined by the Board. The Board may permit a special assessment to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

4.6 Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. The failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. By way of explanation and not limitation, the following shall constitute specific assessments: (a) fines levied pursuant to this Declaration; (b) the working capital contribution as set forth in Section 4.13 hereof; and (c) the costs of maintenance performed by the Association for which an Owner is responsible. In addition to the foregoing, the Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which benefit less than all of the Units may be specifically assessed equitably among all of the Units which are benefited according to the benefit received; (b) expenses of the Association which benefit all Units, but do not provide an equal benefit to all Units, may be specifically assessed equitably among all Units according to the benefit received; and (c) expenses of the Association which are attributable to or incurred as a result of the conduct of an Owner or the Occupants, tenants, guests or invitees of an Owner may be specifically assessed against the Lot of such Owner.

4.7 Subordination of Liens to Mortgages. Notwithstanding anything to the contrary in this Declaration or any other document related thereto or executed in connection therewith, the lien of all assessments authorized herein is hereby made subordinate to the lien of any first Mortgage placed on a Lot if, but only if, all assessments and charges with respect to such Lot authorized herein having a due date on or prior to the date of the Mortgage as filed of record have been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage or the sale or transfer of the Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the Lot pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve the Owner of the Lot of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such Lot from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such Lot to the Mortgagee or to any other Person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of such Lot of any personal obligation or relieve such Lot or the then Owner of such Lot from liability for any assessment authorized hereunder that becomes due after such sale and transfer.

4.8 Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors-in-title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and such successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge (in the amount of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the assessment or installment not paid when due) and interest at a rate of eighteen percent (18%) per annum on the principal amount due. As provided in O.C.G.A. Section 44-5-60(e), the obligation for the payment of assessments and fees arising hereunder shall also include the costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and the award of attorneys' fees shall not be construed in accordance with the provisions of O.C.G.A. Section 13-1-11(a)(2).

The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of Gwinnett County, Georgia, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. Each Owner, by acceptance of a deed, vests in the Association 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 lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all Owners. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also suspend the membership rights of the delinquent Owner, including the right to vote, the right of enjoyment in and to the Common Property (other than access to such Owner's Lot) and the right to receive and enjoy such services and other benefits as may then be provided by the Association, if any. Any suspension shall not affect such Owner's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent lien on such Lot in favor of the Association.

4.9 Date of Commencement of Assessments. Assessments shall commence when the Board of Directors first determines a budget and levies assessments. The assessments provided for herein shall commence as to a Lot on the date that the Lot is first occupied for residential purposes. A Lot shall be deemed to be occupied for residential purposes when it has been improved with a dwelling for which a certificate of occupancy has been issued and has been conveyed to an Owner who intends for the dwelling to be occupied for residential purposes, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy. Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Lot is approved for use as a model home.

4.10 Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may, but shall have no obligation to: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the general, special and specific assessments collected by the Association in any fiscal year (such advances shall be evidenced by promissory notes from the Association in favor of the Declarant); or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for similar loans in the local area of the Community. No Mortgage secured by the Common Property or any of the structures or improvements maintained by the Association shall be given in connection with such loan.

4.11 Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as the last year for which an assessment was made, if any, until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

4.12 Estoppel Letter. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, including any late charges, interest, fines, or other charges against that Lot. Such request shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. The Association shall, within five (5) business days after receiving a written request therefor, certify to the amount of any unpaid assessments constituting a lien on a specified Lot. The Association may charge a reasonable fee as may be permitted by law as a prerequisite to the issuance of such statement. A certification letter signed by an officer of the Association or the Association's managing agent, if any, as to the amount of assessments due with respect to a Lot shall be binding upon the Association. It is the intent of this provision to comply with O.C.G.A. Section 44-14-15(c), as amended.

4.13 Working Capital Contribution. Upon every sale of a Lot to an Owner other than a Declarant, successor Declarant, affiliate of Declarant or a builder acquiring such Lot during the ordinary course of business, a working capital contribution in the amount of Nine Hundred Fifty and No/100 Dollars (\$950.00) shall be collected from the new Owner at the closing of such transaction and disbursed to the Association; or if not collected at closing, shall be paid immediately upon demand to the Association. The working capital contribution shall constitute a specific assessment against the Lot, shall be in addition to, not in lieu of, the general assessment and shall not be considered an advance payment of such assessment. The working capital contribution may be used by the Association for any purpose which provides a direct benefit to the Community, including, without limitation, for the payment of operating expenses of the Association and other expenses incurred by the Association pursuant to the provisions of the Declaration. Notwithstanding the foregoing, the working capital contribution shall not apply to 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, but shall apply to the Owner acquiring title to the Lot from the foreclosing Mortgagee.

Article 5 - Maintenance: Common Property

5.1 Association's Maintenance Responsibility. The Association shall maintain and keep in good repair the Common Property, which shall include, without limitation, the maintenance, repair and replacement of all landscaping and improvements located thereon. The Association shall also maintain (whether or not constituting Common Property) the following: (a) all entry features and entry area landscaping serving the Community, including, without limitation, any irrigation system and/or lighting system provided to such entry features and Community landscaping; (b) the exterior surfaces of a residential dwelling constructed on a Lot as provided in Section 5.3 hereof; (c) landscaping improvements located on the exterior portions of the Community, including parks, open space, medians and islands, as provided in Section 5.4 herein; (d) Community street signs and street lights; (e) all private Community streets, roads, paths and sidewalks, if any; (f) storm water detention/retention ponds and storm water drainage facilities serving the Community and any gate, fence or other enclosure surrounding said storm water detention/retention pond, if and to the extent such facilities are not maintained by a governmental entity or third party; provided, however, each Owner of a Lot, and not the Association, shall be responsible for the maintenance, repair and replacement of all storm water drainage facilities located on and exclusively serving a Lot; (g) retaining walls, perimeter walls and fencing in the Community; (h) the Community mailbox area(s) and the mailboxes located thereon; and (i) all pipes, wires, conduits and lines which serve more than one (1) Lot or the Common Property, including, without limitation, water and sanitary sewer pipes or facilities and fire lines, if and to the extent the same are not maintained by a governmental entity or third party.

The Association shall also mow and blow off the grass cutting on each Lot on a regular basis, to be determined by the Declarant and/or 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 hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Lot of the Owner as a specific assessment. All maintenance performed by the Association shall be consistent with the Community-Wide Standard.

In addition, the Association shall have the right, but not the obligation, to maintain property it does not own, regardless of whether such property is located within or outside of the Community where the Board has determined that such action would benefit the Owners. In addition to the foregoing, the Board shall have the right, without a vote of the members, but with the consent of the Declarant, to enter into easements and covenant to share cost agreements where the Board has determined that such action would benefit the Owners. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

5.2 Owner's Maintenance Responsibility. Except for maintenance performed on or to a Lot by the Association pursuant to Sections 5.1 and 5.3 hereof, all maintenance of the Lot and all structures and other improvements thereon shall be the sole responsibility of the Owner thereof,

who shall maintain such Lot in a manner consistent with this Declaration. Such maintenance obligation shall include, without limitation, the following: (i) prompt removal of all litter, trash, refuse, and waste; (ii) keeping improvements, and exterior lighting in good repair and working order; (iii) complying with all governmental health and police requirements; (iv) repair of exterior damage to improvements; (v) any pipe(s), wire(s) and conduit(s) which serve only the Lot, regardless of whether said pipe(s), wire(s) or conduit(s) are located within or outside of a Lot's boundaries; and (vi) all portions of the Lot as set forth in Section 5.3(b) hereof.

5.3 Exterior Lot Maintenance.

(a) By the Association. As provided in Section 5.1 above, the Association shall maintain and keep in good repair the exterior portions of the residential dwelling located on a Lot in the Community, which shall only include the following: (i) exterior surfaces of garage doors; (ii) the roof decking and shingles or other covering and surface materials on Units; (iii) the downspouts and gutters; (iv) the siding located on the exterior of the Units, if any; (v) all driveways and walkways serving a Lot; (v) painting and/or staining and/or sealing any deck which is attached to a residential dwelling on a Lot; and (vi) painting and/or pressure washing the exterior portions of the Units, including, without limitation any patios appurtenant thereto. All maintenance performed by the Association shall be in accordance with a schedule determined by the Board in its sole discretion.

(b) By the Lot Owner. Each Owner shall be responsible for maintaining and keeping in good repair the following: (i) steps, decks (whether enclosed or not) and deck surfaces (including joists and structural components), patios (whether enclosed or not) and patio surfaces and landscaping within the patios, planters, courtyards, if any, except for periodic pressure washing and/or staining by the Association as provided in subsection (a) above; (ii) HVAC or similar equipment, regardless of whether the same is located outside the boundary of a Lot; (iii) all doors, including screen and storm doors, hinges, frames and door frames and hardware which are part of the entry system; (iv) hose bibs contained in exterior walls of a Lot; (v) lighting fixtures pertaining to a particular Lot and being located outside an entryway or in a garage; (vi) window screens, window frames and glass; (vii) foundations and footings, including waterproofing, either above or below grade and all structural components of the Lot; (viii) except as otherwise specifically provided herein, any pipe, wire, line and conduit which serves only one (1) Lot, regardless of whether such pipe, wire, line or conduit is located within or outside of the Lot's boundaries; and (ix) all other portions of the Lot and the residential dwelling located thereon which are not maintained by the Association pursuant to Section 5.3(a) hereof.

The Board of Directors may promulgate rules setting forth the extent of maintenance to be performed by the Association and may assume responsibility for providing additional maintenance as long as Units are maintained according to the same standard. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

5.4 Yard Maintenance. As provided in Section 5.1 above, the Association shall provide each Lot with a "mow and blow" service, and shall further maintain keep in good repair the landscaping improvements located on the Common Property of the Community, including the green space and

open space areas. The Board of Directors in its sole discretion may leave portions of the Community as undisturbed natural areas and may change the landscaping in the Community at any time and from time to time or may, with the consent of the Declarant, change the level of yard maintenance performed. The Board of Directors may promulgate rules setting forth the extent of landscaping maintenance to be performed by the Association and the rights of Owners with respect to adding or modifying landscaping improvements, including, for example allowing seasonal flowering plants in certain areas of the Community at the expense of the Owner. Any landscaping improvements originally installed by an Owner which are not properly maintained, including, but not limited to, damaged, diseased or dead plants, shrubs and trees may, at the sole discretion of the Board of Directors, be removed from the Community and all costs associated therewith may be assessed against the Owner and the Lot as a specific assessment. Any common irrigation system installed by the Declarant or the Association shall be Common Property, operated, maintained, repaired and replaced by the Association.

5.5 Failure of an Owner to Maintain. In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible under this Declaration, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement to be performed. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable period of time. If an Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement and all costs associated therewith shall be assessed against the Owner and the Lot as a specific assessment. This Section shall not apply to any Lot(s) owned by the Declarant, unless improved with a dwelling and occupied as a residence.

5.6 Party Walls. Each wall built as part of the original construction of the residential dwelling located on a Lot or added approved pursuant to Article 6 hereof which shall serve and separate any two (2) adjoining residential dwellings located on adjacent Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. If a party wall is destroyed or damaged by fire or other casualty, then any Owner who has benefited by the wall may restore it, and the other Owner who is benefited by the wall shall contribute one-half of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

5.7 Conveyance of Common Property by Declarant to Association; No Implied Rights. Declarant may transfer or convey to the Association, at any time and from time to time, any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall

thereafter be Common Property to be used and, if and as provided in Section 5.1 hereof, maintained by the Association for the benefit of its members. So long as Declarant owns any property primarily for development and/or sale in the Community or has the right unilaterally to annex additional property to the Declaration, Declarant may, upon written notice to the Association, require the Association to reconvey to Declarant of all or any portion of the Common Property, improved or unimproved, at no charge to Declarant, without a vote of the members of the Association, if such property is: (a) found by Declarant to have been conveyed in error; (b) needed by Declarant to make adjustments in property boundary lines; or (c) reasonably determined by Declarant to be needed by Declarant due to changes in the overall scheme of development for the Community.

The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept/make on behalf of the Association any such conveyance and reconveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any such conveyances and reconveyances, and all acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. The Declarant may reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. The recordation of any subdivision plat, the use by the Owners, or maintenance by the Association of any property shall not create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Declarant to the Association or the Owners, as the case may be, by an instrument recorded in the Office of the Clerk of Superior Court of Gwinnett County, Georgia.

5.8 Partition. The Common Property shall remain undivided and no Owner shall bring or maintain any action for partition or division of the whole or any part thereof without the written consent of: (a) all Owners of all portions of the property located within the Community; and (b) all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Units.

5.9 Condemnation. In the event of a taking by eminent domain of all or any portion of the Common Property on which improvements have been constructed, the Association shall, if reasonably possible, restore or replace such improvements on the remaining Common Property, unless within sixty (60) days after such taking, an alternative plan is approved by at least seventy-five percent (75%) of the Total Association Vote and the Declarant. The provisions of this Declaration applicable to the replacement and/or restoration of damaged improvements on the Common Property shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

5.10 Liability. Owners, Occupants and their guests shall use the common areas maintained by the Association and all other Common Property and all portions of the Community not contained within a Lot at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. Each Owner and Occupant shall have an affirmative duty and responsibility to inspect the Common Property for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for: (a) personal injury to any person occurring on the Common Property; (b) loss or damage to personal belongings used or stored on the Common Property or any other portion of the Community; or (c) loss or damage, by theft or otherwise, of any other property of such Owner or Occupant.

In addition to the foregoing, the Association, the Declarant and their respective officers, directors, members, partners, agents and representatives shall not be liable for injury or damage to any Person or property: (a) caused by the elements or by an Owner or by any other Person; (b) resulting from any rain or other surface water which may leak or flow from any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association or from any portion of the Common Property; or (c) caused by any street, pipe, plumbing, drain, pond, lake, dam, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair.

5.11 Measures Related to Insurance Coverage.

(a) The Board of Directors shall have the authority to require all or any Lot Owner(s) to do any act or perform any work involving portions of the Community that are the maintenance responsibility of the Lot Owner which will, in the Board's sole discretion, decrease the possibility of fire or other damage to any improvements located in the Community, reduce the insurance premium paid by the Association for any insurance coverage, or otherwise assist the Board in procuring or maintaining such insurance coverage. This authority shall include, but need not be limited to the following: (i) requiring all Owners to turn off cut-off valves, which may now or hereafter be installed, during winter months for outside water spigots; (ii) requiring Owners to insulate pipes sufficiently or take other preventive measures to prevent freezing of water pipes; (iii) requiring Owners to install smoke detectors; (iv) requiring Owners to make improvements to the Owner's Lot; and (v) such other measures as the Board may reasonably require, so long as the cost of such work does not exceed the amount of the annual general assessment applicable to the Lot in any twelve (12) month period.

(b) In addition to, and not in limitation of, any other rights the Association may have, if any Lot Owner does not comply with any reasonable requirement made by the Board pursuant to Section 5.11(a) above, the Association, upon fifteen (15) days' written notice (during which period the Lot Owner may perform the required act or work without further liability), may perform such required act or work at the Lot Owner's sole cost and expense. Such cost shall be a specific assessment and a lien against the Lot and shall be collected as provided herein for the collection of assessments. The Association shall have all rights necessary to implement the requirements mandated by the Board pursuant to Section 5.11 (a) above, including, but not limited to, a right of

entry during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot, except that access may be had at any time without notice in an emergency situation.

5.12 Garbage Pick-Up and Recycling. The Association shall have the right, but not the obligation, to designate and contract with a private trash removal company on behalf of all Owners and Occupants in the Community to pick up all usual and customary household trash and recycling on a regular basis. In the event the Association enters into a contract with a private trash removal company as provided above, all charges for usual and customary trash collection and recycling shall be assessed to each Lot equally as part of the general assessment in accordance with Section 4.4 hereof. While the removal of normal household trash and recycling will be covered by such contract, additional charges may be incurred for the removal of used appliances, other large items or any other extraordinary pick-up needs and such additional charges incurred by the Association may be specifically assessed against the applicable Lot pursuant to Section 4.6 hereof. If a Lot Owner, for any reason, refuses trash collection and recycling service provided by the Association, such Owner shall nevertheless still be obligated to pay the full amount of the general assessment. Trash and recycling receptacles shall be placed at the curb no earlier than 5:00 p.m. the day before pick-up and shall be removed within twenty-four (24) hours. All Community trash removal and recycling shall be subject to such further rules and regulations as the Board may adopt, including without limitation, the designation of a particular trash pick-up day throughout all or a portion of the Community.

Article 6 - Architectural Standards

6.1 General. No exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavating, grading, filling, construction of impervious surfaces, building, exterior alteration of existing improvements, changing the exterior color of any existing improvement and planting and/or removing landscaping materials), shall be commenced or placed upon any part of the Community unless installed by the Declarant or an affiliate of the Declarant, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of a structure located on a Lot without approval hereunder. However, additions and/or modifications to the interior of porches, patios, decks, balconies and similar portions of a structure visible from outside of a Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure located on a Lot in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to the activities of the Declarant, affiliates of the Declarant, nor to improvements to the Common Property made by or on behalf of the Association. This Article may not be amended without the written consent of the Declarant until: (a) the Declarant no longer owns any property in the Community and no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued.

6.2 Guidelines and Procedures. Except as provided above or as specifically articulated in the Architectural Guidelines as defined in Section 6.3 hereof, no exterior construction, addition or alteration shall be made unless and until plans and specifications shall have been submitted in writing to and approved by the Declarant. Such plans and specifications shall be of sufficient detail to allow the Declarant to make its review and to the extent required by the Declarant shall show

the nature, kind, shape, height, materials and location of the proposed structure or improvement. The Declarant shall be the sole arbiter of such plans and specifications and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and it shall be entitled to stop any construction in violation of such plans and specifications. If the Declarant fails to approve or disapprove submitted plans and specifications within thirty (30) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. If construction does not commence on a project for which plans have been approved within twelve (12) months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the Declarant for reconsideration.

As a condition of approval under this Article, 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 structure, improvement, change, modification, addition or alteration. In the discretion of the Declarant, an Owner may be required 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 Declarant and its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property in the Community to determine whether or not these restrictive covenants have been or are being complied with and such Persons shall not be deemed guilty of trespass by reason of such entry; provided, however, nothing herein shall authorize entry into any residential dwelling located on a Lot without the consent of the Owner thereof.

All provisions of this Declaration and any Association rules and Architectural Guidelines adopted in accordance with Section 6.3 hereof shall apply to all Owners, Occupants, tenants, guests, and invitees of any Lot.

6.3 Architectural Guidelines. The Declarant may adopt written architectural and landscaping guidelines ("Architectural Guidelines") and application and review procedures, which may provide for a review fee. The Declarant shall have sole and full authority to prepare and to amend, modify, repeal or expand from time to time at its sole discretion and without notice, the Architectural Guidelines. In the event Declarant modifies, expands or repeals all or any portion of the Architectural Guidelines, said new Architectural Guidelines 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 by a majority of the Total Association Vote and the Declarant. The Declarant shall make the Architectural Guidelines available to Owners and Occupants who seek to engage in construction upon all or any portion of the Community and such Owners and Occupants shall conduct their operations strictly in accordance therewith and with the provisions of this Article 6. The Declarant shall also provide, without cost, a copy of the Architectural Guidelines then in effect to any requesting Owner or Mortgagee.

The Board shall have no obligation to call a meeting of the members to consider disapproval of the Architectural Guidelines except upon petition of the members as required for special meetings in the Bylaws. The Declarant shall provide, without cost, a copy of the Architectural Guidelines then in effect to any requesting member or Mortgagee. All Owners and Occupants of Units are hereby notified that the use of their Units is limited by the Architectural

Guidelines as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected, that the Architectural Guidelines may change from time to time, and that such changed Architectural Guidelines may or may not be set forth in an instrument recorded in the Gwinnett County, Georgia land records.

6.4 Limitation of Liability. Plans and specifications are not approved for engineering or structural design, quality of materials or for compliance with permitting requirements, building codes or zoning conditions applicable to the Community or other local laws, regulation or ordinance governing construction in the Community and by approving such plans and specifications the Declarant, the Association, and their respective directors, officers, members, representatives, agents or employees assume no liability or responsibility therefor or for any defect in any structure or improvement constructed from such plans and specifications or for any violation of building codes, permitting requirements, zoning conditions or for any other violation of any local or governmental law, regulation or ordinance governing construction in the Community. Neither Declarant, the Association, nor their respective officers, directors, members, employees and agents 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 and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against Declarant, the Association or their respective officers, directors, members, employees, representatives and agents 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.

6.5 No Waiver. The approval of the Declarant of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval or consent of the Declarant, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters whatsoever subsequently or additionally submitted for approval or consent.

6.6 Variances. Notwithstanding anything to the contrary contained herein, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration and the Architectural Guidelines, if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to, topography, natural obstructions, hardship, aesthetic considerations or environmental considerations. No variance shall: (a) be effective unless in writing; (b) be inconsistent with the overall scheme of development for the Community; or (c) estop the Declarant from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

6.7 Enforcement. Any structure, improvement or landscaping improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Declarant, Owners shall, at their own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant and its agents shall have the right to enter the property, remove the nonconforming structure or improvement, and restore the property to substantially the same condition as previously existed. All costs, including, without limitation, reasonable attorneys' fees actually incurred, may be assessed against the Lot as a specific assessment. Neither the Declarant, the Association nor their respective officers, directors, members, employees and agents shall be held liable to any Person for exercising the rights granted by this Section, including, without limitation, claims for damages resulting from the removal of the nonconforming structure or improvement as provided herein. In the event of noncompliance with this Article, the Association or the Declarant, as the case may be, may also record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, the Association or the Declarant shall have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article, including, without limitation, the right to levy and collect fines as provided herein and in Section 3.21 of the Bylaws. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Architectural Guidelines may be excluded by the Declarant from the Community, subject to any applicable notice and hearing procedures contained in the Bylaws.

6.8 Architectural Review Committee. Until: (a) the Declarant no longer owns any property in the Community and no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued, the Declarant shall have the sole right, power and authority under this Article. Notwithstanding the foregoing, the Declarant may in its sole discretion relinquish architectural control as to certain types of improvements or modifications to an architectural review committee ("Architectural Review Committee") while retaining control over all other building and construction in the Community; provided, however, any right, power or authority of the Declarant which may be relinquished to the Architectural Review Committee prior to the termination of the rights of Declarant hereunder shall only be in a written instrument in recordable form executed by Declarant and recorded with the Clerk of the Superior Court of Gwinnett County, Georgia. For example and without limitation, the Declarant may relinquish control over modifications of existing structures to the Architectural Review Committee while retaining all authority to review and approve new home construction. The establishment of an advisory Architectural Review Committee shall not be deemed to be a relinquishment by Declarant of any of its right, power and authority hereunder.

Upon expiration or earlier surrender in writing of all or a portion of such right and authority by the Declarant, the Board of Directors may appoint an Architectural Review Committee, which shall then have such jurisdiction over architectural control under this Article as may have been relinquished by the Declarant. After the termination of all rights of Declarant hereunder, the Architectural Review Committee if appointed shall have all right, power and authority to review and approve building and construction activity within the Community hereunder and this Article shall then be read and interpreted as if any reference to the authority of or action by the Declarant

in this Article 6 were a reference to the authority of or action by the Architectural Review Committee. Notwithstanding anything to the contrary herein, the members of the Architectural Review Committee shall be appointed by and serve at the discretion of the Board of Directors.

Article 7 - Use Restrictions and Rules

7.1 Rules and Regulations. The Board of Directors may, from time to time, with the consent of Declarant and without a vote of the members, promulgate, modify or delete reasonable rules and regulations applicable to the Community. Such rules and regulations shall be distributed to all Owners 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 by a majority of the Total Association Vote and the Declarant. All Owners and Occupants of Units are hereby notified that the use of their Units is limited by any rules and regulations adopted by the Board, as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected, that the rules and regulations may change from time to time, and that such changed rules and regulations may or may not be set forth in an instrument recorded in the Gwinnett County, Georgia land records.

7.2 Residential Use. Each Lot shall be used for residential purposes exclusively. Leasing of a Lot for residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant residing at the Lot may conduct business activities within the residential dwelling located thereon so long as the business activity: (a) does not otherwise violate the provisions of the Declaration, Bylaws or rules and regulations of the Association; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Community; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Community; (g) does not constitute a nuisance or a hazardous or offensive use; (h) does not threaten the security or safety of other residents of the Community; (i) does not involve door-to-door solicitation within the Community; (j) does not involve more than five individuals within the Lot at any one time, of which no more than two may reside outside the Lot; and (k) does not involve regular visitation of the Lot by employees who do not reside at the Lot, clients, customers, suppliers or other business invitees, all as may be determined in each case in the sole discretion of the Board of Directors. The Board may issue rules regarding permitted business activities. 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: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity. Nothing in this Section 7.2 shall be construed as prohibiting the Declarant from maintaining model homes, speculative housing, sales trailers or construction trailers in the Community.

7.3 Signs. No sign of any kind shall be erected or displayed within the Community without the prior written consent under Article 6 hereof; provided, however, the following signs may be

erected or displayed on a Lot without prior written approval under Article 6: (a) one (1) professionally lettered for-sale or for-rent sign; (b) security signs not larger than 18-inches by 18-inches and any signs required by legal proceedings; (c) one(!) "life event" sign commemorating a birth, graduation, or similar life event for a period not to exceed seven (7) days from the date of the event; (d) political signs in a reasonable number for a limited time as may be determined by the Board from time to time; and (e) such other signs as may be permitted by the Architectural Guidelines. Notwithstanding the foregoing, the Board, on behalf of the Association, and the Declarant shall have the right to erect and display reasonable and appropriate signs, including, without limitation, signs relating to the development, construction, marketing or sales of residential dwellings located on a Lot in the Community. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure. The Board or Declarant may impose a reasonable fine per day for the display of any sign which violates this provision and is not removed within twenty-four (24) hours after written demand is delivered to the Owner at the Lot. The Board of Directors shall have the right to adopt rules and regulations governing the display and placement of signs in the Community, including, without limitation, imposing reasonable time, place and manner restrictions.

7.4 Vehicles; Parking.

(a) General. Vehicles shall be parked only in appropriate parking spaces serving the Lot or other designated parking areas established by the Board, if any. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go carts, golf carts, trucks, campers, buses, vans and automobiles. The term "parking areas serving a Lot" shall refer to the number of garage parking spaces and if and only if the Owner or Occupants of a Lot have more vehicles than the number of garage parking spaces, those excess vehicles which are an Owner's or Occupant's primary means of transportation on a regular basis may be parked on the driveway located on such Lot; provided, however, no vehicle parked on a driveway shall encroach onto a sidewalk, public right-of-way or any grassy or landscaped area. All parking shall be further subject to such reasonable rules and regulations as the Board may adopt from time to time. No on-street parking shall be permitted, except as may be permitted by the Board of Directors in its sole discretion.

(b) Garages. All homes shall contain a garage; carports shall not be permitted. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage. Garages shall be used primarily for the parking of vehicles and not for storage or other purposes. Garages shall not be converted to additional living space except with written permission pursuant to Article 6 hereof.

(c) Disabled and Stored Vehicles. No vehicle may be left upon any portion of the Community, except in an enclosed garage or other area designated by the Board, for a period longer than five (5) days if it is not licensed or if it is in a condition such that it is incapable or being operated upon the public highways. After such five-day period, such vehicle may be removed from the Community by the Board of Directors or the appropriate authority of Gwinnett County. Any towed vehicle, boat, personal watercraft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go cart, golf cart, commercial truck, camper, bus or mobile home

regularly stored in the Community or temporarily kept in the Community, except if kept in an enclosed garage, for periods longer than twenty-four (24) hours may be removed from the Community by the Board of Directors (the temporary removal of such vehicle to break the continuity of the twenty-four (24) hour period shall not be sufficient to establish compliance with this restriction). Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. No eighteen wheel trucks or the cabs of such trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept or stored within the Community except during the time reasonably necessary to provide service to or delivery within the Community. All parking shall be subject to such other rules and regulations as the Board may adopt from time to time.

(d) Commercial Vehicles. The term "commercial vehicles" as used herein, shall include, without limitation, any vehicle which bears any indicia of commercial use, including, but not limited to, writing, logos, advertising signs, ladders, ladder racks, vehicles displaying signage of a commercial or business nature or vehicles which are not primarily used for the transportation of passengers, all as determined by the Board in its sole discretion. Commercial vehicles shall not be permitted in the Community, except if kept in an enclosed garage; provided however, construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery within the Community.

(e) Guest Parking. Portions of the Common Property may contain striped and lined parking spaces for use by the guests of Owners and Occupants, as more particularly set forth in Section 10.12 hereof and as may be shown on the recorded subdivision plat(s) for the Community ("Guest Parking Spaces"). The Guest Parking Spaces shall be on a first-come, first served basis and are reserved for the exclusive use of the guests of Owners and Occupants. For purposes of this Section 7.4(e), a guest is defined as an individual who resides in the Lot for less than ten (10) consecutive days. A guest may park his or her vehicle in a Guest Parking Space for up to ten (10) consecutive days; provided, however, the temporary removal of a vehicle from a Guest Parking Space or the relocation of a vehicle from one Guest Parking Space to another Guest Parking Space shall not be sufficient to establish compliance with this restriction. Any guest residing at a Lot for more than ten (10) consecutive days shall be deemed to be an Occupant and must park his or her vehicle in either the garage serving the Lot or the driveway serving the Lot. Owners and Occupants are prohibited from parking in the Guest Parking Spaces. Any guest, Owner or Occupant who fails to comply with the provisions set forth in this subsection (e) shall be subject to the remedies of the Association as set forth in subsection (f) below and any other remedies available to the Association under the Declaration or Georgia law.

(f) Remedies of Association for Noncompliance. If any vehicle is parked on any portion of the Common Property in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity that will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within twelve (12) months of such notice, the Board or agent of the

Association may have the vehicle towed in accordance with the notice, without further notice to the Owner or user of the vehicle. Notwithstanding the foregoing, if a vehicle is parked on the private streets such that it is blocking another vehicle or access to a Lot, is obstructing the flow of traffic, is parked in a no parking zone or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately.

If a vehicle is towed in accordance with this Section, the Declarant, the Association and their respective affiliates, directors, officers, employees, representatives or agents, shall not be liable to any Person for any claim of damage resulting from the towing activity. The Board of Directors may exercise any and all remedies available for a violation of this Section, including, without limitation, the right to levy and collect fines against a non-complying Owner or Occupant, which remedies shall be in addition to not in lieu of its authority to remove the violating vehicle.

(g) **Declarant Exemption.** Notwithstanding anything to the contrary in this Section 7.4, the Declarant, and its respective agents, employees, contractors, subcontractors and assigns shall have the right, during regular business hours, to park vehicles on any and all streets within the Community as needed in order to facilitate the construction, development, maintenance and buildout of the Community.

7.5 Leasing. Units may be leased for residential purposes only and shall strictly comply with the provisions of this Declaration.

7.6 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, dogs or cats may be kept on a Lot, not to exceed a total of three (3) such animals, provided they are not kept, bred or maintained for any commercial purposes. In addition to the foregoing, no more than two (2) additional animals such as birds, hamsters, guinea pigs, turtles or small lizards or other constantly caged or contained animals shall be allowed within a dwelling located on a Lot. The limitation on the number of pets described above shall not apply to fish contained within an aquarium. In no event shall monkeys, snakes, pigs or exotic animals be permitted on a Lot. No pet shall be stored or kept temporarily or permanently in any garage located on a Lot. No dog runs, runners or exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 6 hereof. Dogs shall at all times when outside of a dwelling located on a Lot be kept on a leash or otherwise under the physical control of a responsible person. No pet shall be kept or stored, permanently or temporarily, in any garage located on a Lot in the Community.

The Association may adopt reasonable rules and regulations designed to minimize damage and disturbance to other Owners and Occupants, including regulations requiring damage deposits, waste removal, leash controls and noise controls. All Owners must control their pets at all times, whether or not such Owner is present, in a manner that will prevent any pet from: (a) making noise at objectionable sound levels for extended periods of time, whether continuously or intermittently; (b) endangering the health or safety of other Owners, their families, guests or invitees or creating fear in other Owners as to the safety of themselves, their families, guests or invitees; or (c) otherwise constituting a nuisance or inconvenience to the Owner(s) of any other Lot; all of the foregoing as determined by the Association. In the event that the Owner or person responsible for the animal fails to comply with the foregoing, the Association shall have the right to institute legal

action and the Owner of the Lot where the animal was kept (or was brought by a guest or invitee) shall be responsible for all costs associated therewith, including, without limitation, reasonable attorneys' fees actually incurred. In the event that such Owner fails to reimburse the Association for such costs and expenses within twenty-one (21) days after the Association's demand for reimbursement, such costs and expenses shall become a specific assessment against such Lot. An Owner's failure to remove fecal matter or other solid waste left in any Common Property or Lot by an animal owned by an Occupant of such Owner's Lot (or their guests or invitees) shall be conclusively deemed to be a nuisance, and shall subject such Owner to such reasonable penalties as may be determined by the Association, including without limitation, upon repeated violations, the removal of such animal as described above.

Every person owning or having possession, charge, care, custody or control of any dog, cat or other uncaged pet shall keep such pet exclusively inside his own residential dwelling or inside the confines of such Owner's Lot; provided, however, that a dog may be outside of an Owner's Lot if it is under the control of a competent person and restrained by a chain, leash or other means of adequate physical control. Any Owner or Occupant who keeps or maintains any animal within the Community shall be deemed to have agreed to indemnify and hold harmless the Association and its officers, directors, employees and agents from any and all loss, claim, or liability of any kind or character whatsoever arising by reason of keeping or maintaining such animal in the Community.

7.7 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a 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, obnoxious 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. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community by other Owners and Occupants. Without limiting the generality of the foregoing, no horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, screaming, shouting, excessively loud talking, fighting, raucous behavior, insobriety, playing loud music or television, use of any alarm, equipment, or device, mechanical or otherwise which creates or produces excessively loud sounds or any vibrations, or any conduct which creates any noxious or offensive odors outside of a home shall be permitted, located, used or placed on any Lot, or any portion thereof. In no event shall cigarette butts or cigar butts be permitted or deposited on the Common Property. The inconvenience complained of shall not be fanciful, or such as would affect only one of fastidious taste, but it shall be such as would affect an ordinary, reasonable person as determined in a particular instance by the Board. Notwithstanding anything to the contrary herein, each Owner and Occupant acknowledges that the Declarant and its agents, subcontractors, employees and assigns may engage in construction activities in the Community and further agrees that such construction activities shall not be deemed a nuisance as provided herein.

7.8 Unsightly 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. This Section shall not apply to Declarant during the initial construction of a residential dwelling on a Lot.

7.9 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving and/or transmitting audio or video signals shall be placed, allowed or maintained upon any portion of the Community, including any Lot, unless approved in accordance with the provisions of Article 6 hereof; provided, however, no such approval shall be necessary to install the following on a residential dwelling located on a Lot: (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services or antennae designed to receive or transmit fixed wireless signals via satellite, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services or antennae designed to receive or transmit fixed wireless signals other than via satellite that are one meter or less in diameter or diagonal measurement; or (c) antennas that are designed and intended to receive television broadcast signals.

Owners shall install any permitted antennae on the rear of the dwelling located on a Lot unless such installation: (a) imposes unreasonable delay or prevents the use of the antennae; (b) unreasonably increases the cost of installation; or (c) an acceptable quality signal cannot otherwise be obtained.

7.10 Firearms and Fireworks. The discharge of firearms or fireworks within the Community is prohibited. The term "firearms" includes, but is not limited to, B-B guns, pellet guns, archery equipment and firearms of all types, regardless of size. The term "fireworks" shall include, but not be limited to, those items listed in O.C.G.A. Section 25-10-1, as amended.

7.11 Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any Lot; 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 Owners and Occupants.

7.12 Air-Conditioning Units. No window air conditioning units may be installed.

7.13 Lighting and Displays. Exterior lighting on any Lot visible from the street shall not be permitted, except for: (a) approved lighting as originally installed on a Lot; (b) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights for a period of thirty (30) days from the date of installation; (e) front house illumination of model homes; or (f) other lighting approved under and pursuant to Article 6 hereof or as may be otherwise permitted as provided in the Architectural Guidelines. Religious or holiday symbols and decorations may be displayed on a Lot of the kinds normally displayed in single-family residential neighborhoods; provided, however, the Association may adopt reasonable time, place and manner restrictions with respect to said symbols and decorations visible

from outside of a structure located on a Lot, including limitations on appearance, style, size, and number; and further provided, no decoration or symbol may be placed on a Lot for more than thirty (30) days in any twelve (12) month period.

7.14 Artificial Vegetation, Gardens, Play Equipment, Exterior Sculpture, Water Features and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals), exterior sculpture, fountains or water features may be erected on any Lot without prior written approval in accordance with the provisions of Article 6 hereof or as may be otherwise permitted as provided in the Architectural Guidelines.

7.15 Flags. No flags may be displayed on any Lot without prior written approval in accordance with the provisions of Article 6 hereof or as may be otherwise permitted as provided in the Architectural Guidelines; provided, however no approval shall be required to: (a) display the flag of the United States of America and the current flag of the State of Georgia on a Lot in accordance with the provisions of the U.S. Flag Code (36 US Code 10) and usual and customary practice; and (b) display a seasonal flag or banner no larger than two feet (2') by four feet (4') consistent with the Community-Wide Standard and other usual and customary practice for a period not to exceed one thirty (30) day period per quarter. The Board of Directors of the Association may promulgate reasonable rules and regulations with respect to the display of flags in the Community, including, without limitation, regulating the size of flags that may be displayed and imposing reasonable time, place and manner restrictions pertaining to the display of the United States flag; provided, however, the Association shall not enact any rule or regulation which has the effect of prohibiting any Owner from displaying the flag of the United States of America on a Lot in the Community in contravention of the Freedom to Display the American Flag Act of 2005. Free standing flag poles shall be prohibited.

7.16 Conservation Equipment. No solar energy collector panels or attendant hardware or other conservation equipment, including rain barrels, shall be constructed or installed unless as an integral and harmonious part of the architectural design of a structure or otherwise screened from view and approved under Article 6 hereof or as may be otherwise permitted as provided in the Architectural Guidelines.

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

7.18 Yards. Owners shall not add trees, shrubs, bushes, plants or other vegetation to the exterior portions of the Community maintained by the Association without the prior written consent of the Board of Directors. Any landscaping improvements originally installed by an Owner on the Common Property which are not properly maintained, including, but not limited to, damaged, diseased or dead plants, shrubs and trees may, at the sole discretion of the Board of Directors, be removed from the Community. The costs associated with removing any damaged, diseased or dead plants, shrubs and trees originally installed by an Owner in the Community may be assessed against the Owner and the Lot as a specific assessment.

7.19 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments which

can be seen at any time from the outside of any structure located on a Lot must be white or off-white or such other another acceptable color as may be provided in the Architectural Guidelines. Except on Units on which there is maintained a sales office or model home by the Declarant, or as otherwise approved in accordance with the provisions of Article 6 hereof, no metal, wood, fabric, fiberglass or similar type material awnings or patio covers will be permitted anywhere in the Community.

7.20 Storm and Screen Doors and Windows. Owners shall not add storm and screen doors and storm windows on any Lot without prior approval in accordance with the provisions of Article 6 hereof.

7.21 Drainage. Catch basins, retention ponds, detention ponds, drainage easement areas and related drainage facilities are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flow after the location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 6 hereof.

7.22 Garbage Cans, Firewood, Etc. All garbage cans, firewood and other similar items shall be stored within the garage of the Lot. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate.

7.23 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval in accordance with the provisions of Article 6 hereof. Declarant, however, hereby expressly reserves the right to subdivide and/or revise and re-record the subdivision plat of any Lot(s) with the consent of the Owner of the affected Lot(s) and to approve the revision and re-recording of any plat of any Lot(s) owned by any builder or developer, including, but not limited to, changing any Lot to Common Property or creating a public or private street over any Lot or property that was formerly a Lot, without the consent of any Person, other than the Owner(s) of such Lot(s).

7.24 Heating of Units in Colder Months. In order to prevent water pipes from breaking during colder months of the year resulting in damage to Units, increased common expenses, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within all Units shall be maintained with the heating operating and at a minimum of fifty (50°) degrees Fahrenheit when the temperature is forecasted to or does reach thirty two degrees (32°) degrees Fahrenheit or below. Owners shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. If the heating equipment is not working, the Owner shall: (a) immediately inform the Owners of the other Units of such equipment failure and of the time needed in order to repair the equipment; and (b) take reasonable steps to keep the Lot heated sufficiently to prevent the breakage of water pipes.

7.25 Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Community without the prior written consent or the Board of

Directors. If permitted, such activities shall be subject to all reasonable conditions that the Board may impose.

7.26 Traffic Regulations. All vehicular traffic on the private streets and roads in the Community shall be subject to the provisions of state and local laws concerning the operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including imposing reasonable safety measures and speed limits within the Community. The Association shall be entitled to enforce the same by establishing such enforcement procedures as it deems appropriate, including levying and collecting fines for the violations thereof. In the event of a conflict between the provisions of state and local laws and the rules and regulations promulgated by the Association, the rules and regulations of the Association shall govern. Only drivers properly licensed to operate motor vehicles on the public roads within the State of Georgia may operate any type of motor vehicle within the Community. All vehicles of any kind and nature which are operated on the streets in the Community shall be operated in a careful, prudent, safe, and quiet manner and with due consideration for the rights of all Owners and Occupants.

7.27 Insects. No Person shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor noxious insects. Electric Bug Killers, "zappers", and other similar devices shall not be installed at a location or locations which result in the operation thereof becoming a nuisance or annoyance to other Owners or Occupants, and shall be operated only when outside activities require the use thereof and shall not be operated continuously.

7.28 Impairment of Units and Easements. An Owner shall take no action that will impair the structural soundness or integrity of any Lot or impair any easement or other interest in real property, nor allow any condition to exist which will materially adversely affect the other Units or their Owners or Occupants.

7.29 Abandoned Personal Property. Personal property, other than vehicles as provided for in this Declaration, is prohibited from being stored, kept, or allowed to remain unattended upon any portion of the Common Property, without the prior written approval of the Board. If the Board determines that a violation exists, then, not less than twenty-four (24) hours after written notice is placed on the personal property and/or on the front door of the property owner's Lot, if known, the Board may remove the personal property and have no obligation to return or replace such property or reimburse the owner of the property. In the event that the Board removes personal property as provided herein, the Owner shall be responsible for all costs associated therewith, including, without limitation, reasonable attorneys' fees actually incurred, and such costs shall be a specific assessment against the Lot. The notice shall include the name and telephone number of the Person which will remove the property and the name and telephone number of an individual to contact regarding the alleged violation.

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

The Association and any director, officer, employee or agent thereof shall not be liable to any Person for any claim of damage resulting from the removal of personal property in accordance herewith. The Board may elect to impose fines or use other available remedies, rather than exercise its authority to remove property hereunder.

7.30 Decks, Patios, Porches and Balconies. No laundry, garments, towels or objects other than potted plants, grills and patio furniture, shall be placed on a deck, patio, porch or balcony, except as may be authorized by the Board of Directors or permitted in the Architectural Guidelines. Objects shall not be permitted to hang over or be attached to any deck, patio, porch or balcony or to otherwise protrude outside of the vertical plane formed by the exterior surface or any deck, patio, porch or balcony located on or appurtenant to a Lot. No deck, patio, balcony or porch shall be enclosed without prior approval in accordance with the provisions of Article 6 of the Declaration. No deck shall be stained without the prior written approval under Article 6 of the Declaration.

7.31 Storm Water Detention/Retention Ponds. Except as herein provided, any storm water retention/detention pond within the Community shall be used for aesthetic amenities and storm water drainage only, no other use thereof, including, without limitation, boating, swimming, ice skating, playing, or use of personal flotation devices, and other recreation, shall be permitted, without the prior written consent of the Board of Directors. The Association, the Declarant and their respective representatives, agents, employees, officers or directors shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of any storm water detention/retention pond, creek or stream or any other body of water within the Community. No Owner shall have any right to place rocks, stones, trash, garbage, sewage, wastewater, rubbish, debris, ashes or other refuse in any storm water detention/retention pond, wetland area, stream or creek in the Community. Applicable governmental agencies, the Declarant and the Association, shall have the sole right to control the water level of all bodies of water located within the Community and to control the growth and eradication of plants, fowls, reptiles, animals, fish and fungi in and around any storm water retention pond within the Community. Owners shall not be permitted to withdraw water from any storm water detention/retention pond.

Article 8 - Leasing

8.1 General. The leasing of Units is permitted to the extent and on such terms and conditions as are provided herein. "Leasing" is defined as regular, exclusive occupancy of a Lot by any Person other than the Owner, including, but not limited to: (a) any Person who occupies a Lot pursuant to a lease-purchase agreement prior to the closing on the acquisition of the Lot; and (b) any family member of an Owner who exclusively occupies a Lot which is not also the residence of and occupied by the Owner thereof. Notwithstanding the foregoing, "Leasing" does not include occupancy by a roommate(s) or family member(s) of an Owner who along with the Owner occupies a Lot as his or her residence.

8.2. Leasing Provisions. Leasing that is authorized pursuant to hereunder shall be governed by the following provisions:

(a) Notice. At least seven (7) days prior to entering into the lease of a Lot, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with this Declaration and any rules and regulations adopted pursuant thereto.

(b) General.

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

(ii) All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable.

(iii) There shall be no subleasing of Lot or assignment of leases without prior written Board approval.

(iv) All Leases must be for an initial term of not less than six (6) months except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship.

(v) Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Lot.

(vi) The Owner must provide at Owner's sole expense the lessee copies of this Declaration, Bylaws, and the rules and regulations.

(vii) Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

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

Any violation of this Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any occupant, or any guest of 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 this 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. If the Association proceeds to evict the lessee, any costs, including reasonable attorneys' fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Lot.

(d) Use of Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, including but not limited to, the use of any and all recreational facilities and other amenities.

(e) Liability for Assessments. When an Owner who is leasing his, her, or its 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 lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under this Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

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

8.3. Rights Reserved by Declarant. Notwithstanding the above, this Article shall not apply to any leasing transaction entered into by Declarant (regardless of whether said lease is entered into prior to or after Buildout), the Association, or 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; provided, however, the Declarant or holder of any First Mortgage that leases a Lot must still provide the name, address, and telephone number of the Person to whom the Lot is being Leased.

Article 9 - Insurance and Casualty Losses

9.1 Insurance Obtained by Association. The Board of Directors shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Property or required to be maintained by the Association under Article 5 hereof and blanket insurance for all Units. Insurance obtained and maintained by the Association shall cover loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in the 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. Notwithstanding anything to the contrary herein, nothing in this Section 9.1 shall be construed as obligating the Association to obtain or maintain insurance covering a Lot Owner's or Occupant's personal property.

The Board of Directors 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). Policies may contain a reasonable deductible as determined by the Board of Directors.

Premiums for all insurance obtained and maintained by the Association shall be a common expense of the Association.

In addition to other insurance coverage required by this Section, the Board shall obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if available at reasonable cost, as determined in the sole discretion of the Board, a fidelity bond or employee dishonesty coverage covering directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the director's best business judgment and shall satisfy local, state or federal requirements for such coverage, if any. Such coverage, if obtained, shall also contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall not be subject to cancellation, nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association.

9.2 Insurance Obtained by Lot Owners. 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 obtain and maintain insurance covering an Owner's and Occupant's personal property and each Owner covenants and agrees with all other Owners to obtain and maintain the following: (i) a liability policy covering damage or injury occurring on a Lot; (ii) insurance covering an Owner's or Occupant's personal property; and (iii) insurance covering any betterments and improvements made to the residential dwelling located on a Lot. The policies required hereunder shall be in effect at all times.

9.3 Damage and Destruction -- Insured by Association.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any structure or improvement covered by insurance written in the name of the

Association, the Board of Directors 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 necessary to comply with applicable building codes.

(b) **Repair and Construction.** 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 seventy-five percent (75%) of the Total Association Vote and the Declarant 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. 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 the Owners of all of the Units. 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 funds shall be deposited to the benefit of the Association. 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 the property shall be maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition consistent with the Community-Wide Standard and this Declaration.

9.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any structure or improvement located on a Lot shall be repaired or reconstructed by the Owner thereof in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article 6 of this Declaration. Said repair or reconstruction shall be completed within seventy-five (75) days after such damage or destruction occurred, 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 period of time thereafter. Alternatively, the Owner of the Lot may elect to demolish all improvements on the Lot and remove all debris and ruins therefrom within seventy-five (75) days after such damage or destruction occurred and thereafter maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard and this Declaration. The Owner shall pay all costs which are not covered by insurance proceeds.

Article 10 - Easements

10.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded subdivision plat for the Community, as amended from time to time, as well as the easements now or hereafter established by the Declarant in this Declaration or by any other document recorded in the Office of Superior Court of Gwinnett County, Georgia.

10.2 Easements for Use and Enjoyment. Every Owner shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the Owners Lot in and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

(a) the right of the Association to suspend the right of an Owner to use and enjoy the Common Property for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws, rules and regulations or Architectural Guidelines;

(b) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for constructing, repairing or improving any facilities located or to be located thereon and, upon the affirmative vote of the Owners of at least two-thirds (2/3) of the Units (other than Declarant) and the consent of Declarant, to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community (Regardless of any contrary provision in this Declaration or in any such Mortgage given by the Association, the exercise of any rights by the holder of such Mortgage in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community);

(c) the right of the Association, acting through the 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 Common Property;

(d) the right of the Association to transfer or convey all or any portion of the Common Property upon the approval of the Owners of at least two-thirds (2/3) of the Units and the consent of Declarant;

(e) all other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration, in any Supplementary Declaration, or in any deed conveying Common Property to the Association; and

(f) all encumbrances and other matters shown by the public records affecting title to the Common Property.

10.3 Easements for Encroachment and Overhang. There is hereby reserved to the Declarant for the benefit of each Lot a reciprocal appurtenant easement for encroachment and overhang between adjacent Units and between a Lot and adjacent Common Property due to the original construction or the unintentional placement or settling or shifting of the improvement constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than two (2) feet, as measured from any point on such common boundary; provided,

however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association, other than the Declarant in the original construction of the Units.

10.4 Easement for Utilities - Association and Declarant. There is hereby reserved to the Declarant and granted to the Association a blanket easement upon, across, above and under all property within the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television system, or security system which the Declarant or the Association might decide to have installed to serve the Community. Declarant, the Association or the designee of the foregoing, as the case may be, may install, repair, replace and maintain or authorize the installation, repair, replacement and maintenance of such wires, conduits, cables and other equipment related to the providing of any utility or service. The Board of Directors, without a vote of the Owners, shall have the right, power and authority to grant permits, licenses, utility easements, and other easements under, through, or over the Units and/or the Common Property as may be reasonably necessary to or desirable for the ongoing operation and maintenance of the Community.

10.5 Easement for Utilities - Lot Owner. Declarant hereby establishes for the benefit of each Lot a nonexclusive easement for access to and installation, maintenance, repair, replacement and use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving such Lot and situated in, on or under any other Lot or the Common Property. In the event that any Owner desires access to another Lot to install, maintain, repair or replace any utility pipe, wire, cable, conduit, utility line, flue or duct, the Owner shall contact the Owner of such other Lot(s) at least two (2) days in advance of the date that access is needed and attempt to agree on a convenient date and time for access by the Owner and the Owner's contractors. Access in emergency situations shall be granted immediately upon request. Any Owner of a Lot to which access is needed under this Section shall not unreasonably withhold, condition or delay such access. Rights exercised pursuant to this easement shall be exercised with a minimum of interference to the quiet enjoyment of affected Units, reasonable steps shall be taken to protect such Units and the property of the Owners and Occupants thereof, and damage shall be repaired by the Person causing the damage at its sole cost and expense.

10.6 Easement for Emergency Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and rules and regulations and Architectural Guidelines, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable period of time after requested by the Association, but shall not authorize entry into the interior living space of any Lot without permission of the Owner.

10.7 Easement for Association Maintenance. Declarant hereby grants to the Association a perpetual easement across all Units as may be reasonably necessary for the maintenance required hereunder. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Units, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractors at their sole cost and expense. Except in an emergency situation, entry to the interior of a Lot shall only be during reasonable hours and after notice to the Owner.

10.8 Easement for Lot Maintenance. Declarant hereby reserves for the benefit of each Lot reciprocal appurtenant easements between adjacent Units for the purpose of maintaining or repairing the improvements located on each Lot which easement shall extend to a distance of five (5) feet as measured from any point on the common boundary between the Units. The easement shall be used only for such period of time as is reasonably necessary in order to complete the maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Lot over which this easement is exercised which arises out of such maintenance or repair work.

10.9 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 drainage in the Community; provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. 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.

10.10 Easement During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, Architectural Guidelines, and amendments thereto, Declarant reserves an easement across the Community to maintain and carry on, upon such portion of the Community as it may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for its development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or any other property being developed by Declarant, including, but not limited to: (a) the right to place or authorize the placement of marketing and directional signs on Units or right-of-way(s) at street intersections within the Community; (b) 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; (c) the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; (d) 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, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (e) the right to grant easements over, under, in or on the Community, including without limitation the Units, 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; (f) the right to convert Units (with the consent of the Owner thereof) to Common Property and/or streets; (g) the right to

construct utilities and other improvements on Common Property; (h) the right to carry on sales and promotional activities in the Community; (i) and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residences, offices or other buildings it owns or leases as model residences and sales offices without charge. This Section shall not be amended without the written consent of Declarant until its rights hereunder have terminated as herein provided.

10.11 Easement for Private Streets, Sidewalks and Signs. Declarant hereby grants, conveys, declares, creates, imposes and establishes a perpetual, non-exclusive right-of-way easement for vehicular and pedestrian access, ingress and egress over and across the private streets and sidewalks located within the Community. At such time as one or more subdivision plats for the property submitted to this Declaration are recorded in the real estate records of the Office of the Clerk of Superior Court of Gwinnett County, Georgia, any reference to private streets shall then and thereafter mean a reference to the private streets as actually constructed and depicted on the recorded subdivision plat. The right-of-way easement herein granted shall permit joint usage of such easement by: (a) the Owners and Occupants; (b) the legal representatives, successors and assigns of the Owners; and (c) invitees and licensees of the Owners and Occupants. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate of any right-of-way easement area which are not inconsistent with the rights and privileges herein granted, including, without limitation, the right to maintain one or more proprietary signs on the easement area and the right to grant additional non-exclusive easements to third parties, over, under and across the easement area. Declarant hereby reserves for the benefit of itself and grants to the Association as Common Property, the perpetual nonexclusive right and easement upon, over and across those utility easement areas and private streets and roads for the installation, maintenance, and use of such streets and roads, sidewalks, traffic directional signs, grading for proper drainage of said streets and roads, and related activities and improvements.

10.12 Easement for Guest Parking Spaces. Declarant hereby grants, conveys, declares, creates, imposes and establishes an easement in perpetuity upon, over and across the Guest Parking Spaces within the Community for temporary parking by the invitees, guests and licensees of the Owners and Occupants. Notwithstanding anything provided herein to the contrary, Owners and Occupants of Units shall not be entitled to park vehicles owned or used on a regular basis by said Owners or Occupants on the Guest Parking Spaces. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate of any parking easement area which are not inconsistent with the rights and privileges herein granted. All parking in Guest Parking Spaces shall be subject to the provisions of Section 7.4 hereof and such additional rules and regulations as the Board of Directors may adopt from time to time in its sole discretion.

Article 11 - General Provisions

11.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations, Architectural Guidelines and use restrictions, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plat(s) for the Community and in the deed to such Owner's Lot, if any. The Declarant and Board of Directors may impose fines or other sanctions for violations of the

foregoing, which shall be collected as provided herein for the collection of assessments provided, however, only one fine may be imposed for a single violation such that an Owner or Occupant may not be fined by the Declarant and the Board of Directors for the same violation; and provided, further, Declarant or the Board, as the case may be, may count each day a violation continues after notice thereof as a separate violation. In the event fines or other sanctions are imposed by Declarant hereunder, Declarant shall have any and all rights to collect such fines or sanctions (which fines shall be payable to the Association) and any related charges, including, without limitation, attorney's fees actually incurred and costs of collection, in the same manner as provided herein for the collection of assessments by the Association acting through the Board.

Failure to comply with this Declaration, the Bylaws, the rules and regulations or Architectural Guidelines shall be grounds for an action to recover sums due for damages or injunctive relief or both, including, without limitation, reasonable attorney's fees actually incurred, maintainable by the Association, the Declarant or an aggrieved Owner. Failure by the Declarant and 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 Association 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 Architectural Guidelines, and to assess the cost of recording and removing such notice against the Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

11.2 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Community and shall inure to the benefit of and shall be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, if and to the extent that Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be: (a) automatically extended for successive periods of twenty (20) years (or the maximum period allowed by Georgia law, if less), unless a written instrument signed by the then Owners of at least two-thirds (2/3) of the Units has been recorded within the two years immediately preceding the beginning of a twenty (20) year renewal period agreeing to terminate the same; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

11.3 Occupants Bound. All provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Architectural Guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Architectural Guidelines. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

11.4 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant, or their respective duly authorized agents shall have the power to enter upon any Lot or any other portion of the Community to abate or remove any structure, thing or condition which

violates this Declaration, the Bylaws, the rules and regulations, the use restrictions or Architectural Guidelines. Unless an emergency situation exists, the violating Owner shall be given ten days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law. All costs of self-help, including, without limitation, reasonable attorneys' fees actually incurred, shall be assessed against the Lot of the violating Owner as a specific assessment.

11.5 Termination of Rights of Declarant. The rights of Declarant to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the Bylaws shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant no longer owns any property in the Community and no longer has the right to unilaterally annex additional property to the Community as provided herein and a certificate of occupancy has been issued for the residential dwelling located on each Lot in the Community; or (b) the date of recording by Declarant in the real estate records of the county where the Community is located of a written instrument terminating all of Declarant's rights hereunder.

11.6 Amendment.

(a) By Declarant. This Declaration may be amended unilaterally at any time and from time to time by Declarant if such amendment is: (i) 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; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (iii) required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Units subject to this Declaration; or (iv) necessary to enable any governmental agency or private insurance company, including without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner of such Lot consents thereto in writing. Further, 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 Owners hereunder nor shall it materially adversely affect title to any Lot without the consent of the affected Owner.

(b) By the Board. The Board of Directors may, with the written consent of the Declarant and without a vote of the members, amend the Declaration for the following purposes: (i) 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; (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase

Mortgage loans on the Units subject to this Declaration; (iv) if such amendment is necessary to enable any governmental agency or private insurance company, including without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner of such Lot consents thereto in writing; or (v) for the purpose of electing to be governed by and thereafter complying with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.*

(c) By the Association. In addition to the above, this Declaration may be amended upon the affirmative vote or written consent or any combination thereof of Owners of at least two-thirds (2/3) of the Units eligible to vote and the consent of Declarant. Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein. The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any notices required by this Declaration, the Bylaws, the Articles of Incorporation and Georgia law were given. The amendments authorized by this Section may be of uniform or non-uniform application and Owners shall be deemed to have agreed that the Declaration may be amended as provided herein and that any rule of law requiring unanimous approval of amendments having a non-uniform application shall not apply.

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

11.8 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.

11.9 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.

11.10 No Merger. There shall be no merger of any of the covenants, conditions, restrictions or easements created or reserved hereby with the fee estate of Declarant, by reason of the fact that Declarant may own or hold the estate or interest both encumbered and benefited by such covenants, conditions, restrictions or easements and no such merger shall occur unless and until Declarant, while owning all of the estate or interests shall execute a written statement or instrument affecting such merger and shall duly record the same.

11.11 Preparer. This Declaration was prepared by Frank R. Olson, Cobb, Olson & Andrle, LLC, 500 Sugar Mill Road, Suite 160-B, Atlanta, GA 30350.

11.12 Notices. Except as otherwise specifically provided in such document(s), as the case may be, notices provided for in this Declaration or the Articles or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Lot and to the Declarant and to the Association at the address of their respective registered agent on file with the Secretary of State of the State of Georgia. Any Owner may designate a different address, including an electronic mail address, for notices to such Owner by giving written notice to the Association. Owners shall keep the Association advised of their current address and phone number(s) where they can be reached. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable commercial courier service, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act". The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

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

11.14 Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT DECLARANT, THE ASSOCIATION AND ITS BOARD OF DIRECTORS, AND THE ARCHITECTURAL REVIEW COMMITTEE, IF ANY, DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE ARCHITECTURAL REVIEW COMMITTEE, IF ANY, ARE NOT INSURERS OR PROVIDERS OF SAFETY OR SECURITY AND SHALL HAVE NO DUTY TO PROVIDE ANY SAFETY OR SECURITY ON THE COMMON PROPERTY OR OTHERWISE; AND THAT EACH OWNER, OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, AND THE ARCHITECTURAL REVIEW COMMITTEE, IF ANY, HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATION OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE

RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

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

11.16 Agreements. Subject to the prior approval of Declarant, 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.

11.17 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors 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 is warranted and would not be inconsistent with the overall scheme of development for the Community.

11.18 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote and the consent of the Declarant. This Section shall not apply to: (a) actions brought by the Association to enforce the provisions of this Declaration; (b) the imposition and collection of assessments as provided herein; (c) proceedings involving challenges to *ad valorem* taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This Section shall not be amended unless such amendment is made unilaterally by the Declarant as provided herein or is approved by the percentage votes necessary to institute proceedings as provided above.

11.19 Notice of Sale, Lease or Acquisition. Prior to the sale or lease of a Lot, the Owner shall provide the Association with written notice of the name of the purchaser or lessee, as the case may be, and such other information as the Board may reasonably require. Upon acquisition of a Lot, each new Owner shall provide the Association with written notice of the name and mailing address of the Owner and such other information as the Board may reasonably require.

11.20 Gwinnett County Unified Development Ordinance § 210-50.11 The conservation space conveyed by this deed and shown on the Final Plat shall remain permanently protected and shall not be disturbed, cleared or developed except in accordance with OCGA § 36-22-1 et seq., having the following Greenspace goals: protection of streams, floodplains and wetlands; steep slopes; woodlands, open fields and meadows; historical and archeological features, including cemeteries; significant wildlife habitats; scenic vistas; encouragement of native species; passive recreation and connectivity with nearby open spaces. The following uses may be allowed: active recreational amenities; passive recreational amenities, such as paths, greenways, and minimal parking spaces; picnic and restroom facilities (constructed facilities shall not exceed 15 percent of the conservation space). This covenant is intended to benefit said area to the public and the use of same to the subdivision Lot owners and residents, and it shall run in perpetuity as provided by OCGA § 44-5-60(c) or in the Act or other applicable Georgia law.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed this 11 day of Jan, 2022.

DECLARANT:

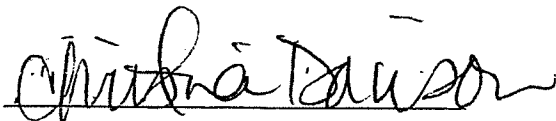
JONES MILL COMMUNITIES, LLC

By: 

Its: Member

Signed, sealed and delivered in

the presence of:



Unofficial Witness

Sworn to and subscribed before

me, this 11 day of January, 2022.

Natalia Mora C.

Notary Public

My commission expires

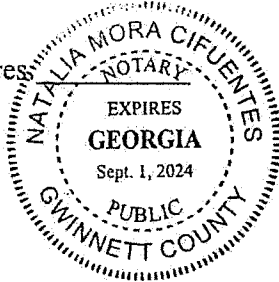


EXHIBIT "A" - LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 251 of the 6th District, City of Peachtree Corners, Gwinnett County, Georgia and being more particularly described as follows:

BEGINNING at an iron pin set #4 rebar at the intersection of the Southeasterly Right of Way Line of Jones Mill Road (Public, 120' R/W) and the Northerly Right of Way Line of Virginia Avenue (Public, 40' R/W), said iron pin set #4 rebar having Georgia State Plain coordinates (NAD83, Georgia West Zone) N.1429343.03 and E.2271794.43 and being the true point of beginning. Thence leaving said intersection and following along the Southeasterly Right of Way Line of Jones Mill Road the following courses and distances: with a curve turning to the right with an arc length of 419.47 feet, having a radius of 656.19 feet, being subtended by a chord bearing of North 37 degrees 41 minutes 10 seconds East, and a chord length of 412.36 feet, to a point; thence North 55 degrees 59 minutes 56 seconds East, a distance of 1005.49 feet to an iron pin set #4 rebar; thence leaving said Southeasterly Right of Way Line of Jones Mill Road South 29 degrees 49 minutes 22 seconds East, a distance of 438.55 feet to a point at the intersection of the abandoned Easterly Right of Way Line of First Street and the abandoned Northerly Right of Way Line of Virginia Avenue; thence leaving said intersection and following along said abandoned Northerly Right of Way Line of Virginia Avenue South 68 degrees 42 minutes 23 seconds West, a distance of 1155.37 feet to an iron pin set #4 rebar at the terminus of said Northerly Right of Way Line of Virginia Avenue; thence following along said Northerly Right of Way Line of Virginia Avenue South 68 degrees 42 minutes 28 seconds West, a distance of 243.93 feet to an iron pin set at the intersection of the Southeasterly Right of Way Line of Jones Mill Road and the Northerly Right of Way Line of Virginia Avenue, which is the true point of beginning.

Said Tract 1 having an area of 372,761 square feet, 8.672 acres.

Together with:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 251 & 276 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA, BEING LOTS 8 & 9, BLOCK 11, AS PER THE PLAT FOR PEACHTREE CITY SUBDIVISION, ALSO KNOWN AS THE A. M. KITCHENS PROPERTY, AS PER THE PLAT RECORDED IN DEED BOOK 23, PAGE 178, GWINNETT COUNTY, GEORGIA RECORDS, WHICH PLAT IS INCORPORATED HEREIN AND MADE A PART HEREOF BY THIS REFERENCE.

Together with:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOTS 251 & 276 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA, BEING A PORTION OF LOT 7, BLOCK 11, AS PER THE PLAT FOR PEACHTREE CITY SUBDIVISION, ALSO KNOWN AS THE A. M. KITCHENS PROPERTY.

Together with:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 251 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA, BEING LOTS 5, 6 AND PART OF 7, BLOCK 11, PEACHTREE CITY SUBDIVISION, ALSO KNOWN AS THE A. M. KITCHENS PROPERTY, AS PER THE PLAT RECORDED IN DEED BOOK 23, PAGE 178, GWINNETT COUNTY, GEORGIA RECORDS, WHICH PLAT IS INCORPORATED HEREIN AND MADE A PART HEREOF BY THIS REFERENCE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY SIDE OF FLORIDA AVENUE, 250 FEET SOUTHWESTERLY FROM SECOND STREET, SAID POINT OF BEGINNING ALSO BEING AT THE SOUTHWEST CORNER OF LOT 4, SAID BLOCK AND SUBDIVISION; RUN THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY SIDE OF FLORIDA AVENUE ONE HUNDRED TWENTY FIVE (125) FEET TO A POINT; RUN THENCE NORTHWESTERLY ONE HUNDRED FIFTY (150) FEET TO LOT 16, SAID BLOCK AND SUBDIVISION; RUN THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF LOTS 16, 17 AND 18, SAID BLOCK AND SUBDIVISION, ONE HUNDRED TWENTY FIVE (125) FEET TO SAID LOT 4, RUN THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF LOT 4, ONE HUNDRED FIFTY (150) TO THE NORTHWESTERLY SIDE OF FLORIDA AVENUE AND THE POINT OF BEGINNING.

Together with:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 251 OF THE 6TH DISTRICT, GWINNETT COUNTY, GEORGIA, BEING LOTS 1 THRU 4, INCLUSIVE, LOTS 19 THRU 21, INCLUSIVE AND LOTS 14 THRU 18, INCLUSIVE, BLOCK 11, PEACHTREE CITY SUBDIVISION, ALSO KNOWN AS THE A. M. KITCHENS PROPERTY, AS PER THE PLAT RECORDED IN DEED BOOK 23, PAGE 178, GWINNETT COUNTY, GEORGIA RECORDS, WHICH PLAT IS INCORPORATED HEREIN AND MADE A PART HEREOF BY THIS REFERENCE.

And

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 251 of the 6th, District, City of Peachtree Corners, Gwinnett County, Georgia and being more particularly described as follows:

BEGINNING at a point at the intersection of the Southeasterly Right of Way Line of Jones Mill Road (Public, 120' R/W) and the Northerly Right of Way Line of Virginia Avenue (Public, 40' R/W), said point being the true point of beginning. Thence leaving said intersection and following along the Southeasterly Right of Way Line of Jones Mill Road the following courses and distances: with a curve turning to the right with an arc length of 419.47 feet, having a radius of 656.19 feet, being subtended by a chord bearing of North 37 degrees 41 minutes 10 seconds East, and a chord length of 412.36 feet, to a point; thence North 55 degrees 59 minutes 56 seconds East, a distance of 1005.49 feet to a point; thence leaving said Southeasterly Right of Way Line of Jones Mill Road and along the property of Mechanicsville Road Norcross, LLC, Gencom Inc. and Robert N. Saxe South 29 degrees 49 minutes 22 seconds East, a distance of 438.55 feet to a point at the intersection of the abandoned Easterly Right of Way Line of First Street (Public, Unopened, 15' R/W) and the

abandoned Northerly Right of Way Line of Virginia Avenue (Public, Unopened, 40' R/W); thence leaving said intersection and following along said abandoned Easterly Right of Way Line of First Street and continuing along the property of Robert N. Saxe South 29 degrees 45 minutes 46 seconds East, a distance of 40.53 feet to a point at the intersection of the abandoned Easterly Right of Way line of First Street and the abandoned extended Southerly Right of Way Line of Virginia Avenue (Public, Unopened, 40' R/W); thence leaving said abandoned Easterly Right of Way Line of First Street and following along said abandoned extended Southerly Right of Way Line of Virginia Avenue South 69 degrees 00 minutes 21 seconds West, a distance of 731.94 feet to a point at the intersection of the abandoned Southerly Right of Way Line of Virginia Avenue and the abandoned Easterly Right of Way Line of Second Street (Public, Unopened, 40' R/W); thence leaving said intersection and following along said Easterly Right of Way Line of Second Street South 49 degrees 44 minutes 09 East, a distance of 338.00 feet to a point at the intersection of said abandoned Easterly Right of Way Line of Second Street and the Northerly Right of Way Line of Florida Avenue (Public, 40' R/W); thence leaving said abandoned Easterly Right of Way Line of Second Street and following along the extended Northerly Right of Way Line of Florida Avenue South 69 degrees 00 minutes 45 seconds West, a distance of 44.94 feet to a point at the intersection of the Northerly Right of Way Line of Florida Avenue and the Westerly Right of Way Line of Second Street; thence leaving said intersection and following along the Northerly Right of Way Line of Florida Avenue South 69 degrees 00 minutes 45 seconds West, a distance of 500.00 feet to a #5 re bar found disturbed at its base; thence leaving said Northerly Right of Way Line of Florida Avenue and along the property of Peachtree Subdivision, Block 11, Lots 10 & 13 North 30 degrees 00 minutes 30 seconds West, a distance of 300.00 feet to a point on the abandoned Southerly Right of Way Line of Virginia Avenue; thence following along said abandoned Southerly Right of Way Line of Virginia Avenue and the property of the Gwinnett County School District South 67 degrees 31 minutes 46 seconds West, a distance of 140.17 feet to a point at the intersection of said abandoned Southerly Right of Way Line of Virginia Avenue and the Southwesterly Right of Way Line of Third Street (Public, 40' R/W); thence leaving said intersection and following along the terminus of Virginia Avenue North 21 degrees 17 minutes 32 seconds West, a distance of 36.89 feet to a point on the Northerly Right of Way Line of Virginia Avenue; thence following along said Northerly Right of Way Line of Virginia Avenue South 68 degrees 42 minutes 28 seconds West, a distance of 103.79 feet to a point at the intersection of the Southeasterly Right of Way Line of Jones Mill Road and the Northerly Right of Way Line of Virginia Avenue, which is the true point of beginning.

Said overall having an area of 543,931 square feet, 13.085 acres.

All as more particularly described in those certain conveyances to Jones Mill Communities, LLC, recorded at Deed Book 57928, Page 82 and Deed Book 57928, Page 87, Gwinnett County Records, and as further shown on the Final Plat of Survey for The Summit at Peachtree Corners recorded at Plat Book 153, Pages 79-86, Gwinnett County Records.

The conservation space conveyed hereby and shown on the Final Plat shall remain permanently protected and shall not be disturbed, cleared or developed except in accordance with OCGA § 36-22-1 et seq., having the following Greenspace goals: protection of streams, floodplains and wetlands; steep slopes; woodlands, open fields and meadows; historical and archeological features, including cemeteries; significant wildlife habitats; scenic vistas; encouragement of native species; passive recreation and connectivity with nearby open spaces. The following uses may be allowed:

active recreational amenities; passive recreational amenities, such as paths, greenways, and minimal parking spaces; picnic and restroom facilities (constructed facilities shall not exceed 15 percent of the conservation space). This covenant is intended to benefit said area to the public and the use of same to the subdivision lot owners and residents, and it shall run in perpetuity as provided by OCGA § 44-5-60(c).

EXHIBIT "B" - ADDITIONAL PROPERTY

Any property within a five (5) mile radius of the Property described on Exhibit "A".

EXHIBIT "C"

BYLAWS

OF

**THE SUMMIT AT PEACHTREE CORNERS PROPERTY
OWNERS ASSOCIATION, INC.**



Prepared by:
FRANK R. OLSON, Esq.
COBB, OLSON & ANDRLE, LLC
Attorneys at Law
500 Sugar Mill Road, Suite 160-B
Atlanta, GA 30350

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BY-LAWS

OF

**THE SUMMIT AT PEACHTREE CORNERS PROPERTY
OWNERS ASSOCIATION, INC.**

ARTICLE I – NAME AND DEFINITIONS

Section 1. Applicability. These Bylaws provide for the self-government of The Summit at Peachtree Corners Property Owners Association, Inc., in accordance with the Articles of Incorporation for The Summit at Peachtree Corners Property Owners Association, Inc. filed with the Secretary of State of Georgia (hereinafter the "Articles of Incorporation"), and the Declaration of Covenants, Conditions, Restrictions and Easements for The Summit at Peachtree Corners Townhomes, recorded in the Gwinnett County, Georgia land records (hereinafter the "Declaration") (together, the "Governing Documents"), all as may be amended from time to time.

Section 2. Name. The name of the Association shall be The Summit at Peachtree Corners Property Owners Association, Inc. (hereinafter the "Association").

Section 3. Definitions. The words used in these By-Laws shall have the same meanings as set forth in said Declaration of Covenants, Conditions, Restrictions and Easements for The Summit at Peachtree Corners Townhomes (hereinafter the "Declaration").

Section 4. Membership. An Owner of a Lot shall automatically become a member of the Association upon taking title to the Lot and shall remain a member for the entire period of ownership. If title to a Lot is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and the number of votes per Lot as set forth in the Declaration. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. Membership shall be appurtenant to the Lot and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title. The Association shall have one class of membership, as is more fully set forth in that certain Declaration of Covenants, Conditions, Restrictions and Easements for The Summit at Peachtree Corners Townhomes (such Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 5. Entity Members. In the event an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent or representative of such legal entity shall be eligible to represent such legal entity in the affairs of the Association, including, without limitation, serving on the Board of Directors of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship

with the legal entity which is the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

Section 6. Purpose. The Association shall have the responsibility of administering The Summit at Peachtree Corners Townhomes development, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Common Property of The Summit at Peachtree Corners Townhomes development and performing all of the other acts that may be required to be performed by the Association pursuant to the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Declaration or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

Section 7. Electronic Documents and Electronic Signatures.

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

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

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

ARTICLE II - ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors in Gwinnett County, Georgia or as convenient thereto as is possible and practical.

Section 2. Annual Meetings. Annual meetings shall be set by the Board of Directors from time to time at any time, date and place agreed upon by the Board of Directors. If the day for

the annual meeting is inadvertently set for a legal holiday, the meeting will be held at the same hour on the first day following such legal holiday (excluding Saturday and Sunday).

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of the Board of Directors or, after all Lots are sold by Declarant and the termination of the Declarant's right to appoint or remove members of the Board of Directors, by a petition signed by at least twenty-five (25%) percent of the total votes of the Association. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to the record Owner of each Lot or to the Lots a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Owner wishes notice to be given at an address other than Owner's Lot, the Owner shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section shall be considered proper service of notice.

Section 5. Waiver of Notice. Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to holding the meeting or transacting business at the meeting, before the meeting is called to order. Attendance at a meeting shall also be deemed waiver of the objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member specifically objects to considering the matter when it is put to a vote.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. If the new date, time, and place is announced at the original meeting before adjournment, then notice need not be given of the new date, time or place. If a quorum is present, any business which might have been transacted at the meeting originally called may be transacted at the adjourned meeting.

Section 7. Voting. The voting rights of the Members shall be as set forth in the Declaration and Articles of Incorporation, which voting rights are specifically incorporated herein. Unless otherwise required by the Declaration, the affirmative vote of a Majority of the votes cast at a meeting at which a quorum is present shall be the act of the Membership.

Section 8. Proxies. At all meetings of Members, each member may vote in Person or by proxy, as further may be limited by the terms of the Declaration. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be

revocable. Each proxy shall automatically cease upon a member's criteria for Membership ceasing to exist or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

Section 9. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of at least twenty percent (20%) of the total votes existing in the Association shall constitute a quorum at all meetings of the Association. In the event a quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the quorum required at the first meeting. Any provision in the Declaration concerning quorum is specifically incorporated herein.

Section 10. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat.

Section 11. Record Date. The Association may establish such record dates for Membership as may be authorized by the Georgia Nonprofit Corporations Code or applicable Georgia law.

Section 12. Action by Written Ballot. Any action to be taken at any annual, regular or special meeting of Members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of any action shall be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirement; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of Members filed in the permanent records of the Association.

Section 13. Action by Written Consent. Any action to be taken at any annual, regular or special meeting of the Members may be taken without a meeting if one (1) or more consents, in writing, setting forth the action so taken, shall be signed and dated by Members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first Member signs and consent. Such action shall be approved when the Secretary receives a sufficient number of such consents. Such action shall be approved when the Secretary receives a sufficient number of such consents. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives notice of the approval to all Members who did not sign a consent. Each consent shall be included in the minutes of

meetings of Members filed in the permanent records of the Association. No Consent shall be valid unless: (1) the consenting Member has been furnished the same material that, pursuant to the Georgia Nonprofit Corporation Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the Members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished.

Section 14. Order of Business. The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all Association meetings. The Board of Directors may establish rules of conduct and the order of business for all Association meetings. When not in conflict with the Declaration, these Bylaws, the Articles of Incorporation or meeting procedures adopted by the Board of Directors, *Robert's Rules of Order* (using the editions in effect when the meeting is noticed) shall govern all Association meetings. The Board may order the removal of anyone attending an Association meeting who, in the opinion of the Board, disrupts the conduct of business at such meeting.

ARTICLE III - BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Unit.

Section 2. Directors During Declarant Control. The initial directors shall be selected by the Declarant, acting in its sole discretion, and shall serve at the pleasure of the Declarant. The Directors selected by the Declarant need not be Members of the Association nor residents in the Community. The number of directors serving on the Declarant appointed Board shall be determined by the Declarant.

The Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the expiration of ten (10) years after the date of the recording of the Declaration; (b) the date on which all of the Units planned by Declarant to be a part of the Community shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Community.

The total number of Units planned by Declarant for the Community shall initially be the number of Units shown on the Declarant's land use plan for the development as it may be amended from time to time. Inclusion of property on the land use plan shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land use

plan bar Declarant from subjecting such property to the Declaration. The final total number of Units planned for the Community shall be the actual number of Units shown on the recorded subdivision plats for the Community regardless of any different number of Units shown from time to time on the land use plan.

Section 3. Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist of from one to three members as determined by Declarant from time to time. Thereafter, the Board shall consist of three members, who shall be elected as provided below.

Section 4. Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Bylaws Article II, Sections 12 and 13 in lieu of a meeting) and the members shall elect three directors as follows: the initial term of two (2) directors shall be fixed at two (2) years, and thereafter successors shall be elected to a term of two (2) years; the initial term of one (1) director shall be fixed at one (1) year, and thereafter successors shall be elected to a term of two (2) years. At annual meetings thereafter (or pursuant to Bylaws Article II, Sections 12 and 13 in lieu of a meeting), directors shall be elected as necessary to fill vacant seats on the Board. All eligible members of the Association may vote on all directors to be elected, and the candidates receiving the most votes shall be elected. Notwithstanding anything herein to the contrary, the members of the Board of Directors shall continue in office until their respective successors shall have been elected and take office.

Section 5. Nominations of Directors. Nominations for election to the Board of Directors shall be made by any Member prior to and at the meeting at which directors shall be elected. A nominating committee may be appointed by the Board of Directors which shall seek out nominations of candidates for election to the Board of Directors.

Section 6. Vacancies. After the termination of the Declarant's right to appoint or remove members of the Board of Directors, any vacancy in the Board of Directors arising from the resignation of a director may be filled for the unexpired term by a majority of the remaining directors then in office.

Section 7. Removal of Directors. After the termination of the Declarant's right to appoint or remove members of the Board of Directors, at any regular or special meeting of the Association duly called, any one or more of the Members of the Board of Directors may be removed, with or without cause, by a majority of the Members authorized to vote for directors and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

B. Meetings.

Section 8. Organizational Meeting. The first meeting of the Members of the Board of Directors following each annual meeting of the Membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meeting. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of the time and place of each regular meeting shall be given by the secretary either personally or by telephone or by mail not less than seven (7) days or no more than thirty (30) days before such regular meeting.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President on his own motion or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice of any special meeting shall be given by the secretary personally or by telephone or by mail at least twenty-four (24) hours before such meeting.

Section 11. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice. The waiver of notice need not specify the purpose of the meeting. A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 12. Quorum; Vote Required for Action. At all meetings of the Board of Directors, the presence of a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors in attendance at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, so long as any action taken is approved by at least a majority of all of the directors.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

Section 14. Telephonic Meetings and Similar Meetings. Directors may participate in and hold a meeting by means of telephone or similar communication whereby all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute the presence in person at the meeting except where a director participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that a meeting is not lawfully called or convened.

Section 15. Executive Session. By the majority vote of the directors at a meeting at which a quorum is present, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a sensitive nature.

Section 16. Action Without a Formal Meeting. Any action to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board may be taken without a meeting if such action is evidenced by written consents, setting forth the action so taken, signed by at

least a majority of the directors; provided that such action is taken in accordance with the Georgia Non-Profit Corporation Code.

Section 17. Adjournments. A meeting of the Board of Directors, whether or not a quorum is present, may be adjourned by a majority of the directors present, to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting which was adjourned.

C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, the Georgia Nonprofit Corporations Code, or these By-Laws directed to be done and exercised exclusively by the Members.

Section 19. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents, at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these. By-Laws. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year. The Board shall use reasonable efforts to enter into a management contract that permits termination by either party, without cause and without termination fee, on ninety (90) days' or less written notice.

Section 20. Decision Making and Implementation. Except to the extent otherwise specifically and expressly required by the Georgia Nonprofit Corporation Code or the Governing Documents, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors acting through the officers of the Association, without any further consent or action on the part of the Owners, and all agreements and determinations lawfully authorized by the Board of Directors shall be binding on the Association.

Section 21. Liability and Indemnification of Officers, Directors and Committee Members. The Association shall indemnify every officer, director, and committee member against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for

injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Association, in determining whether to indemnify a director, officer or committee member, shall not impute knowledge to said director, officer or committee member from any source whatsoever; rather, any such determination shall be based on the actual knowledge of the director, officer or committee member. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors and committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member or former officer or director may be entitled. The Association shall maintain, as a Common Expense, adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

Section 22. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by all Directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during the discussion.

ARTICLE IV - OFFICERS

Section 1. Officers. The officers of the Association shall be a President, a Secretary, and a Treasurer. The Board of Directors may elect such other officers' including a Vice President, or one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person. The President, Secretary, and Treasurer shall be elected from among the Members of the Board of Directors. This provision shall not apply to officers appointed by Declarant.

Section 2. Election, Term of Office, and Vacancies. The Officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal of Officers. Except for officers appointed by the Declarant, Any officer may be removed by a majority vote of the Board of Directors, a quorum being present, whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget, as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE V - COMMITTEES

Section 1. General. Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. Term of Appointment. Each member of a committee shall continue to serve until the next annual meeting of the Board of Directors and until his successor is appointed, unless the committee shall be sooner terminated or unless the member shall be removed from such committee or shall resign. Each member of a committee may be removed with or without cause by the Board of Directors at any time.

Section 3. Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as the original appointments.

Section 4. Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, the presence of a majority of the committee members shall constitute a quorum. The act of a majority of the members of a committee shall be the act of the committee.

Section 5. Rules. Each committee may adopt rules for its own operation so long as such rules are approved by the Board of Directors and are not inconsistent with the Declaration, the By- Laws or the rules adopted by the Board of Directors.

ARTICLE VI - MISCELLANEOUS

Section 1. Indemnification. Indemnification of officers, directors, agents, employees and committee Members of the Association shall be as set forth in Declaration. Furthermore, The Association shall indemnify every officer, director, and committee member against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or

committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Association, in determining whether to indemnify a director, officer or committee member, shall not impute knowledge to said director, officer or committee member from any source whatsoever; rather, any such determination shall be based on the actual knowledge of the director, officer or committee member. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors and committee members may also be members of the Association), and the Association shall indemnify and forever hold each such officer, director or committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member or former officer or director may be entitled. The Association shall maintain, as a Common Expense, adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

Section 2. Deposits. All funds of the Association shall be deposited from time to time in bank accounts or other depositories of the Association as the Board of Directors may select.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Books and Records. The Association shall keep correct and complete books and records of the Association and its accounts and shall keep minutes of all proceedings of the Board of Directors and committees having any authority of the Board of Directors. The books and records of the Association shall be available for inspection by Members in accordance with the Declaration.

Section 5. Notices.

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

- (i) Personal delivery to the addressee;
- (ii) United States mail, first class, postage prepaid;
- (iii) Statutory Overnight Delivery;
- (iv) Electronic mail; or

(v) Facsimile.

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

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

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

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

Section 6. Amendment. These By-Laws may be amended only by the affirmative vote or written consent of a majority of the Members of the Board of Directors of the Association after the Conversion Date. Prior to the Conversion Date, these By-Laws may be unilaterally amended by the Declarant.

Section 7. Tax-Exempt Status. The affairs of the Association at all times shall be conducted in such a manner as assure the Association's status as an organization qualified for exemption from taxation pursuant to Section 528 of the Internal Revenue Code remains unaffected.

Section 8. Construction. Whenever the context so requires, the masculine gender shall include the feminine and neuter gender, and singular shall include the plural, and vice versa. If any provision of these By-Laws shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of these By-Laws.

Section 9. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

Section 9. Headings. The Article and Section headings herein contained are for convenience of reference only and shall not be deemed to impart substantive meaning to any provision of these By-Laws.

Section 10. Authority and Enforcement. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of the Common Property only, provided that copies of all such Rules and Regulations shall be furnished to all Owners. Every Owner and Occupant shall comply with the Governing Documents and the Rules and Regulations, and any lack of compliance therewith shall entitle the Association to take action to enforce the terms of the Governing Documents and the Rules and Regulations. The Board shall have the power to impose reasonable fines, which shall constitute a lien

upon the Owner's Lot, and to suspend an Occupant's right to use the Common Property for violating the Rules and Regulations pertaining to the use of the Common Property. In the event that any Occupant of a Lot violates the Governing Documents or the Rules and Regulations and a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine shall first be assessed against such Occupant. The failure of the Board to enforce any provision of the Governing Documents or the Rules and Regulations shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 11. Fining and Suspension Procedure. The Board shall not impose a fine, or suspend the right to use the Common Property unless and until the Association has sent or delivered written notice to the violator as provided in subsection (a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection (b) below.

(a) Notice. If any provision of the Governing Documents or the Rules and Regulations is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a *per diem* basis without further notice to the violator.

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

Section 12. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Governing Documents or the Rules and Regulations by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

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