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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
THE ENCLAVE AT LAURA CREEK

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THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THIS DEVELOPMENT TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, *ET SEQ.*

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- TABLE OF CONTENTS -

	<u>Page Number</u>
<b>ARTICLE 1 DEFINITIONS</b> .....	1
1.1 " <u>APPROVED BUILDER</u> " .....	1
1.2 " <u>ARTICLES OF INCORPORATION</u> " .....	2
1.3 " <u>ASSOCIATION</u> " .....	2
1.4 " <u>BOARD OF DIRECTORS</u> " OR " <u>BOARD</u> " .....	2
1.5 " <u>BYLAWS</u> " .....	2
1.6 " <u>COMMON PROPERTY</u> " .....	2
1.7 " <u>COMMUNITY</u> " .....	2
1.8 " <u>COMMUNITY-WIDE STANDARD</u> " .....	2
1.9 " <u>DECLARANT</u> " .....	2
1.10 " <u>LOT</u> " .....	2
1.11 " <u>MORTGAGE</u> " .....	3
1.12 " <u>MORTGAGEE</u> " .....	3
1.13 " <u>NEIGHBORHOOD</u> " .....	3
1.14 " <u>NEIGHBORHOOD ASSOCIATION</u> " .....	3
1.15 " <u>NEIGHBORHOOD DECLARATION</u> " .....	3
1.16 " <u>OCCUPANT</u> " .....	3
1.17 " <u>OWNER</u> " .....	3
1.18 " <u>PERSON</u> " .....	3
1.19 " <u>SUPPLEMENTARY DECLARATION</u> " .....	3
1.20 " <u>TOTAL ASSOCIATION VOTE</u> " .....	3
<b>ARTICLE 2 PROPERTY SUBJECT TO THIS DECLARATION</b> .....	4
2.1 <u>PROPERTY HEREBY SUBJECTED TO THIS DECLARATION</u> .....	4
2.2 <u>UNLATERAL ANNEXATION BY DECLARANT OR APPROVED BUILDER</u> .....	4
2.3 <u>OTHER ANNEXATION</u> .....	5
2.4 <u>WITHDRAWAL OF PROPERTY</u> .....	5
2.5 <u>ADDITIONAL COVENANTS, RESTRICTIONS AND EASEMENTS</u> .....	5
<b>ARTICLE 3 ASSOCIATION MEMBERSHIP AND VOTING RIGHTS</b> .....	5
3.1 <u>MEMBERSHIP</u> .....	5
3.2 <u>VOTING</u> .....	6
3.3 <u>NOTICE OF SALE, LEASE OR ACQUISITION</u> .....	6
<b>ARTICLE 4 ASSESSMENTS</b> .....	6
4.1 <u>PURPOSE OF ASSESSMENTS</u> .....	6
4.2 <u>CREATION OF THE LIEN AND PERSONAL OBLIGATION FOR ASSESSMENTS</u> .....	6
4.3 <u>GENERAL ASSESSMENTS</u> .....	7
4.4 <u>NEIGHBORHOOD ASSESSMENTS</u> .....	7
4.5 <u>SPECIAL ASSESSMENTS</u> .....	8
4.6 <u>SPECIFIC ASSESSMENTS</u> .....	8
4.7 <u>SUBORDINATION OF LIENS TO MORTGAGES</u> .....	8
4.8 <u>REMEDIES OF THE ASSOCIATION</u> .....	8

4.9 DATE OF COMMENCEMENT OF ASSESSMENTS .....9

4.10 BUDGET DEFICITS DURING DECLARANT CONTROL .....9

4.11 FAILURE TO ASSESS .....10

4.12 ESTOPPEL LETTER .....10

4.13 INITIATION FEE .....10

**ARTICLE 5 MAINTENANCE; COMMON PROPERTY** .....10

5.1 ASSOCIATION'S MAINTENANCE RESPONSIBILITY .....10

5.2 OWNER'S MAINTENANCE RESPONSIBILITY .....11

5.3 YARD MAINTENANCE .....11

5.4 CONVEYANCE OF COMMON PROPERTY TO ASSOCIATION; NO IMPLIED RIGHTS .....12

5.5 PARTITION .....12

5.6 CONDEMNATION .....13

5.7 LIABILITY .....13

5.8 GARBAGE COLLECTION .....13

5.9 GATED COMMUNITY .....13

**ARTICLE 6 ARCHITECTURAL STANDARDS** .....14

6.1 GENERAL .....15

6.2 GUIDELINES AND PROCEDURES .....15

6.3 LIMITATION OF LIABILITY .....16

6.4 NO WAIVER .....16

6.5 VARIANCES .....16

6.6 ENFORCEMENT .....16

6.7 ARCHITECTURAL REVIEW COMMITTEE .....17

**ARTICLE 7 USE RESTRICTIONS AND RULES** .....17

7.1 RULES AND REGULATIONS .....17

7.2 RESIDENTIAL USE .....18

7.3 SIGNS .....18

7.4 VEHICLES; PARKING .....18

7.5 LEASING .....19

7.6 ANIMALS AND PETS .....19

7.7 NUISANCE .....20

7.8 UNSIGHTLY OR UNKEMPT CONDITIONS .....20

7.9 ANTENNAE .....20

7.10 TREE REMOVAL .....20

7.11 DRAINAGE .....21

7.12 SIGHT DISTANCE AT INTERSECTIONS .....21

7.13 GARBAGE CANS, WOODPILES, ETC. .....21

7.14 SUBDIVISION OF LOT .....21

7.15 FIREARMS .....21

7.16 FENCES .....22

7.17 UTILITY LINES .....22

7.18 AIR-CONDITIONING UNITS .....22

7.19 LIGHTING .....22

7.20 ARTIFICIAL VEGETATION, EXTERIOR SCULPTURE AND SIMILAR ITEMS .....22

7.21 ENERGY CONSERVATION EQUIPMENT .....22

7.22 SWIMMING POOLS .....22

7.23 GARDENS, PLAY EQUIPMENT AND POOLS .....22

7.24 MAILBOXES .....22

7.25 CLOTHESLINES .....23

7.26 ENTRY FEATURES AND FENCING .....23

7.27 WINDOW TREATMENTS .....23

7.28 TRAFFIC REGULATIONS .....23

7.29 LANDSCAPE BUFFER .....23

7.30 UNDISTURBED BUFFER .....23

7.31 CREEK OR STREAM BUFFER .....24

7.32 STREAMS AND CREEKS .....24

**ARTICLE 8 INSURANCE AND CASUALTY LOSSES**.....24

8.1 INSURANCE ON COMMON PROPERTY .....24

8.2 INDIVIDUAL INSURANCE .....25

8.3 DAMAGE AND DESTRUCTION -- INSURED BY ASSOCIATION .....25

8.4 DAMAGE AND DESTRUCTION -- INSURED BY OWNERS .....26

**ARTICLE 9 MORTGAGEE PROVISIONS**.....26

9.1 NOTICES OF ACTION .....26

9.2 AUDIT .....26

9.3 NO PRIORITY .....26

**ARTICLE 10 EASEMENTS** .....27

10.1 GENERAL .....27

10.2 EASEMENTS FOR USE AND ENJOYMENT .....27

10.3 EASEMENT FOR UTILITIES – ASSOCIATION, DECLARANT AND APPROVED BUILDER .....28

10.4 EASEMENT FOR UTILITIES - OWNER .....28

10.5 EASEMENT FOR EMERGENCY ENTRY .....28

10.6 EASEMENT FOR MAINTENANCE .....29

10.7 EASEMENT FOR ENTRY FEATURES .....29

10.8 EASEMENT FOR DRAINAGE .....29

10.9 EASEMENT DURING CONSTRUCTION AND SALE PERIOD .....29

10.10 EASEMENT FOR PRIVATE STREETS, SIDEWALKS, SIGNS AND PERIMETER FENCING .....30

**ARTICLE 11 GENERAL PROVISIONS**.....31

11.1 ENFORCEMENT .....31

11.2 OCCUPANTS BOUND .....31

11.3 SELF-HELP .....31

11.4 DURATION .....32

11.5 TERMINATION OF RIGHTS OF DECLARANT AND APPROVED BUILDER .....32

11.6 AMENDMENT .....32

11.7 GENDER AND GRAMMAR .....33

11.8 SEVERABILITY .....33

11.9 CAPTIONS .....33

11.10 NO MERGER .....33

11.11 PREPARER .....33

11.12 NOTICES .....33

11.13 PERPETUITIES .....34

11.14 INDEMNIFICATION .....34

11.15 NO DISCRIMINATION .....34

11.16 AGREEMENTS .....34

11.17 VARIANCES .....35

11.18 LITIGATION .....35

11.19 SECURITY .....35

11.20 ZONING CONDITIONS .....35

EXHIBIT "A" - PROPERTY DESCRIPTION

EXHIBIT "B" - ADDITIONAL PROPERTY WHICH MAY UNILATERALLY SUBMITTED TO THIS DECLARATION BY DECLARANT

EXHIBIT "C" - BYLAWS OF ENCLAVE AT LAURA CREEK COMMUNITY ASSOCIATION, INC.

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR  
THE ENCLAVE AT LAURA CREEK

THIS DECLARATION is made on the date hereinafter set forth by **BELLS FERRY INVESTORS, L.L.C.**, a Georgia limited liability company having Priske-Jones Southeast Company, a Georgia corporation, as its Manager (hereinafter sometimes called "Declarant");

WITNESSETH

WHEREAS, Declarant is the owner, or if not the owner has the consent of 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 1  
Definitions

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

1.1 "Approved Builder" means **CRAFTSMAN CUSTOM HOMES, LLC**, a Georgia limited liability company and any other entity that may be designated as an Approved Builder hereunder by the Declarant, by way of a recorded Supplementary Declaration.

1.2 "Articles of Incorporation" means the Articles of Incorporation of Enclave at Laura Creek Community Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference as may be amended from time to time.

1.3 "Association" means Enclave at Laura Creek Community Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

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

1.5 "Bylaws" means the Bylaws of Enclave at Laura Creek Community Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference as may be amended from time to time.

1.6 "Common Property" means any and all real and personal property, and the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.7 "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.

1.8 "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 of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

1.9 "Declarant" means **BELLS FERRY INVESTORS L.L.C.**, a Georgia limited liability company having Priske-Jones Southeast Company, a Georgia corporation, as its Manager, and its successors-in-title and assigns; provided that in a recorded instrument, such successor-in-title or assignee is designated as the Declarant hereunder by the holder of the rights of Declarant hereunder; and, provided, further, upon the effective date of the designation of a successor Declarant, all rights and obligations of the former Declarant in and to such status as Declarant hereunder shall cease it being understood that there shall be only one holder of the rights and obligations of Declarant hereunder at any one point in time.

1.10 "Lot" means any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes a single-family dwelling site as shown on a plat recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, all of the rights and interest of an Owner in the Common Property, as herein provided, together with membership in the Association.

1.11 "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.

1.12 "Mortgagee" means the holder of a Mortgage.

1.13 "Neighborhood" means each separately developed and denominated residential area within the Community which has been so designated in one or more Supplementary Declarations. By way of illustration and not limitation, a townhouse development, residential condominium development, cluster home development, or single-family detached housing development might each be designated as a separate Neighborhood. The Declarant shall have the right to designate separate Neighborhood status and change the Neighborhood status of any previously designated Neighborhood for any property in the Community. A Neighborhood may (but is not required to) have a separate incorporated mandatory membership Neighborhood association.

1.14 "Neighborhood Association" means a condominium association, homeowners association or other mandatory membership community association having concurrent jurisdiction with the Association over any Neighborhood.

1.15 "Neighborhood Declaration" shall refer to any declaration of condominium, declaration of protective covenants or similar instrument recorded in the Cobb County, Georgia land records which subjects all or a portion of the land within such Neighborhood to covenants, restrictions, and easements in addition to those contained in this Declaration.

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

1.17 "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.

1.18 "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.

1.19 "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.20 "Total Association Vote" means the votes attributable to the entire membership of the Association (including votes of Declarant and Approved Builder) as of the record date for such action, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

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 or Approved Builder. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant or the Approved Builder (with the written consent of Declarant), as the case may be, 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 county in which the property to be annexed is located a Supplementary Declaration describing the property being subjected. 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 or the Approved Builder to subject such property to the Declaration, nor shall exclusion of property from the initial land plan bar Declarant or Approved Builder from subjecting such property to the Declaration. A portion of the property described on Exhibit "B" and lying adjacent to the Community may be developed as a townhome neighborhood subject to the provisions of this Declaration with appropriate modifications, amendments or revisions to the Declaration as needed to reflect the nature of the development of said property, or as a commercial office park or may be developed for any other lawful purpose. In the event said \* adjacent property is not subjected to the provisions of this Declaration, but the property benefits from the private street, Gate System, and private water and sewer facilities serving the Community, if any, said property Owner shall be obligated to contribute an equitable share of the costs and expenses of owning, operating, maintaining, repairing and replacing said private street, Gate System, private water and sewer facility, if any. Any annexation shall be effective upon the filing for record of a Supplementary Declaration unless a later effective date is provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property. 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, whether such uses are consistent with the covenants and restrictions imposed hereby or not. All rights of Owners or owners of other properties now or hereafter subject to this Declaration to object to the future development or rezoning of the property described in Exhibit "B" are hereby waived.



2.3 Other Annexation. 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 Lots, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing a Supplementary Declaration describing the property being annexed for record in the county in which the property to be annexed is located. 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, unless a later effective date is provided therein.

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

2.5 Additional Covenants, Restrictions and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplementary Declaration to additional covenants, restrictions and easements and/or amend or modify the applicability or language of any of the covenants, restrictions and easements contained in this Declaration as to such property. Such additional covenants, conditions, restrictions and easements may be set forth in a Supplementary Declaration or a separate declaration of protective covenants, declaration of condominium or other document filed either concurrently with or after the annexation of the subject property. Any such document filed by the Declarant may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument against property within the Community without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Cobb County, Georgia land records. No such instrument recorded by any Person, other than the Declarant pursuant to this section, may conflict with the Declaration, Bylaws or Articles.

### 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 any 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 the Owner's membership. No Owner, whether one (1) 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) office be held for each Lot owned. 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 the officers and/or directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to 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 or rules and regulations enacted by the Association.

3.3 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, mailing address and telephone number of the Owner, the names of the Occupants of the Lot and such other information as the Board may reasonably require. All Owners shall notify the Association of any change in name, address or telephone number.

#### 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 Lots, 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; (c) specific assessments; and (d) Neighborhood assessments, if applicable;. All such assessments, together with late charges in the amount of the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due and interest (at a rate set by the Board of Directors from time to time, but not to exceed the lesser of the maximum rate permitted by law or 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 shall be a continuing lien in favor of the Association on the Lot against which each assessment is made. 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 such assessment, together with such late charges, interest and costs, 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 themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. 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 General Assessments. 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 assessments 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 any general assessment. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote and the Declarant. 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 shall have been determined, as provided herein, the budget in effect shall continue. General assessments shall be levied equally on all similarly situated Lots 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 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, 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, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities, cleaning and janitor services, landscape maintenance, maintenance of the private drives, roads or Gate System, Community trash collection as provided in Section 7.13 hereof, and 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.

4.4 Neighborhood Assessments. The Association may levy assessments against the property in a particular Neighborhood to fund actual and estimated expenses incurred by the Association for the primary benefit of property within such Neighborhood, including without limitation, maintenance required to be performed by the Association with respect to property within such Neighborhood. Neighborhood assessments shall be levied as specifically budgeted from time to time by the Board of Directors pursuant to this Declaration. In addition, the Board shall levy a Neighborhood assessment upon the request of the Owners holding two-thirds (2/3) of the Total Association Vote applicable to Lots within a Neighborhood.

4.5 Special Assessments. The Association may levy a special assessment if approved by two-thirds (2/3) of the Total Association Vote and the Declarant. 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. 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. Fines levied pursuant to this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. 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 Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and (b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

4.7 Subordination of Liens to Mortgages. 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 becoming 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 Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due and interest (at a rate set by the Board of Directors from time to time, but not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred. 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 the county in which the delinquent Owner's Lot is located, 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 and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not affect such members obligation to pay assessments coming due during the period of such suspension and shall not effect 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 first to occur of: (a) the date that the Lot is first occupied for residential purposes; or (b) the anniversary of the date that a Lot is purchased by a Person who is not the Declarant. A Lot shall be deemed to be occupied for residential purposes when it has been improved with a dwelling and has been conveyed to an owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy.

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 or the Approved Builder may, but shall not be obligated, 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 annual, special, Neighborhood 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 the Approved Builder, as applicable); 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 improvements maintained by the Association shall be given in connection with such loan. Any loan so made, including loans by the Developer or the Approved Builder, as the case may be, shall be repaid from future assessments.

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 for 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. The Association shall, within five (5) days after receiving a written request therefor and for a reasonable charge, as established by the Board, certify to the amount of any unpaid assessments constituting a lien on a specified Lot. 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.

4.13 Initiation Fee. Upon the first sale of each and every Lot after it has been improved with a residence for which a certificate of occupancy has been issued, an initiation fee in the amount of Two Hundred Dollars (\$200.00) shall be collected from the purchaser at the closing of such sale for the benefit of the Association. The aggregate fund established by such initiation fee shall be maintained in a segregated account, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board.

## Article 5

### Maintenance: Common Property

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain, repair and replace (whether or not constituting Common Property): (a) all Community entry features, including entry area landscaping and signage, whether or not said entry features are on a Lot, privately owned property or public right-of-way, any irrigation system and the expenses for water and electricity, if any, provided to all such entry features; (b) all Community common areas as shown on the recorded subdivision plats for the Community not otherwise maintained by a government body; (c) any irrigation system and the expenses for water and electricity, if any, provided to all such common areas; (d) all private Community streets, alleys, roads, paths and sidewalks; (e) all water and sanitary sewer lines(s), pipe(s) or facilities located in the Community that serve more than one Lot if and to the extent the same are not maintained on an ongoing basis by a governmental entity; (f) the Gate System (as hereinafter defined) serving the Community, if any; (g) storm water detention/retention ponds and storm water drainage facilities serving the Community, if and to the extent such facilities are not maintained by the owner of such facilities, the owners of nearby property served by such facilities or a government entity; (h) all street medians and islands located in the Community; (i) all landscaping located in the Community as provided in Section 5.3 hereof; (j) all perimeter walls and fencing in the Community, if any; and (k) any screening fence in the Community. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community and to enter into

easements and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the 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 Owner as a specific assessment. All maintenance by the Association shall be performed consistent with the Community-Wide Standard. The Association shall not be liable for injury or damage to Person or property: (x) caused by the elements or by an Owner or any other Person; (y) resulting from rain or other surface water which may leak or flow from any portion of the Common Property; or (z) caused by 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, becoming out of repair.

5.2 Owner's Maintenance Responsibility. Except for maintenance performed on a Lot by the Association pursuant to Sections 5.1 and 5.3 hereof, all maintenance of the Lot and all structures, landscaping, 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: prompt removal of all litter, trash, refuse, and waste; keeping improvements and exterior lighting in good repair and working order; complying with all governmental health and police requirements; and repair of exterior damage to improvements. In addition, a Lot Owner shall also maintain any driveway, walkway, pipe(s), wire(s) and conduit(s), including, without limitation, water and sewer line(s) or pipe(s), which serve only the Lot, whether said driveway, walkway, pipe(s), wire(s) or conduit(s) are located within or outside of a Lot's boundaries. 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 hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary 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 deemed necessary. The Owner shall have ten 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 time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner and the Lot as a specific assessment.

5.3 Yard Maintenance. As provided in Section 5.1 above, the Association shall maintain and keep in good repair the landscaping improvements located on the exterior portions of the Community (except where areas on a Lot are fenced-in by the Owner or otherwise restricted as to access), including parks, open space, medians and islands. Such maintenance shall include, but not be limited to, lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping lawn and garden areas alive, free of weeds and attractive. Notwithstanding any provision in this Declaration to the contrary, each Owner shall be responsible for maintaining and repairing any retaining wall located on such Owner's Lot. 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 or for example maintain front yards only. Any common irrigation system installed by the Declarant, the Approved Builder or the Association shall be Common Property, operated, maintained, repaired and replaced by the Association. The deed of conveyance of any Lot shall not include any right, title or interest in such irrigation system, if any. 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. In the event that the Owner of a Lot obtains approval to construct a fence in accordance with Article 6 hereof, the Association shall no longer be obligated to maintain landscaping on the enclosed portions of the yard and such landscaping shall be the sole responsibility of the Owner.

5.4 Conveyance of Common Property to Association; No Implied Rights. The Declarant or the owner of the property with the approval of 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. The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept on behalf of the Association any such conveyance to the Association and to execute on behalf of the Association any and all documents, including, without limitation, deeds and transfer tax declaration forms, necessary or convenient to effectuate and document any such conveyance to the Association. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. Neither the Declarant nor the owner thereof shall 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 or the owner of the property with the approval of Declarant, may reserve or grant, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property or Common Property so conveyed as Declarant or the owner of the property may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community, including the granting of storm drainage easements to neighboring owners. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall 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 or the owner of such property to the Association or the Owners, as the case may be, by an instrument recorded in the real estate records of the County where the property is located.

5.5 Partition. The Common Property shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of



all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Community.

5.6 Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, the Association shall restore or replace such improvements so taken 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 consent of Declarant. The provisions of this Declaration applicable to replacement 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.

5.7 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. The Association, the Declarant, Approved Builder and their respective officers, directors, employees, representatives and agents shall not be held liable for personal injury to any person occurring, nor for loss or damage to personal belongings used or stored on the Common Property or any other portion of the Community. The Association shall not be liable for injury or damage to any Person or property (a) caused by the elements or by an Owner or 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, 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. Nor shall the Association be liable to any Owner or Occupant for loss or damage, by theft or otherwise, of any property of such Owner or Occupant.

5.8 Garbage Collection. The Association may, but shall not be required to, contract with a private trash collection company to pick up all usual and customary household garbage on a regular basis. Garbage collection shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt. In the event the Association contracts with a trash collection company to serve the Community, all charges for usual and customary garbage collection shall be assessed to each Lot equally as part of the general assessment in accordance with Section 4.3 hereof.

5.9 Gated Community. Declarant, the Approved Builder or the Association may, but shall not be required to, install a mechanical system that limits vehicular access to streets located within the Community from Prado Lane (the "Gate System"). By accepting a Deed to a Lot, each Owner shall acknowledge and agree to the following:

(a) The Board of Directors, with the consent of the Declarant, shall determine when the Gate System will be operational.

(b) Neither Declarant, the Approved Builder nor the Association shall be responsible for the security of Owners, Occupants or their family members, guests, invitees or property. The purpose of the Gate System shall be to provide some degree of restriction of vehicular access onto the private Community streets. NEITHER DECLARANT, THE APPROVED BUILDER, THE ASSOCIATION NOR ANY OWNER GUARANTEES OR ASSURES TO ANY OTHER OWNER NOR ANY OTHER PARTY WHOMSOEVER THAT THE GATE SYSTEM WILL IN ANY MANNER WHATSOEVER PROVIDE PERSONAL PROTECTION OR SECURITY TO ANY OWNER OR OCCUPANT, THEIR PERSONAL POSSESSIONS OR TO GUESTS OR INVITEES, OR TO ANY OTHER PERSON, AND EACH OWNER, BY THE ACCEPTANCE OF ITS DEED, SHALL HAVE ASSUMED THE ENTIRE RISK AS BETWEEN SUCH OWNER AND DECLARANT, THE APPROVED BUILDER OR THE ASSOCIATION FOR ANY LOSS OR DAMAGE TO PERSON OR PROPERTY WITHIN THE COMMUNITY ARISING FROM ANY DEFICIENCY, FAILURE OR DEFECT IN THE GATE SYSTEM OR OTHERWISE.

(c) All governmental authorities shall have access to the Community for law enforcement, safety and emergency purposes. Each Owner shall look solely to the applicable governmental authority for the provision of law enforcement and police protection.

(d) The Gate System is not intended to replace or to serve in lieu of individual alarm systems or other measures to provide security at a residence or within any Lot. Each Owner is encouraged to install personal security devices upon and within such Owner's Lot to the same extent that would be prudent if the Gate System did not exist.

(e) The Gate System will be installed based upon the representations of vendors regarding the operation and performance capabilities of the components of the Gate System.

(f) DECLARANT AND APPROVED BUILDER DISCLAIM ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AND MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER REGARDING THE GATE SYSTEM, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR THE PURPOSES FOR WHICH IT WAS DESIGNED. Declarant and Approved Builder do not expressly or impliedly guarantee that the Gate System will avert or prevent occurrences or consequences which the Gate System is designed to avert or prevent.

(g) The Gate System shall be owned, operated, and maintained by the Association at its sole cost and expense. Declarant or Approved Builder shall not be required to operate or maintain the Gate System.

(h) Each Owner shall use the Gate System in the proper manner and within the rules and regulations relating thereto as may be adopted from time to time by the Board of Directors.

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, excavation, grading, filling, construction of impervious surface, building, exterior alteration of existing improvements, storm and screen doors, storm windows, fencing, change in the exterior color of any existing improvement and planting and removal of landscaping materials), shall be commenced or placed upon any part of the Community unless, installed by the Declarant or an affiliate of the Declarant or any Approved Builder, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. However, modifications to the interior of porches, patios and similar portions of a structure visible from outside the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure 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 or affiliates of the Declarant, nor to improvements to the Common Property 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 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 architectural plans, including elevations and floor plans, previously approved by Declarant pursuant to the purchase agreement between Declarant and Approved Builder shall be deemed approved plans pursuant to Article 6 hereof; any changes thereto and any new floor plans or elevations shall require Declarant's written approval as provided herein.

6.2 Guidelines and Procedures. Except as provided above, 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 improvement. The Declarant may adopt written architectural guidelines and application and review procedures, which may provide for a review fee (the "Architectural Guidelines"). The Declarant shall have sole and full authority to prepare and to amend, from time to time at its sole discretion and without notice, the Architectural Guidelines. The Declarant shall make the Architectural Guidelines available to Owners who seek to engage in construction upon all or any portion of the Community and such Owners shall conduct their operations strictly in accordance therewith. If the Declarant fails to approve or to 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. 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 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 shall be the sole arbiter of such plans 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 these restrictions. 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 inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Persons shall not be deemed guilty of trespass by reason of such entry. If construction does not commence on a project for which plans have been approved within 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. In addition, unless otherwise approved in writing by Declarant, the initial construction of a home must be commenced within ninety (90) days after the purchase of a Lot by a Person who is not the Declarant.

6.3 Limitation of Liability. Plans and specifications are not approved for engineering or structural design or quality of materials and by approving such plans and specifications the Declarant assumes no liability or responsibility therefor or for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, nor the officers, directors, members, employees and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against Declarant, the Association or the officers, directors, members, employees and agents of any of them to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

6.4 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 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 whatever subsequently or additionally submitted for approval or consent.

6.5 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 and would not be inconsistent with the overall scheme of development for the Community. 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.

6.6 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Declarant, Owners

or the Approved Builder 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, attorney's fees, may be assessed against the Lot as a specific assessment. 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. In such event, neither the Declarant, the Association or the officers, directors, members, employees and agents of any of them shall be held liable to any Person for exercising the rights granted by this paragraph. In addition to any other remedies available to the Declarant, in the event of noncompliance with this Article, the Declarant may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, 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.

6.7 Architectural Review Committee. Until (a) the Declarant or the Approved Builder 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. There shall be no surrender of this right except by means of a written instrument in recordable form executed by Declarant and recorded in the land records of the Clerk of the Superior Court of Cobb County, Georgia. Upon expiration or earlier surrender in writing of all or a portion of such right and authority, the Board of Directors shall then have such jurisdiction over architectural control under this Article as may have been relinquished by the Declarant. The Declarant may in its sole discretion relinquish architectural control as to certain types of improvements or modifications to the Board of Directors while retaining control over all other building and construction in the Community. For example and without limitation, the Declarant may relinquish control over modifications of existing structures to the Board of Directors while retaining all authority to review and approve new home construction. Any right, power or authority of the Declarant which may be relinquished to the Association prior to the termination of the rights of Declarant hereunder shall be by written instrument only and no such right, power or authority shall be relinquished by implication or otherwise. 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. After the termination of all rights of Declarant hereunder, the Board of Directors 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 § were a reference to the authority of or action by 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

written consent of Declarant and without a vote of the members, promulgate, modify or delete 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 consent of Declarant.

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 in residence at the Lot may conduct business activities within the house so long as the business activity: (a) does not otherwise violate the provisions of this Declaration or the Bylaws; (b) is not apparent or detectable by sight, sound or smell from the exterior of any structure on 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; and (h) does not threaten the security or safety of other residents of the Community, 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.

7.3 Signs. No sign of any kind shall be erected or displayed within the Community without the prior written consent of the Declarant or, after the termination of the rights of Declarant hereunder, the Board. Notwithstanding the foregoing, the Board, the Declarant and the Approved Builder shall have the right to erect reasonable and appropriate signs. For-sale signs and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Lot. 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. Notwithstanding anything provided herein to the contrary, no sign shall be displayed on or from within any structure on a Lot. The Board may impose a fine of One Hundred Fifty and No/100 Dollars (\$150.00) per day for display of any sign in violation of this provision which is not removed within twenty-four hours after written demand is delivered to the Owner at that Lot.

7.4 Vehicles; Parking. Vehicles shall be parked only in appropriate parking spaces serving the Lot or other designated areas, if any. All parking shall be subject to such rules and regulations as the Board may adopt. 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 spaces" shall refer to the number of garage parking spaces and, if and only if, the Occupants of a Lot have more vehicles

than the number of garage parking spaces, those excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway on the Lot. 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. No vehicle may be left upon any portion of the Community except in a garage or other area designated by the Board, if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle may be removed from the Community by the Board of Directors. 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 a garage or other area designated by the Board, for periods longer than forty eight (48) hours may be removed from the Community by the Board of Directors. 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. The Board of Directors may exercise any and all remedies available for a violation of this provision in addition to or in lieu of its authority to remove the violating vehicle.

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

7.5 Leasing. Lots may be leased for residential purposes. Unless otherwise provided by the Board of Directors, all leases shall have a minimum term of at least one year. All leases shall require, without limitation, that the Occupants acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions and rules and regulations of the Association. The lease shall also obligate the Occupants to comply with the foregoing. Prior to the leasing of a Lot, the Owner shall provide the Association with written notice of the name of the tenant and with the address and telephone number of the Owner. This provision shall not apply to leasing of Lots by the Declarant.

7.6 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in reasonable number as determined by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall at all times when outside the Lot be kept on a leash or otherwise under control. All pets shall be registered, licensed and inoculated if and as required by law. Animal control authorities shall be permitted to enter the Community to patrol and remove unlicensed pets. An Owner shall not allow any animal waste to remain on the Common Property maintained by the Association. No exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 6 hereof.

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 Lot shall be used for the storage of anything that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property within the Community. 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 exterior speakers, horns, whistles, sirens, bells, amplifiers or other sound devices, except such devices as may be 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, vibrations or any other conduct which creates any noxious or offensive odors outside a home shall be permitted, located, used, placed, installed or maintained on any Lot, or any portion thereof. 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.

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.

7.9 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting of radio 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 (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services 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 unless an acceptable quality signal cannot otherwise be obtained.

7.10 Tree Removal. No trees that are more than four (4) inches in diameter at a point twelve (12) inches above the ground and no ornamental or flowering trees, including, but not limited to, dogwood trees, cottonwood trees, cherry trees or apple trees, regardless of diameter, shall be removed without the prior written consent of the approving authority under Article 6 hereof. Owners shall also comply with any local ordinance applicable to tree removal. In the event of a conflict between the provisions of this Section and any local ordinance, the more



restrictive provision shall govern. This provision shall not apply to the removal of trees by the Declarant.

7.11 Drainage. Catch basins, retention ponds, detention ponds and drainage easement areas are for the purpose of controlling the natural flow of water only. No obstructions, including, without limitation, fencing or landscaping, or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flows after 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.

7.12 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or other planting or thing shall be placed or permitted to remain where, in the opinion of the Board, it would create an unsafe condition.

7.13 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, air conditioning units, heat pumps, swimming pool pumps, filters and related equipment, and other similar items shall be located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris or other waste matter of any kind may not be burned within the Community. The Association shall have the right, but not the obligation, to designate a private trash removal company for the entire Community and/or a particular trash pick-up day throughout the entire Community. Notwithstanding the foregoing, the Association reserves the right, but is not obligated, to contract with a private trash removal company for the benefit of all Owners and Occupants within the Community and include a fee for such service as part of a General Assessment pursuant to Section 4.3 of this Declaration. While the removal of normal household trash will be covered by any such contract, additional charges may be incurred for the removal of used appliances or other large items. Any such additional charges incurred by the Association may be Specifically Assessed against the applicable Lot pursuant to Section 4.5 hereof. 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. Trash pick up shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt.

7.14 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 effected 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, changing any Lot boundary line 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).

7.15 Firearms. The use of firearms in the Community is prohibited. The term "firearms" includes, without limitation, B-B guns, pellet guns, archery equipment and firearms of all types.

7.16 Fences. Except as herein provided, no fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof. Guidelines detailing acceptable fence styles or specifications may be issued pursuant to Article 6, but in no event may a chain link or barbed wire fence be approved; provided, however, the Declarant and the Association may erect any type of fence on the Common Property or elsewhere within the Community as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for health and safety of Owners and Occupants. In the event that the Owner of a Lot obtains approval to construct a fence as provided herein, the Association shall no longer be obligated to maintain landscaping on the enclosed portions of the yard and such landscaping shall be the sole responsibility of the Owner.

7.17 Utility Lines. Except as may be installed or permitted by Declarant or permitted under and pursuant to Article 6 hereof, no overhead utility lines, including lines for cable television, shall be installed within the Community.

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

7.19 Lighting. 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) seasonal decorative lights; (c) street lights in conformity with an established street lighting program for the Community; (d) front house illumination of model homes; or (e) other lighting approved under and pursuant to Article 6 hereof.

7.20 Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted on any exterior portion of the Community. Exterior sculpture, fountains, flags and similar items must be approved under and pursuant to Article 6 hereof.

7.21 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless approved in accordance with the provisions of Article 6 hereof.

7.22 Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof and in no event shall any above-ground swimming pool be permitted.

7.23 Gardens, Play Equipment and Pools. No vegetable garden, hammock, statuary, play equipment (including, without limitation, basketball goals) or garden pools to be erected on any Lot may be located other than between the rear dwelling line and the rear lot line, without the prior written approval in accordance with the provisions of Article 6 hereof.

7.24 Mailboxes. All mailboxes serving Lots shall be approved in accordance with the provisions of Article 6 hereof. Identical replacement mailboxes may be installed without further

approval; but no modification to or change in mailboxes may be made unless approved in accordance with the provisions of Article 6 hereof.

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

7.26 Entry Features and Fencing. Owners shall not alter, remove or add improvements to any entry feature or perimeter or other fencing constructed or erected by the Declarant or the Approved Builder or the Association on any Lot, or any part of any easement area associated therewith without prior approval in accordance with the provisions of Article 6 hereof.

7.27 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, with the exception of stained wood blinds or shutters, which can be seen at any time from the outside of any structure located on a Lot must be white or off-white.

7.28 Traffic Regulations. All vehicular traffic on any private streets or alleys in the Community shall be subject to the provisions of the state and local laws concerning 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 on any private streets or alleys in the Community, including reasonable safety measures and speed limits and including modifications of those in force on public streets, within the Community. The Association shall be entitled to enforce same by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. In the event of a conflict between such provisions of state and local laws and such 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 or alleys 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.

7.29 Landscape Buffer. The Community contains certain landscape buffer areas as shown on the recorded subdivision plat for the Community. The landscape buffer area shall not contain any improvements. Except for the initial construction of utilities by the Declarant, the landscape buffer areas shall exist as undisturbed natural buffer areas of existing vegetation. Existing trees and vegetation located within the landscape buffer area shall be preserved and supplemented in area where there is little existing vegetation. Owners shall not disturb the landscape buffer areas in any way, including, without limitation, the construction of any improvements in the buffer areas, landscaping, or cutting of trees, bushes or other vegetation.

7.30 Undisturbed Buffer. The Community contains certain undisturbed buffer areas as shown on the recorded subdivision plats for the Community. The undisturbed buffer areas shall not contain any improvements. The undisturbed buffer areas shall exist as undisturbed natural buffer areas. Owners shall not disturb undisturbed buffer areas in any way, including, without limitation, the construction of any improvements in the undisturbed buffer areas, landscaping, or cutting of trees, bushes or other vegetation

7.31 Creek or Stream Buffer. Land-disturbing activities shall not be conducted within any creek or stream buffer area as depicted on any recorded subdivision plats for the Community, as measured from the point where vegetation has been wrested by normal stream flow, except with prior written approval under Article 6 hereof and compliance with Georgia law, including without limitation, the Control of Erosion and Sedimentation Act, O.C.G.A. Section 12-7-1, *et seq.*, as amended from time to time.

7.32 Streams and Creeks. Except as herein provided, all creeks, storm water retention or detention ponds and streams within the Community shall be used for aesthetic amenities and storm water drainage only, no other use thereof, including, without limitation, swimming, ice skating, playing, or use of personal flotation devices, fishing, boating, and other recreation, shall be permitted, without the written consent of the Board of Directors. The Association and/or the Declarant shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of creeks or streams within the Community. No Owner shall have any right to place rocks, stones, trash, garbage, sewage, waste water, rubbish, debris, ashes or other refuse in any creeks, storm water retention or detention ponds or streams within 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 creeks, storm water retention and detention ponds and streams within the Community. Owners shall have no riparian or littoral rights with respect to the waters in any creek or stream within the Community and shall not be permitted to withdraw water from any creek or stream as may exist in the Community without the prior written consent of the Board of Directors.

## Article 8 Insurance and Casualty Losses

8.1 Insurance on Common Property. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs ("VA"), and the U.S. Department of Housing and Urban Development ("HUD"), as applicable to the Community. Accordingly, the Board of Directors shall obtain casualty insurance for all insurable improvements, if any, located on the Common Property, which the Association is obligated to maintain; provided, however, the Association shall not be obligated to obtain insurance for any portion of a Lot or the structures located thereon, which obligation shall be the sole responsibility of a Lot Owner as provided in Section 8.2 hereof. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. 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 (\$1,000,000.00) Dollars. Policies may contain a reasonable deductible as determined by the Board of Directors. In addition to the other insurance

required by this Section, the Board of Directors shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees and other persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the policy is in force or any lesser amount of fidelity coverage allowable under the applicable Fannie Mae guidelines. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

8.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The policies required hereunder shall be in effect at all times and shall name the Association as an additional insured. Owners shall, if and when requested by the Board of Directors, provide evidence of such insurance coverage to the Board. In the event an Owner fails to obtain and maintain insurance as required herein, the Association may purchase such insurance on behalf of said Owner and specifically assess the costs thereof to said Owner as provided in Section 4.6 hereof.

8.3 Damage and Destruction -- Insured by Association. Immediately after damage or destruction by fire or other casualty to any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. 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, a proposal not to repair or reconstruct such property is approved by at least seventy-five percent (75%) of the Total Association Vote and the Declarant. 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 members of the Association, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, at any time during or following the completion of any repair or reconstruction. If

the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association. 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, the property shall thereafter be maintained by the Association in a neat and attractive condition.

8.4 Damage and Destruction -- Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction and thereafter shall maintain said Lot in a manner consistent with the Community-Wide Standard.

## Article 9 Mortgagee Provisions

9.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an "eligible holder"), will be entitled to timely written notice of: (a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; and (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

9.2 Audit. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements of the Association within 90 days of the date of the request.

9.3 No Priority. No provision of this Declaration or the Bylaws gives any Owner or other party priority over any rights of a Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Article 10  
Easements

10.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on any recorded subdivision plat(s) 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 documents recorded in the Office of Superior Court of Cobb 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 Owner's 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 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 or rules and regulations;

(b) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon and, upon the affirmative vote of the Owners of at least two-thirds (2/3) of the Lots (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 in 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 in 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 dedicate, convey or transfer all or any portion of the Common Property upon the approval of the Owners of at least two-thirds (2/3) of the Lots (other than Declarant) and the consent of Declarant;

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

(f) the rights of the grantee, holder or a person having a third-party right of enforcement under any conservation easement over any portion of the Common Property (The Association acting through the Board of Directors and without a vote of the members may grant a conservation easement, as such term is defined in O.C.G.A.- §44-10-1, *et seq.*, over any portion of the Common Property and shall accept Common Property which has been burdened with a conservation easement by Declarant or any other predecessors in title.); and

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

10.3 Easement for Utilities – Association, Declarant and Approved Builder. There is hereby reserved to the Declarant and granted to the Association and the Approved Builder a blanket easement upon, across, above and under all property within the Community for access, ingress, egress, installation, alteration, repairing, replacing, and maintaining all utilities serving or crossing over 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 antenna system, cable television system, or security system which the Declarant or the Association might decide to have installed to serve the Community. Declarant, the Approved Builder, the Association or the designee of any of them, may alter drainage and water flow, install, repair, replace and maintain or authorize the installation, repairing, replacing and maintaining of such wires, conduits, cables and other equipment related to the providing of any storm drainage, utility or other service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant, the Approved Builder or the Board shall have the right to grant such easement.

10.4 Easement for Utilities - 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. The Board of Directors, and without a vote of the Owners, shall have the right, power and authority to grant permits, licenses, utility easements, and other easements, permits or licenses necessary or desirable for the proper maintenance or operation of the Community under, through, or over the Lots and/or the Common Property as may be reasonably necessary to or desirable for the ongoing operation of the Community. 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 Lots, reasonable steps shall be taken to protect such Lots and the property of the Owners and Occupants thereof, and damage shall be repaired by the Person causing the damage at its sole expense.

10.5 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 such



Lot and any structure located thereon for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, the Bylaws, and rules, 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, slope or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Association, but shall not authorize entry into any single family dwelling without permission of the Owner.

10.6 Easement for Maintenance. Declarant hereby grants to the Association a perpetual easement across all Lots 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 Lots, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractors at their sole expense.

10.7 Easement for Entry Features. There is hereby reserved to the Declarant and granted to the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features for the Community, over and upon any portion of a Lot containing such entry features as may be more fully described on a recorded subdivision plat for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around entry features and the right to grade the land under and around the same.

10.8 Easement for Drainage. There is hereby reserved to the Declarant and granted to the Association and the Approved Builder a blanket easement across all Lots for creating and maintaining satisfactory storm water 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. It is anticipated that increased storm water run-off across downstream Lots will result from the construction of impervious surface on Lots. Neither the Declarant, the Association nor the Approved Builder or Owner constructing according to plans and specifications approved under Article 6 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction on a Lot.

10.9 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 and grants an easement to Approved Builder for Declarant or Approved Builder, as the case may be, to maintain and carry on, upon such portion of the Community as Declarant or Approved Builder, as the case may be, may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant or Approved Builder may be required or convenient for Declarant's or Approved Builder's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration for the

development, construction or benefit of any neighboring property, including, but not limited to: 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; the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; 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; the right to grant easements over, under, in or on the Community, including without limitation the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to convert Lots (with the consent of the Owner thereof) to Common Property and/or streets; the right to construct recreational facilities, utilities and other improvements on Common Property; the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant or the Approved Builder, as the case may be, may use Lots, offices or other buildings owned or leased by Declarant or Approved Builder as model homes and sales offices without charge. This Section shall not be amended without the Declarant's or the Approved Builder's written consent until the Declarant's and Approved Builder's rights hereunder have terminated as herein provided.

10.10 Easement for Private Streets, Sidewalks, Signs and Perimeter Fencing. 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 alleys 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 Cobb County, Georgia, any reference to private streets or alleys shall then and thereafter mean a reference to the private streets or alleys 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 Declarant 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, alleys and roads for the installation, maintenance, and use of such streets, alleys and roads, sidewalks, traffic directional signs, . grading for proper drainage of said streets and roads, and related activities and improvements. Declarant hereby grants Cobb County, Georgia (the "County") the authority, through its designated enforcement officers, to enforce all local ordinances and state laws, including, without limitation, the Uniform Rules of the Road, within the Community and grants, conveys, declares, creates, imposes and establishes a perpetual, non-exclusive right-of-way easement for vehicular and pedestrian access, ingress and egress in favor of the County over and across the

private streets and alleys located within the Community for the purpose of enforcing such laws and ordinances. Declarant hereby reserves and grants to the Association, the perpetual nonexclusive right and easement upon, over and across those strips of land ten (10) feet in width located along those boundaries of all Lots that constitute part of the perimeter boundary of the Community, such easement to be for the purpose of constructing, installing, replacing repairing and maintaining a perimeter wall or fence and/or screening fence around the perimeter boundary of the Community, provided that neither Declarant nor the Association shall have any obligation to construct any such perimeter and/or screening wall or fence.

Article 11  
General Provisions

11.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations 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 for the Community and in the deed to such Owner's Lot, if any. The 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. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association, the Declarant or an aggrieved Owner. Failure by the Declarant, 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 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.

11.3 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant, the Board 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 or the use restrictions. 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 attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

11.4 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 applicable law, if less), unless a written instrument signed by the then Owners of at least two-thirds (2/3) of the Lots has been recorded within the two years immediately preceding the beginning of a twenty (20) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

11.5 Termination of Rights of Declarant and Approved Builder. The rights of Declarant and Approved Builder 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 or the Approved Builder, as the case may be, no longer owns any property in the Community and Declarant or the Approved Builder, as the case may be, 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 a dwelling on each Lot in the Community; or (b) the date of recording by Declarant (or by an Approved Builder with the written consent of Declarant) in the real estate records of the county where the Community is located of a written instrument terminating all of Declarant's (or Approved Builder's) rights hereunder.

11.6 Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, 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 Lots subject to this Declaration; or (d) 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 Lots 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 adversely affect title to any Lot without the consent of the affected Owner. The Board of Directors, with the written consent of the Declarant, and without a vote of the members may amend this Declaration for the sole 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.* Any provision in this Declaration to which only a particular Neighborhood or particular Neighborhoods are subject may be amended upon the affirmative vote or written consent of the Owners of at least two-thirds (2/3) of the Lots located in the Neighborhood or Neighborhoods subject to such provision and the consent of Declarant. In addition to the above, this Declaration may be amended upon the affirmative vote or written consent of Owners of at least two-thirds (2/3) of the Lots 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.

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 Lisa A. Crawford and Heather P. Blackwelder, Dorough & Dorough, LLC, Attorneys at Law, Two Decatur TownCenter, Suite 520, 125 Clairemont Avenue, Decatur, Georgia 30030-2551.

11.12 Notices. 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, the Approved Builder or the Association at the address of their respective registered agent on file

with the Secretary of State of Georgia. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. 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 courier service. 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 the 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 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

11.14 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 (including officers, directors, members and shareholders of Declarant or its manager), 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.

11.15 No Discrimination. No action shall be taken by the Declarant, the Approved Builder, 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 handicap.

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 (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 (including, without limitation, the foreclosure of liens) (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 or which relates to the Community. 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 Security. The Declarant, the Approved Builder or the Association may, from time to time, take steps to provide some measure of security on the Common Property of the Community; provided, however, neither the Declarant, the Approved Builder nor the Association is a provider of security and shall have no duty to provide any security on the Common Property or otherwise. The obligation to provide security lies solely with each Lot Owner individually. Neither Declarant, the Approved Builder, the Association nor any Owner guarantees or assures to any other Owner or to any other party whomsoever that any security measures taken by the Declarant, the Approved Builder, the Association or an Owner will in any manner whatsoever provide personal protection or security to any Owner or Occupant, their personal possessions or to guests or invitees, or to any other person, and each Owner, by the acceptance of its deed, shall have assumed the entire risk as between such Owner and Declarant or the Approved Builder or the Association for any loss or damage to person or property within the Community arising from any deficiency, failure or defect in any security measures or otherwise.

11.20 Zoning Conditions. The use, enjoyment and development of the Community shall be subject to all conditions and requirements imposed by Cobb County as part of the zoning of the Community. All parties accepting title to a Lot, whether an Owner or an Approved Builder, agree to comply in all respects with all zoning conditions and any other requirements imposed by Cobb County.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant hereby executes this instrument under seal, this  
day of \_\_\_\_\_, 2005.

DECLARANT: **BELLS FERRY INVESTORS, L.L.C.**, a  
Georgia limited liability company

By: Priske-Jones Southeast Company, a Georgia  
corporation, as its Manager

By: *[Signature]*  
Name: JAMES L. KNIGHT, JR.  
Title: VICE PRESIDENT

Signed, sealed, and delivered  
in the presence of:

[AFFIX CORPORATE SEAL]

*Shula Wyatt*  
WITNESS

*Laura Brockington*  
NOTARY PUBLIC

My Commission Expires: **February 9, 2008**  
Notary Public, Cobb County, Georgia

[AFFIX NOTARY SEAL]



IN WITNESS WHEREOF, the undersigned Approved Builder, as Owner of some or all of the tract or parcel of land described on Exhibit "A" attached hereto does hereby declare and consent, on behalf of such Approved Builder and such Approved Builder's heirs, successors, legal representatives, successors-in-title and assigns, that from and after the date hereof the property of Approved Builder described on Exhibit "A" attached hereto shall be owned, held, transferred, sold, conveyed, used, occupied, and encumbered subject to all of the terms, provisions, covenants, restrictions and easements contained in the Declaration. This \_\_\_\_ day of \_\_\_\_\_, 2005.

APPROVED BUILDER:

CRAFTSMAN CUSTOM HOMES, LLC,  
a Georgia limited liability company

By: *Anthony S. Duncan* (SEAL)  
Name: Anthony S. Duncan  
Title: Member Manager

Signed, sealed, and delivered  
in the presence of:

WITNESSES  
*[Signature]*  
NOTARY PUBLIC  
*[Signature]*  
NOTARY PUBLIC

Notary Public, Cobb County, Georgia  
My Commission Expires February 9, 2008

[AFFIX NOTARY SEAL]

EXHIBIT "A"  
Property Description

All that tract or parcel of land lying and being in Land Lots 510, 511, and 571 of the 16<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, including, without limitation, Lots 1 through 47, Common Area-1, Common Area-2, Common Area-3 and "Prado Lane (Private)", as more particularly described on that certain Final Plat of the Enclave at Laura Creek, prepared by Watts & Browning Engineers, Inc., containing the seal of V.T. Hammond, Georgia Registered Land Surveyor No. 2554, dated January 8, 1999, and recorded on September 10, 2004 in Plat Book 227, Pages 1-6, Cobb County, Georgia records, reference to said plat of survey and the record thereof being hereby made for a more complete description.

EXHIBIT "B"

Additional Property Which May Be Unilaterally  
Submitted To This Declaration by Declarant

All that tract or parcel of land lying and being in Land Lots 497, 498, 499, 500, 509, 510, 511, 512, 569, 570, 571 and 572 of the 16th District, 2<sup>nd</sup> Section, Cobb County, Georgia.

Less and except the property described on Exhibit "A" hereto.