

**DECLARATION OF PROTECTIVE COVENANTS FOR
TARRYMORE HOMEOWNERS ASSOCIATION, INC.**

THIS DECLARATION is made this ____ day of _____, 2012, by TARRYMORE HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation, (hereinafter referred to as "Tarrymore" or the "Association") and by those Lot Owners within the Tarrymore subdivision who have consented to this Declaration.

WITNESSETH:

WHEREAS, the Association was established in the year 1974 for the promotion of the general welfare and preservation of common areas of the Tarrymore subdivision as set out in the Declaration of Covenants and Restrictions and Grant of Easements and Permanent Charges for Tarrymore recorded August 23, 1972, at Deed Book 5640, page 55, Fulton County, Georgia Records (hereinafter the "Original Declaration"); and

WHEREAS, the restrictive covenants included in the Original Declaration terminated by operation of law after the expiration of twenty years; and

WHEREAS, the easements and obligations to fund common expenses included in the Original Declaration continue to be in force; and

WHEREAS, the current membership of the Association is made up of Lot Owners within the Tarrymore subdivision, Fulton County, Georgia; and

WHEREAS, the Association and its members desire to adopt a new Declaration of Covenants in order to further document the easements and the obligation for common expenses that will provide for greater stability of the Association, and to provide for the use, preservation and maintenance of the Tarrymore subdivision for present and future owners of the Lots; and

WHEREAS, the Association and its members have agreed that the Association shall take on the role of administering the covenants; and

WHEREAS, it is the desire of the Association and the members that anyone owning Lots within Tarrymore will be subject to a clearer set of covenants;

NOW, THEREFORE, the Association and the undersigned Lot Owners hereby declare that this Declaration shall supercede the Original Declaration and the Lots described in the consents attached are hereby made subject to this Declaration. By virtue of the recording of this Declaration said property shall be subject to the provisions of this Declaration, and every grantee of any interest in said property, by acceptance of a deed or other conveyance of such interest, shall be deemed to have expressly assumed the burden set forth herein in and to have expressly consented to each and every term, provision, restriction and condition herein contained, whether or

not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing.

ARTICLE I

DEFINITIONS

(a) "Assessment" shall mean that monetary amount assessed against a Lot to cover the Common Expenses of Tarrymore Homeowners Association, Inc.

(b) "Association" shall mean and refer to Tarrymore Homeowners Association, Inc., a nonprofit Georgia corporation, its successors and assigns.

(c) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

(d) "Common Expenses" shall mean all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration.

(e) "Common Area" shall mean any property described as Common Area on the subdivision Plat held currently in undivided interests by the Members, and any easement right benefitting the Association and its members which the Association is authorized to maintain, including the property owned one-sixteenth by each Lot Owner as described on "Exhibit A" to this Declaration.

(f) "Director" shall mean and refer to a member of the Board of Directors.

(g) "Lot" means any lot or parcel included within the Property that is intended for ownership and use as a residential lot or home.

(h) "Lot Owner" or "Owner" shall mean one or more persons who are record title owners of a Lot within the Property. In the event there are two or more owners of any Lot, such owners shall be treated as a single owner for purposes of determining a majority of the Lot Owners.

(i) "Member" shall mean all Lot Owners at Tarrymore subdivision whose Lots have been subjected to payment of mandatory assessments by the Original Declaration, by execution of this Declaration, or by written consent recorded in the Fulton County, Georgia land records, as provided herein, which membership runs with title to the Lot and cannot be separated from the Lot.

(j) "Officer" shall mean and refer to an officer of the Association.

(k) "Person" means any natural person, corporation, association, partnership, trust, or other legal entity, or any combination thereof.

(l) "Plat" shall mean and refer to that certain Plat Prepared for Tarrymore Subdivision dated January 3, 1973, and prepared by AA&L Engineers and Surveyors, filed for record in Floor Plan Cabinet 1, Page 22, records of Fulton County, Georgia.

(m) "Property" means the real property including both Lots and Common Areas that make up the Tarrymore subdivision, located in Fulton County, Georgia.

ARTICLE II

ADMINISTRATION

Section 1. Administration of the Property. Subject to the provisions hereinafter set forth in this Section 1, the administration of the Property, the maintenance, repair, renovation, replacement, and operation of the Common Areas, collection of assessments, and other duties imposed upon the Association by the Georgia Nonprofit Corporation Code, this Declaration, the bylaws of the Association, and the Articles of Incorporation shall be the responsibility of the Association. The Association shall be administered through its Board of Directors, as set out in the bylaws adopted by the Association. Subject to and in accordance with the provisions and limitations set forth in the Articles of Incorporation or in said bylaws, each Director and each Officer of the Association shall be entitled to be indemnified by the Association in connection with any threatened, pending or completed action, suit or proceeding with respect to which such person was or is a party by reason of the fact that such person is or was a Director or officer of the Association.

Section 2. Purposes, General Powers and Duties of the Association. The Association is hereby vested with authority to act pursuant to this Declaration with the powers and duties of the Property Manager defined in the Original Declaration, but shall have: no power or duty to do or perform any act or thing other than those acts and things necessary to preserve and maintain the Common Area. To the extent necessary to carry out such purposes, the Association (i) shall have all of the powers of a corporation organized under the Georgia Non-Profit Corporation Code, and (ii) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration. The Association shall, for and on behalf of the Owners of Lots, enter into such contracts and other agreements and do such other things as may be necessary to provide for the routine upkeep, maintenance and repair of the Common Area; to provide necessary utilities to the Common Area and shall collect all assessments. The Association is hereby granted the right to enter upon, over and across the Common Area and otherwise fulfilling its responsibilities hereunder. The Association shall have the right, at any time and from time to time, to submit to the Owners of Lots, for their approval, such proposals for special assessments as it may deem necessary or appropriate. The Association shall not be

liable for injury to person or property, whether occurring on the Common Area or not, caused by the conduct of any Lot Owner or such Lot Owner's family, tenant, invitee, or licensee.

The Association shall be responsible for seeing that an account in the Association's name is maintained in a bank, credit union, or other institution offering federal insurance on deposits, which account shall be used for the payment of the expenditures necessary for the routine upkeep, maintenance and repair of the Common Area, and in which shall be deposited all assessments paid by the Owners. All such assessments shall be received, held and disbursed by the Association to be applied only for the routine upkeep, maintenance and repair of the Common Area and for the payment of any fees and expenses as set out within this Declaration. At the end of each calendar year, the Association shall prepare and deliver to each Lot Owner an accounting of all items of receipt, costs and expenses arising out of or in connection with the routine upkeep, maintenance and repair of the Common Area.

Section 3. The Common Area. The Association, subject to the rights of the Lot Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair. The Association shall not be liable for injury to person or property caused by the elements or by a leak or flow of water from any utility conduit or rain, snow, or ice, whether or not any such flow or leak originates from the Common Area. The Association shall not be liable for loss or damage to any property, by theft or otherwise, which is placed or stored anywhere on the Common Area.

Section 4. Lots. Each Lot Owner shall have the sole responsibility for maintaining and repairing such Owner's Lot and the improvements located thereon and shall keep the Lot and structure and all landscaping located thereon in a neat, clean, attractive and sanitary condition.

Section 5. Services.

(a) The Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Common Areas, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for property management services, or legal and accounting services necessary or desirable in connection with the operation of the Common Areas or the enforcement of this Declaration. The Association may also maintain on the Common Areas such sign or signs as may be deemed necessary to identify the Property.

(b) The Association may make available the following services to the community for the direct benefit of the individual Lot Owners, which services may be funded through the Association budget: garbage pickup; cable television; termite protection. The Association may employ occasional security services for uncommon situations as determined by the Board of Directors. No other "common" services shall be provided or contracted for the individual benefit of the Lot Owners (as opposed to the Common Area or the association as a

whole) unless any Lot Owner may opt out of said service and the service is not funded through assessments payable to the Association. The Association, by a vote of twelve (12) Lot Owners may provide for additional services to the community for the direct benefit of the Lot Owners.

Section 6. Rules and Regulations. The Association, through the Board of Directors or at any meetings of the Owners regularly called, may recommend reasonable Rules and Regulations governing the use of the Lots and of the Common Area; which Rules and Regulations shall be consistent with the rights and duties established by this Declaration. Any such Rules and Regulations shall be effective upon a vote of twelve (12) of the Lot Owners, and after thirty (30) days from the date of distribution of the Rules and Regulations to the members of the Association, and shall remain effective until changed by a majority of the members Of the-Association. Such Rules and Regulations shall be binding upon and shall be complied with by the Lot Owners, their families, tenants, guests, invitees, and agents, until and unless any such Rule or Regulation is specifically overruled and canceled in a regular or special meeting by the vote of Lot Owners holding a majority of the total votes in the Association. The Association may suspend, temporarily, voting rights and services paid for as a common expense to enforce compliance with the Rules and Regulations. Additionally, failure to abide by any such Rule or Regulation shall be grounds for an action by the Association and any aggrieved Lot Owner to recover damages, or obtain injunctive and equitable relief.

Section 7. Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right, privilege, or duty created herein or reasonably necessary to effectuate any such right, privilege, or duty.

Section 8. Limitation of Powers. Notwithstanding anything in this Declaration to the contrary, the Association shall not have the power to convey any interest in the Common Area set out elsewhere in this Declaration, without the advance written consent of twelve (12) of all Lot Owners. Any conveyed interest that may be approved may only be conveyed by license.

Section 9. Indemnification. The Association shall indemnify every officer, director and committee member against any and all expenses, including, without limitation, attorney's fees, reasonably incurred by or imposed upon such person in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director, or committee member, whether or not such person holds such position at the time such expenses are incurred. The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such person in the performance of his or her duties, except for his or her own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and

all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

ARTICLE III

ASSOCIATION: MEMBERSHIP & VOTING RIGHTS

Section 1. Membership. Membership shall be as defined in this Declaration. If title to a Lot is held by more than one person, each of such persons shall be members. No person or entity other than an Owner may be a member of the Association, and a membership in the Association may not be transferred except in connection with the transfer of title to a Lot; provided, however, that the rights of voting may, if required by a mortgagee, be assigned by an Owner to such mortgagee as further security for a loan secured by a Lot. All Owners shall be entitled to one vote for each Lot owned, subject to the rights of the Association to suspend an Owner's voting rights. If more than one person holds an interest in any Lot, then the vote for such Lot shall be exercised as such persons among themselves determine, but in no event shall more than one vote be cast with respect to such Lot. If the co-Owners of any Lot cannot agree as to how a vote on a particular issue is to be cast, then no vote for such Lot on that particular issue shall be counted; there can be no split vote. Notwithstanding the foregoing, any co-Owner of a Lot who purports to cast a vote for such Lot shall be conclusively deemed to be casting such vote on behalf of and with the approval of all other co-Owners of such Lot unless another co-Owner objects before the final vote tally.

Section 2. Amplification. The provisions of this Article are to be amplified by the Articles of Incorporation of the Association and any bylaws adopted by the Association; provided, however, that no such amplification shall substantially alter or amend any of the rights or obligations of the Lot Owners set forth herein. In the event of any conflict between this Declaration and the Articles of Incorporation or the bylaws, this Declaration shall control.

ARTICLE IV

EASEMENTS AND REGULATIONS

Section 1. Easements. There is hereby confirmed, with respect to the Common Areas, a perpetual, nonexclusive easement, in favor of each of the Lots and the Owners of each of the Lots, to enter upon, over and across the Common Areas for the purpose of ingress and egress for maintaining and preserving the Common Areas, and using and enjoying the Common Areas to the fullest extent possible within the limitations and restrictions hereinafter set forth. There is hereby granted to the Association the same easements to the Common Areas as held by the Owners.

Section 2. Rights and Easements Appurtenant. The rights and easements confirmed or created by this Declaration shall be included as a part of the title to each of the Lots and

shall not and cannot be conveyed or transferred separate from each of the Lots. Such rights and easements shall be deemed to be conveyed or transferred with each of the Lots even though not specifically referred to in the deed or other document of conveyance transferring title to such Lot.

Section 3. Obstruction of Common Areas and Easements. No Lot Owner, their family members, tenants, invitees, or licensees shall obstruct or otherwise lock another Lot Owner's ability, or that of another Lot Owner's family members, tenants, invitees, or licensees to access, use, or enjoy the Common Areas. This includes but is not limited to parking vehicles or placing other obstructing items on the common driveway or the lawn area in any manner, at any time of the day or night, so that ease of ingress or egress is obstructed.

Section 4. Regulation of the Use of Common Area.

(a) A Lot Owner's undivided interest in the Common Areas may not be conveyed separate from a conveyance of the Lot.

(b) The Association, acting through its Board of Directors, shall have the right and authority to adopt and publish such rules and regulations governing the use of the Common Areas as they may from time to time deem necessary or appropriate for the full enjoyment of the Common Areas by all Owners of the Lots, subject to Article II, Section 6 hereof.

Section 5. Rights of Association. It is in the interest of the Association that appearance and integrity of any wall on or adjacent to the exterior boundaries of the property conform to its current appearance and architecture. To that end, painting of the exterior perimeter of any such wall shall be the responsibility of the Association. Structural or architectural changes to any wall on or adjacent to the exterior boundaries of the property must have prior approval of the Board. Maintenance of any wall on or adjacent to the exterior boundaries of the Property is the responsibility of the Lot Owner. In the event that a Lot Owner fails to maintain such wall, the Board may cause necessary repairs to be made, the cost of which shall be charged to the Lot Owner.

ARTICLE V

ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot within the Property shall pay the following sums to the Association: (i) annual assessments or charges; (ii) special assessments against all Lots for the purposes hereinafter described, such assessments to be established and collected as hereinafter provided; and (iii) specific assessments against any particular Lot or Lots based upon any damage done by the Lot

Owner to the Common Areas. For all Members, all such assessments, together with interest, costs, and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each assessment, together with interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Owner, by acceptance of a deed therefor. Owners are deemed to covenant and agree to pay the mandatory assessments covered by the continuing lien as set forth in this Section 1, whether or not such covenant and agreement be expressed in such deed, upon the effective date of this Declaration.

Section 2. Purpose and Categories of Assessments. The assessments levied by the Association shall be used exclusively to administer the Association and preserve, maintain and repair the Common Areas of the Property, to pay the Association's costs and expenses and the Association's liability, if any, for the activities of the Association, to pay ad valorem taxes, to pay any charges or costs assessed against the Association, and to pay insurance premiums, if any, and for such other related purposes as the Board may determine.

Section 3. Annual Assessment. The annual assessments to be levied by the Association shall be determined as follows:

(a) Not less than thirty (30) days prior to the date of each annual meeting of the Association, the Board shall cause to be prepared a budget for the maintenance and operation of the Property for the succeeding fiscal year. The budget shall include compensation of any entity which is employed by the Board to perform the duties imposed upon the Association hereunder. Such budget shall be based upon reasonable, good-faith estimates of the actual expenses of the Association for such year. Based on this budget, the Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual meeting. The Budget shall include a reserve fund to be created and maintained for the funding of periodic expenses including, but not limited to, repaving of the road surfaces within the Tarrymore Subdivision. Written notice of the annual assessment shall be sent to every Member. Unless the Board shall otherwise determine, the annual assessments shall be due and payable in one annual installment on or before February 1 of each fiscal year. The Association shall, upon written request, and for a reasonable charge (not to exceed \$25) furnish a certificate signed by an officer of the Association setting forth whether the assessments for succeeding fiscal years.

(b) If the budget established hereunder for any fiscal year results in a surplus for such year, then the Board may credit such surplus to a reserve fund or make such other disposition of such surplus as the Board deems consistent with the obligations imposed on the Association hereunder. The Board shall take into consideration the existence and amount of such reserve fund when establishing the amount of assessments for succeeding fiscal years.

(c) The budget and the assessment shall become effective unless disapproved at the annual meeting by a vote of a majority of the total association membership. Notwithstanding the foregoing, however, in the event that the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided

herein, the budget and the assessment in effect for the current year shall continue for the succeeding year.

Section 4. Special Assessments. At any time and from time to time, the Association, by agreement of twelve (12) of the Lot Owners, may cause a special assessment to be levied against each of the Lots to provide funds for alterations in or additions to the Common Area, for maintenance and repair other than that which is routine, or for routine maintenance and repair in the event the initial assessments or any annual assessments prove to be inadequate for such purpose. Any special assessment shall be set forth in a written document, which shall be signed by each of said majority and shall set forth the purpose for which such special assessment is levied, the total funds required to accomplish such purpose. The Owner of each of the Lots shall within thirty (30) days after said document has been delivered to each such owner, pay to the Association such owner's pro rata share of the special assessment specified therein, such pro rata share to be determined by dividing the total amount of such special assessment by the number of Lot Owners. Any portion of any such special assessment not expended may be held by the Association as a reserve for future expenses. The Association shall have the right, on behalf of all Lot Owners paying such special assessment, to pursue and recover any amount due from any Lot Owner failing to pay his share of such special assessment. Any special assessment not paid when due shall incur a late charge of 10% of the amount due and bear interest at the rate of ten (10%) percent per annum from said due date.

Section 5. Specific Assessments. Any expenses incurred by the Association for repairs or reconstruction of damage to the Common Areas which are occasioned by the conduct of a Member, his family, tenants, invitees or licensees, including reasonable attorneys' fees actually incurred in enforcing this Declaration, shall be specifically assessed against such Member's Lot and against the Lot Owner, provided, however, that no such assessment may be made against any Lot (although the Lot Owner may be assessed) after such Lot Owner has conveyed the Lot to a bona fide purchaser or after such Lot has been transferred in a manner which, under Section 10 below, would extinguish the lien for any outstanding assessments. The specific assessment provided for in this section shall be levied by the Board of Directors, and the amount and due date(s) of such specific assessments so levied shall be as specified by the Board. Prior to the levy, of such a specific assessment, the Board shall provide written notice to the Lot Owner against whom the assessment is proposed of the alleged damage to the Common Areas that generated the proposed specific assessment as well as the estimated damage incurred, said notice to be provided not less than ten (10) days before the specific assessment is levied. The Board shall provide in the notice an opportunity for the Lot Owner to request, for a period of not less than ten (10) days to appear before the Board for examination of the damage or to contest the levy, said opportunity to be no less than five (5) days after such meeting with the Board is requested by the Lot Owner. Except in the instance of any intentional act to cause damage by the Lot Owner, the amount of the levy shall be limited to the good faith estimate of the value of the physical damage incurred plus costs incurred for repair or reconstruction of the damage, plus any third party costs incurred, including reasonable attorney's fees actually incurred. If dissatisfied with the final decision of the Board,

the Lot Owner may request in writing, within five(5) days, a special meeting of the Association. Said meeting to be set within twenty (20) days of the date of the Board's final decision. The Board's decision may be overruled by a vote of twelve (12) of the Lot Owners.

Section 6. Payment of Annual Assessments. Except as otherwise provided in this Article, both annual and special assessments shall be equally assessed against the membership and common profits shall be allocated equally among the membership. Notwithstanding the foregoing, this requirement of equal assessment shall not prevent specific assessments for damage to the Common Areas against one or more of the members pursuant to specific provisions of this Declaration. Common profits shall be allocated in the same manner as assessments. Assessments as to all Owners within the Association shall be due after notice is sent by the Association to the Owner of each Lot at the Lot address or such other address as furnished by the Owner to the Association; such notice may be addressed to "Owner" at the Lot address unless the Owner has provided to the Association a written notice of the name of the Owner. Failure of proper notice to any Owner shall not postpone the commencement of assessments for any other Owner.

Section 7. Exempt Property. No Lot or Lot Owner other than the Association shall be exempt from any liability for any assessment for any reason whatsoever, including, without limitation, abandonment, nonuse, or waiver of the use and enjoyment of his or her Lot or any part of the Common Area.

Section 8. Lien for Assessments. All sums assessed to any Lot pursuant to this Article together with late charges and interest as provided herein shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except only for:

- (a) Liens of ad valorem taxes;
- (b) the lien for all sums unpaid on any first mortgage covering the Lot or any mortgage recorded prior to the recording of this Declaration; and
- (c) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot.

All other persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall take subject to the lien of the Association.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment or portion thereof, is not paid on or before it is due, then a late charge, not in excess of the greater of Ten Dollars (\$10.00) or ten percent (10%) of the

amount of each delinquent assessment or installment shall also be included in the lien and shall be due and payable to the Association. The lien for assessments shall also include interest at a rate of ten percent (10%) per annum on any assessment, installment, delinquency or late charge from the date such sum was first due and payable. The lien for assessments shall further secure costs of collection, including court costs, the expenses of sale, and reasonable attorney's fees actually incurred. If any delinquent assessment or portion thereof is not paid within ten (10) days after written notice is given to the Member to make such payment, proceedings may be instituted to enforce such lien. Such notice shall be sent by certified mail, return receipt requested, to the Member both at the address of the Member's Lot and at any other address or addresses the Member may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. All actions for the collection of such assessments by suit, judgment and enforcement of the aforesaid lien shall be brought in the same manner as other liens for the improvement of real property. The lien for assessments shall lapse and be of no further effect as to assessments or installments thereof, together with late charges and interest applicable thereto, first becoming due and payable more than four (4) years prior to the institution of suit therefor.

Section 10. Extinguishment of Lien. Except as hereinafter provided, sale or transfer of a Member Lot shall not affect the lien for unpaid assessments. The enforcement of any lien which is superior to the lien for assessments, as provided in Section 8 hereof, whether by sale under power or judicial sale or foreclosure, or the enforcement of any first mortgage or secondary purchase money mortgage by transfer in lieu of foreclosure, shall extinguish the lien for any assessments which are inferior to such lien and which fell due prior to the date of such sale under power, foreclosure, or transfer.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Amendment. This Declaration and the other Association instruments may be amended at any time and from time to time by the assent of twelve (12) of the Lot Owners.. The total number of votes required to approve any amendment shall not be reduced by the suspension of the rights of any member or members to vote due to action taken by the Board of Directors. So long as the same shall not (a) adversely affect the title to any Lot, (b) materially alter or change any Lot Owner's right to the use and enjoyment of his Lot or the common areas as set forth in this Declaration, or (c) otherwise make any material change in this Declaration, each Lot Owner agrees that, if requested to do so, such Lot Owner will consent to the amendment of this Declaration or the other Association instruments or the bylaws or Articles of Incorporation of the Association, (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with, or remove any

conflict or inconsistency with, the provisions of any applicable governmental statute, rule, regulation, or judicial determination which shall be in conflict therewith, (ii) if such amendment is required by the governmental statutes, laws, rules or regulations applicable to or promulgated by a governmental or quasi-governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot, or (iii) if any such amendment is necessary to enable any governmental agency to insure mortgage loans on the Lots based on the statutes, laws, rules or regulations applicable to or promulgated by such agency. Any provision in this Declaration which may be construed to the contrary notwithstanding, any amendment to this Declaration which would change, alter, modify or rescind any right, title, interest or privilege herein expressly granted to the holder of any mortgage affecting any of the Lots shall require the prior written approval of such holder. Amendments to this Declaration may be proposed by the Board of Directors of the Association, or by petition signed by Lot Owners having at least thirty percent (30%) of the total votes of the Members of the Association. Agreement of the required majority of Lot Owners to any amendment of the Association instruments shall be evidenced by their execution of the amendment, or, in the alternative, the sworn statement of the President, any Vice President or Secretary of the Association, attached to or incorporated in an amendment executed by the Association, in which sworn statement it is stated unequivocally that agreement of the required majority of Lot Owners was otherwise lawfully obtained, and that all required notices were given. Any such amendment of the Association instruments, including this Declaration, shall become effective only when recorded or at such later date as may be specified in the amendment itself. The written consent of any mortgagee required with respect to such amendment shall also be recorded with such amendment. The approval of any amendments by a mortgagee shall be deemed implied and consented to if the mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after the mortgagee receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Section 2. Rights of Third Parties. This Declaration shall be recorded for the benefit of the Lot Owners and their mortgagees as herein provided, and no adjoining property owner or third party shall have any right, title or interest whatsoever in the property or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the rights of such mortgagees as herein provided, the Lot Owners shall have the right to cancel, extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission or approval of any adjoining owner or third party.

Section 3. Members Rights to Call Meeting. A special meeting of the membership shall be called upon the written requests at least fifteen percent (15%) of the Unit Owners. Should more than one such meeting be called for identical or substantially similar purposes in any calendar year, and if the prior such special meeting failed to have a quorum of the members present, and if the subsequent meeting also fails to have a quorum present, the costs of calling the subsequent meeting at

which no quorum was in attendance may be specially assessed against the Unit Owners requesting the call of the subsequent meeting.

Section 4. Enforcement. Each Lot Owner shall comply strictly with the covenants, conditions and restrictions set forth in this Declaration, the Bylaws and the rules and regulations of the Association now or hereafter adopted, as the same may be lawfully amended from time to time. In the event of a violation or breach, or threatened violation or breach, of any of the same, the Association or, in a proper case, any aggrieved Lot Owner or Owners, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. In addition to all other remedies, the Association, or a duly authorized agent thereof, shall have the right to enter upon any portion of the Common Areas where a violation exists and, at the expense of the violating Lot Owner and using such force as may be reasonably necessary, summarily abate or remove any erection, thing or condition that may be or exist contrary to the intent and meaning of the provisions hereof or of the rules and regulations, if after ten (10) days' written notice of such violation it shall not have been corrected by such Lot Owner. Neither the Association nor its agents shall be deemed guilty or liable for any manner of trespass for such entry, abatement or removal. Should the Association employ legal counsel to enforce any of the foregoing or any other rights or remedies of the Association, all costs incurred in such enforcement, including a reasonable fee for counsel shall be paid by the violating Lot Owner.

Inasmuch as the enforcement of the provisions of this Declaration, any bylaws, and such rules and regulations is essential for the protection of present and future Lot Owners, it is hereby declared that, for any breach thereof which cannot be adequately compensated by recovery of damages, the Association or, in any proper case, any aggrieved Lot Owner or Owners, in addition to all other remedies, may require and shall be entitled to the remedy by injunction to restrain any such violation or breach or threatened violation or breach. Further, and except as otherwise provided in this Declaration, in any case of flagrant or repeated violation by a Lot Owner, then, in addition to the foregoing remedies, the Association may suspend temporarily the voting rights of a Lot Owner during the continuance of any such violation. Moreover, each day or time a violation is continued or repeated after written notice is given to the Lot Owner to cease and desist, it shall be considered a separate violation.

No delay, failure or omission on the part of the Association or any aggrieved Lot Owner or Owners in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to do so thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, of the provisions and regulations, however long continued, or for the imposing of provisions which may be unenforceable.

Section 5. Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety at Tarrymore; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security at Tarrymore. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide such security shall lie solely with each Lot Owner. The Association shall not be held liable for any loss or damage by reason to provide adequate security or ineffectiveness of safety measures undertaken.

Section 6. Duration. The term of this Declaration shall be perpetual. In the event Georgia law does not permit the right of perpetual duration for any provisions of the Declaration, the term of this Declaration shall be twenty (20) years from the date on which the Declaration is filed for record in the Office of the Clerk of the Superior Court of Fulton County, Georgia, unless sooner terminated, and shall remain in effect and shall inure to the benefit of and be enforceable by any Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns. If perpetual duration is not permitted, upon the expiration of said twenty (20) year term, this Declaration shall be automatically extended, as permitted by the laws of the State of Georgia, for successive renewal periods of ten (10) years each, unless terminated as hereinafter provided. This Declaration may be terminated, renewed or extended, in whole or in part, if any agreement for termination, renewal or extension is signed by two thirds of all Owners and approved by two thirds of any eligible first mortgage holders, as provided in section 1 of this Article. The termination, extension or renewal shall be effective when filed for record in the Office aforesaid.

Section 7. Effective Date. This Declaration of Protective Covenants shall be effective upon filing on the Fulton County Superior Court records.

Section 8. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board of Directors, will best effect the intent of the general plan of the Association. The provisions hereof shall be liberally interpreted, and if necessary, they shall be so extended or enlarged by implication as to make them fully effective. In the event of any conflicts or inconsistencies between the Georgia Nonprofit Corporation Code, this Declaration, and the bylaws, the terms and provisions of the Georgia Nonprofit Corporation Code and this Declaration, in that order, shall prevail.

Section 9. Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 10. Rights of Holders, Insurers and Guarantors of First Mortgages, Secondary Purchase Money Mortgages, and Secondary Mortgages Held By Institutional Lenders. In addition to the rights of mortgagees elsewhere provided, the holder, insurer and guarantor of each first mortgage, secondary purchase money mortgage, and secondary mortgage held by institutional lenders, or any insurer or guarantor of such mortgage, of a Lot shall, upon written request, (a) be entitled to written notice from the Association of any default by a Lot Owner in the performance of his obligations under this Declaration or the bylaws or rules and regulations of the Association which is not cured within sixty (60) days, (b) be entitled to receive notice of and to designate a representative to attend and observe all meetings of Lot Owners, but not meetings of the Board of Directors of the Association, (c) be furnished copies of annual financial reports made to the Lot Owners, and (d) be entitled to timely written notice of any action that requires the written consent of a specified percentage of mortgage holders; provided, however, that such holder, insurer or guarantor shall first file with the Association a written request that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of the holder, insurer or guarantor at an address stated in such notice. Further, each holder, insurer or guarantor which is an institutional lender (i.e., a bank, savings and loan association, insurance company, FHA-approved mortgage lender, pension fund, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, mortgage banker or other lender generally recognized in the community as an institutional lender) or a generally recognized commercial or governmental insurer or guarantor (including, without limitation, the U.S. Veterans Administration and the Federal Housing Administration) shall, upon request, be entitled to inspect the books and records of the Association during normal business hours, and may, at the sole expense of such holder, insurer or guarantor, have an audited statement of the Association's books and records prepared if one is not otherwise available. Each Owner of a Lot, by acceptance of a deed or other conveyance therefor, consents to such notifications and information to be provided to any such party by the Association. Any notice rights given in other provisions of this Declaration to Mortgagees are hereby granted to all insurers or guarantors of the mortgages held by said Mortgagees.

Section 11. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 12. Captions. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 13. Author. This Declaration was prepared by *Randall M. Lipshutz*

and Jody L. Peskin, Lipshutz Greenblatt LLC, One West Court Square, Decatur, Georgia 30030.

IN WITNESS WHEREOF the undersigned officers of Tarrymore Homeowners Association, Inc., hereby certify that the above Declaration was duly adopted by the Association and its membership.

This _____ day of _____, 2012.

CONSENT OF OWNER

The undersigned Owner of a Lot within Tarrymore Association, Inc. hereby consents to the Declaration of Protective Covenants for Tarrymore attached hereto, which provides for a mandatory assessment and other covenants.

Witness our hand and seal this _____ day of _____, 2012.

Signed, sealed and delivered
this _____ day of _____
2012 in the presence of:

TARRYMORE HOMEOWNERS
ASSOCIATION, INC.

Unofficial Witness

By: _____ (SEAL)
President

Notary Public

Attest: _____ (SEAL)
Secretary