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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
CHATTERON SPRINGS**

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR CHATTERON SPRINGS

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<u>Exhibit</u>	<u>Subject Matter</u>
"A"	Land Initially Submitted to the Declaration
"B"	Land Subject to Annexation
"C"	By-Laws of Chatteron Springs Homeowners Association, Inc.

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR CHATTERON SPRINGS

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR CHATTERON SPRINGS ("Declaration") is made as of the date set forth on the signature page hereof by **UC CHATTERON SRPINGS, LLC**, a Georgia limited liability company (hereinafter referred to as the "Declarant").

Declarant is the owner of the real property described in Exhibit "A," which is attached hereto and incorporated by reference. By this Declaration, Declarant imposes upon the Community mutually beneficial restrictions under a general plan of improvement for the benefit of the owners in the Community, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Community. In furtherance of such plan, the Chatteron Springs Homeowners Association, Inc. has been formed as a Georgia nonprofit corporation to own, operate, and maintain Common Area and to administer and enforce the provisions of the Governing Documents, as such terms are defined below.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property described on Exhibit "B" hereto that may be subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Community, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community.

This document does not and is not intended to create a condominium within the meaning of the Georgia Condominium Act, O.C.G.A. Section 44-3-70, *et seq.*, and does not submit the property described herein to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.*

THIS DECLARATION DISCLOSES IMPORTANT INFORMATION ABOUT THE COMMUNITY FOR THE BENEFIT OF PROSPECTIVE PURCHASERS OF REAL PROPERTY LOCATED IN THE COMMUNITY. EACH OWNER, BY ACCEPTING A DEED TO PROPERTY IN THE COMMUNITY, ALSO ACCEPTS AND AGREES TO THE COVENANTS AND RESTRICTIONS SET FORTH IN THIS DECLARATION.

ARTICLE I

DEFINITIONS

The terms in this Declaration and the attached exhibits and other Governing Documents shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "Approved Builder": means **D.R. Horton, Inc.**, a Delaware corporation, and any other home builder approved by Declarant for the construction of houses on Units which home builder has been granted rights of Approved Builder hereunder by the Declarant in a written instrument. Declarant may grant rights of Approved Builder to one or several home builders. Rights of Approved Builder hereunder shall apply only to the Units within the Community which are acquired by such Approved Builder.

1.2. "Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contract, or agreement.

1.4. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Chatteron Springs Homeowners Association, Inc., as the same may be amended from time to time.

1.4. "Association": Chatteron Springs Homeowners Association, Inc., a Georgia non-profit corporation, its successors or assigns.

1.5. "Board of Directors" or "Board": The body responsible for the administration, operation and management of the Association, appointed or elected as provided in the By-Laws, and generally serving the same role as the board of directors under Georgia corporate law.

1.6. "By-Laws": The By-Laws of Chatteron Springs Homeowners Association, Inc., attached as Exhibit "C" hereto and incorporated by reference herein, as they may be amended from time to time.

1.7. "Common Area": All real and personal property, including, without limitation, easements and other interests therein and the facilities and improvements located thereon, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The Amenity Area is a portion of the Common Area.

1.8. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association in a given year, including any reasonable reserve, as the Board may find necessary and appropriate. Common Expenses shall be shared by all Unit Owners equally as provided in Article VIII hereof and may include, but are not limited to, the following: (a) costs to maintain the Community entry features, including any expenses for landscaping, electricity and/or irrigation associated therewith; (b) costs to maintain the storm water drainage facilities and storm water detention/retention pond(s) serving the Community; (c) contributions to the reserve fund; (d) property taxes for the Common Area; (e) insurance premiums; (f) landscape maintenance; (g) legal fees and property management fees; (h) costs to operate, maintain and insure the Amenity Area; (i) costs to maintain open space and green space areas, including, without limitation, any walking trails and pedestrian paths; and (j) expenses and liabilities incurred as provided herein, the Articles of Incorporation and the By-Laws for the indemnification of officers and directors and in connection with the enforcement rights and duties of the Association against Owners and others.

1.9. "Community": The real property described on Exhibit "A," together with such additional property as may be subjected to this Declaration by Supplemental Declaration in accordance with Article VII hereof.

1.10. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Community as initially established by Declarant.

1.11. "Declarant": UC Chatteron Springs, LLC, a Georgia limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibit "A" or Exhibit "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant.

1.12. "General Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund the Common Expenses for the general benefit of all Units in the Community.

1.13. "Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws and the Articles, as provided for herein, each as they may be amended, revised or modified as provided herein.

1.14. "Member": A Person subject to membership in the Association pursuant to Section 3.2 hereof.

1.15. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

1.16. "Mortgagee": A beneficiary or holder of a Mortgage.

1.17. "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

1.18. "Person": A natural person, corporation, limited liability company, joint venture, partnership, trustee, or any other entity recognized as a separate legal entity under Georgia law.

1.19. "Plat": The Recorded final subdivision plat applicable to the Community or phase of the Community.

1.20. "Record", "Recorded", or "Recording": The appropriate recordation or filing of any document in the Office of the Clerk of Superior Court of Coweta County Georgia, or such other place which is designated as the official location for recording deeds and similar documents affecting title to real estate.

1.21. "Special Assessment": Assessments levied in accordance with Section 8.5 hereof.

1.22. "Specific Assessment": Assessments levied in accordance with Section 8.6 hereof.

1.23. "Supplemental Declaration": An instrument Recorded pursuant to Article VII which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.26. "Unit": A portion of the Community, whether improved or unimproved, which is intended for development, use, and occupancy as a residence for a single family. The term shall include within its meaning, by way of illustration and not limitation, each numbered lot shown on a Recorded Plat with respect to any portion of the Community, together with the structures, if any, constructed thereon, as well as vacant land intended for further subdivision, but shall not include Common Area or property dedicated to the public. The ownership of a Unit shall include, whether or not separately described, membership in the Association and all rights and interest of an Owner in and to the Common Area.

In the case of a portion of the Community intended and suitable for subdivision into single-family lots but as to which no Plat has been Recorded, such property shall be deemed to contain the maximum number of Units shown on Declarant's overall site plan or concept plan until such time as a subdivision Plat is Recorded with respect to all or a portion of the property. Thereafter, the portion encompassed by such Plat shall contain the number of Units as set forth in the preceding paragraph and any portion not Platted shall continue to be treated as set forth in this paragraph.

ARTICLE II

PROPERTY RIGHTS

2.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Unit, subject to:

(a) This Declaration, a Supplemental Declaration and any other applicable covenants;

(b) Any restrictions or limitations contained in any deed conveying title to the Common Area to the Association;

(c) The right of the Board and the membership to adopt rules regulating the use and enjoyment of the Common Area;

(d) The right of the Association to suspend the right of an Owner to use and enjoy the Common Area for any period during which any past due assessment against any Unit of the Owner remains unpaid, and for a reasonable period of time for an infraction of the Declaration, By-Laws and any rules and regulations promulgated by the Board of Directors;

(e) The right of the Association to limit the number of Persons who may use the Common Area and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by authorized users and their guests and invitees;

(f) The right of the Association, acting through the Board, to dedicate or transfer title to all or any part of the Common Area upon the affirmative vote of Owners of at least two-thirds (2/3) of the Units (other than Units owned by the Declarant) and the consent of Declarant;

(g) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred upon the affirmative vote of Owners of at least two-thirds (2/3) of the Units (other than Units owned by the Declarant) and the consent of Declarant; provided, however, the lien and encumbrance of any 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 the holder of any Mortgage encumbering any Unit or other property in the Community;

(h) Declarant's and Approved Builder's right to use the Common Area without payment or charge for such purposes as Declarant or Approved Builder, in their sole discretion, deem necessary and proper for the development, sale, construction, marketing and build out of the Community;

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

(j) All encumbrances, zoning conditions, and other matters of Record affecting title to the Common Area including, without limitation, any deed or other document granting the Declarant mineral rights as more particularly set forth in such deed or document; or

(k) The right of the Association, acting through the Board, to dedicate portions of the Common Area to any local, state or federal governmental or quasi-governmental entity without the consent of the Members.

Any Owner may extend or delegate his or her right of use and enjoyment to the Common Area to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

2.2. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition of the Common Area unless the portion of such Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property, which may or may not be subject to this Declaration.

2.3. Condemnation. If any part of the Common Area shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, then such award or net funds shall be

disbursed to the Association and used for such purposes as the Board shall determine in its sole discretion.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

3.1. Function of Association. The Association shall be the entity responsible for the management, maintenance, operation, and control of the Area of Common Responsibility and enforcement of the Governing Documents and shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia, including, without limitation, the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-101, *et seq.*

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3 hereof and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners as set forth herein, in the By-Laws and any rules and regulations adopted by the Board. The membership rights of an Owner, which is not a natural person, may be exercised by any officer, director, partner, manager, member or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Association's Secretary. Membership shall be appurtenant to and shall not be separated from ownership of a Unit.

3.3. Voting. The Association shall have two classes of membership, Class "A" and Class "B".

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any and shall include any Approved Builder. Class "A" Members shall have one (1) equal vote for each Unit in which they hold the interest required for membership as provided in Section 3.2 above. When more than one Person holds an ownership interest in any Unit, the vote for such Unit shall be exercised as those Owners themselves determine and advise the Association's Secretary prior to any meeting. The vote attributable to a Unit shall be suspended in the event that more than one Person seeks to exercise it. The Board shall have the right to suspend the voting rights of an Owner for any period during which any past due assessment against any Unit remains unpaid and for a reasonable amount of time for an infraction of the Governing Documents.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member are set forth in relevant provisions of the Declaration

and By-Laws. The rights of Declarant, as the Class "B" member, shall be of no further force and effect on the date that the rights of Declarant terminate as provided in Article XI hereof.

Notwithstanding anything to the contrary herein and regardless of whether the Class "B" membership remains in effect, the Declarant shall be entitled to cast one (1) vote for each Unit owned.

ARTICLE IV

RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage, operate and maintain the Common Area and all improvements located and constructed thereon, including, without limitation, the Community entry features and any storm water detention/retention ponds and storm water drainage facilities serving the Community in a manner consistent with the Community-Wide Standard, as more particularly set forth in Section 5.1(a) hereof and subject to any restrictions set forth in the deed or other instrument conveying property to the Association, if any. The Board is specifically authorized, but not obligated, to retain or employ a professional management agent to assist in carrying out the Association's responsibilities under the Governing Documents, the cost of which shall be a Common Expense.

4.2. Personal Property and Real Property for Common Use.

(a) Conveyance of Common Area. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Approved Builder, Declarant or its designees or successors-in-title may transfer or convey to the Association interests in real or personal property within or for the benefit of the Community, and the Association shall accept such transfers and conveyances. All such property shall be accepted by the Association "AS IS" without any representation or warranty, express or implied, in fact or by law, with respect thereto, or with respect to the improvements located or constructed thereon, and without any representations or warranties regarding future repairs or regarding the condition, construction, accuracy, completeness, design, adequacy of the size or capacity in relation to the utilization, date of completion, or the future economic performance or operations of, or the materials which have been or will be used in such property or repairs.

(b) Reconveyance of Common Area. Upon the written request of Approved Builder or Declarant, the Association shall reconvey to Declarant or Approved Builder, as the case may be, without a vote of the Members, all or any

portion of any unimproved portion of the Common Area originally conveyed by Declarant or Approved Builder to the Association for no consideration, to the extent conveyed by Declarant or Approved Builder in error or needed by Declarant or Approved Builder to adjust property lines or accommodate changes in the development plan.

The Association hereby appoints Declarant as its agent and attorney-in-fact to accept on behalf of the Association any conveyance to the Association, to reconvey any such property on behalf of the Association and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any conveyance to or reconveyance from the Association. Neither the Recordation of any 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 a Recorded instrument.

4.3. Enforcement.

(a) General. The Declarant or the Association, as the case may be, may impose sanctions for violations of the Governing Documents in accordance with procedures set forth in the By-Laws, including, without limitation: (i) the imposition of reasonable monetary fines; (ii) the suspension of the right to vote; (iii) the suspension of an Owner to use and enjoy the Common Area; and (iv) the suspension of the right to receive any services or benefits which are provided by the Association, if any. Any suspension shall not effect an Owner's obligation to pay assessments coming due during the period of suspension.

(b) Self Help. In addition to any other remedies provided for herein, the Association, acting through the Board, the Declarant or their respective duly authorized agents shall have the power to enter upon any Unit or any other portion of the Community to abate or remove any structure, thing, improvement or condition which violates the Governing Documents. Unless an emergency situation exists, the violating Owner shall be given ten (10) days written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law. All costs of self-help, including, without limitation, reasonable attorneys' fees actually incurred, shall be assessed against the Unit of the violating Owner as a Specific Assessment. The Declarant, the Association and their respective, officers, directors, members, representatives and duly authorized agents shall not be liable for damages to Person or property from exercising the rights set forth in this Section 4.3, including, without limitation, claims for damages resulting from the removal of a nonconforming structure, improvement, thing or condition.

(c) Litigation and Attorneys' Fees. All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. If the Association prevails in any action to enforce the provisions of the Governing Documents or Association rules and regulations, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, actually incurred in such action.

(d) Enforcement Rights of Declarant. So long as the Declarant owns any property described on Exhibit "A" or Exhibit "B" or has the right to unilaterally annex additional property to the provisions of the Declaration, the Declarant may, but shall not be obligated to, take any enforcement action, or exercise any right on behalf of or independent from the Association; which action, shall include, but not be limited to the imposition of monetary fines; provided, however, in the event that monetary fines are imposed, only one fine may be imposed for a single violation such that an Owner or occupant may not be fined by the Declarant and the Association for the same violation. In the event fines or other sanctions are imposed by the Declarant hereunder, the Declarant shall have any and all rights to collect such fines or sanctions (which fines shall be payable to the Association) and any related charges, including, without limitation, reasonable attorneys' fees actually incurred and costs of collection in the same manner as provided herein for the collection of assessments.

(e) No Obligation of Association to take Enforcement Action. The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, inconsistent with the overall scheme of development for the Community or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking such enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision in the future or under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and local governments may enforce their ordinances within the Community.

4.4. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Governmental Interests. For so long as Declarant owns any property described on Exhibit "A" or Exhibit "B," Declarant may designate sites within the Community for fire, police, and utility facilities; public schools and parks; and other public or quasi-public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant.

4.6. Indemnification.

(a) The Association shall indemnify every officer, director, and committee member against all damages and expenses, including attorneys' fees, reasonably incurred 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 he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law.

(b) 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 and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available, as more particularly provided in Article VI hereof.

(c) Decisions to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party. In deciding whether to bring a civil action against another party, a director is protected by the business judgment rule as explained in Section 3.23 of the By-Laws.

4.7. Safety and Security. Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property within the Community. The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Notwithstanding the foregoing, the Association, Declarant,

Approved Builder and their respective officers, directors, employees, representatives and agents shall not in any way be considered insurers or guarantors of safety or security within the Community, nor shall they be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. The obligation to provide security lies with each Unit Owner individually.

No representation or warranty is made that any security system or measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit, that the Association, its Board of Directors and committees, Declarant, Approved Builder and their respective officers, directors, employees, representatives and agents are not insurers or guarantors of safety or security and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from the acts of third parties.

ARTICLE V

MAINTENANCE

5.1. Association's Responsibility.

(a) General. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(i) the Common Area, including, without limitation, any open space, and all landscaping, signage, lighting, irrigation systems and equipment, fences, walls, retaining walls, and other structures and improvements situated upon the Common Area;

(ii) any perimeter fencing or perimeter walls installed by Declarant or Approved Builder, regardless of whether they are located on a Unit or Common Area;

(iii) landscaping, signage, sidewalks, street medians and street islands and landscaping located within or along public rights-of-way within or adjacent to the Community, except to the extent that such responsibility is assumed by a governmental or quasi-governmental body, public utility or third party;

(iv) all drainage ponds, storm water retention/detention ponds, or detention and/or drainage systems serving the Community and any retaining walls, gate, fence or other enclosure surrounding said storm water retention or detention ponds, in accordance with any Recorded or to be Recorded maintenance and/or

indemnification agreements regarding the same, regardless of whether such storm water detention/retention ponds are located on a Unit or Common Area, if and to the extent maintenance is required in the Board's opinion and such area is not otherwise maintained on an ongoing basis by a governmental entity or third party; provided, however, the Association shall not be responsible for any maintenance and/or repair to any storm water drainage facilities which exclusively serve a Unit;

(v) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for the maintenance thereof entered into by the Association (including any agreement with any governmental or quasi-governmental entity);

(vi) any Community entry features, including, without limitation, any landscaping, monument signage, lighting systems and irrigation systems related thereto or used in connection therewith regardless of whether they are located on a Unit or Common Area;

(vii) until the rights of Declarant and Approved Builder terminate as provided herein, any property and facilities owned by Declarant or Approved Builder and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant or Approved Builder, as the case may be, to the Association and to remain a part of the Area of Common Responsibility and to be maintained by the Association unless and until such time as Declarant or Approved Builder, as applicable, revokes such privilege of use and enjoyment by written notice to the Association;

(viii) the centralized mailbox area and the mailboxes located thereon, regardless of whether they are located on a Unit or Common Area;

(ix) any retaining walls in the Community, regardless of whether they are located on a Unit or Common Area; and

(x) exterior lighting in the Community, including, without limitation, street lights, if and to the extent the same is not maintained by a governmental entity or third party; provided, however, the Association shall not be responsible for the maintenance, repair and replacement of any exterior lighting attached to, exclusively serving or located on a Unit.

(b) Additional Association Maintenance and Rights. The Association may maintain property which it does not own, regardless of whether such property is located within or outside of the Community, including, without limitation, property

dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard or otherwise benefits Owners. In addition to the foregoing, the Board of Directors, without a vote of the Members, but with the consent of the Declarant and Approved Builder, shall have the right to enter into easement agreements and/or covenant to share cost agreements where the Board has determined that such action would benefit the Owners. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform any maintenance under this Declaration on behalf of the Association.

(c) Association Easement. There is hereby reserved to the Association a blanket easement over the Community, including, without limitation, the Units, as necessary to enable the Association to fulfill its maintenance responsibilities under this Section 5.1. The Association shall maintain the facilities and improvements located within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing seventy-five percent (75%) of the total eligible votes in the Association and the Declarant and Approved Builder, until their rights terminate as provided in Article XI hereof, agree in writing to discontinue such maintenance.

Except as provided above, the Area of Common Responsibility and the Association's maintenance responsibility with respect thereto shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant and Approved Builder until their rights have terminated under this Declaration as provided in Article XIII hereof.

(d) Maintenance Expenses. Except as otherwise provided herein, all costs associated with the Association's maintenance responsibilities for the Area of Common Responsibility shall be a Common Expense to be allocated among all Units subject to assessment as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for or entitled to use, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof. Notwithstanding the foregoing, in the event the Association determines that the need for maintenance, repair or replacement, which is the Association's responsibility as set forth herein, is caused through the willful or negligent act of an Owner or the occupants, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair and replacement and all costs associated therewith not paid for by insurance shall be assessed against the Unit as a Specific Assessment.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Unit and all structures, parking areas, and other improvements located thereon in a manner

consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by the Association or assigned to the Association pursuant to this Declaration, any Supplemental Declaration, or other covenants applicable to such Unit. The maintenance obligation of an Owner shall include, without limitation, the following: (i) the prompt removal of all litter, trash, refuse, and waste; (ii) keeping improvements, and exterior lighting in good repair and working order; (iii) keeping driveways in good repair; (iv) complying with all governmental health and police requirements; (v) repairing exterior damages to improvements; (vi) all maintenance, repair and replacement to the residential dwelling located on a Unit, including, without limitation, periodic painting and pressure washing and roof repair and replacement as needed to such residential dwelling; (vi) maintenance, repair and replacement of all storm water drainage facilities and all pipes, wires, conduits, and plumbing, sanitary sewer and electrical systems which exclusively serve a Unit. This Section shall not apply to any Unit owned by Declarant unless such Unit has been improved with a dwelling for which a certificate of occupancy has been issued; (vii) lawn mowing on a regular basis; (viii) tree and shrub pruning; (ix) watering landscaped areas; and (x) keeping lawn and garden areas alive, free of weeds, and attractive

5.3. Failure to Maintain. In the event that the Board of Directors determines that an 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 maintenance, repair or replacement to the Unit at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement to be performed. The Owner shall have ten (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable period of time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement to the Unit and all costs associated therewith shall be assessed against the Unit as a Specific Assessment.

5.4. Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, the responsibility for maintenance shall include the responsibility for repair and replacement, as necessary. All maintenance performed by the Association and Unit Owners, as applicable, shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, conditions and restrictions set forth in this Declaration.

5.5. Limitation of Liability. Owners, occupants and their guests shall use the Common Area and all portions of the Community not contained within a Unit, including, without limitation, the Amenity Area, at their own risk and shall assume sole responsibility for their personal belongings used or stored thereon. All Owners and occupants shall have an affirmative duty and responsibility to inspect the Common Area and all portions of the Community not contained within a Unit, including, without limitation, the Amenity Area, for any defects, perils or other unsafe conditions relating to the use and enjoyment thereof. The Association, Approved Builder, the Declarant and their respective officers, directors, employees, representatives and agents shall not be held liable for: (a) personal injury to any person occurring on the Common Area; (b) loss or damage to personal belongings used or stored on the Common Area or on any other portion of the Community; or (c) loss or damage, by theft or otherwise, of any property of an Owner or occupant.

In addition to the foregoing, the Association, Approved Builder, the Declarant and their respective officers, directors, employees, representatives and agents 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 Area; or (c) caused by any street, pipe, plumbing, drain, pond, lake, 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.

ARTICLE VI

INSURANCE AND CASUALTY LOSSES

6.1. Association Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering the full replacement cost of all insurable improvements from "risks of direct physical loss" for the Common Area and on other portions of the Area of Common Responsibility to the extent that the Association has responsibility for maintenance, repair, and/or replacement in the event of a casualty, regardless of ownership;

(ii) Commercial general liability insurance insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and umbrella coverage) shall have a combined single limit of at least One Million and No/100 Dollars (\$1,000,000.00); provided however, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits; and

(iii) Such other insurance such as workers compensation, directors and officers liability coverage, and fidelity insurance as the Board, in the exercise of its business judgment, determines advisable.

Nothing in this Section 6.1 shall be construed as obligating the Association to obtain casualty insurance or any other insurance for any portion of a Unit or any structure or improvement located thereon or a Unit Owner's or occupant's personal property; the responsibility of the same shall be that of the Unit Owner as provided in Section 6.2 hereof.

(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of insurance coverage. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon written request, to any Member. The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners or their occupants, guests, invitees, or lessees, then the Board may levy a Specific Assessment for the full amount of such deductible against such Owner(s) and his/her Unit(s).

The Board is authorized to obtain the insurance coverage specified in this Declaration through the Declarant and reimburse the Declarant for the cost thereof. Insurance obtained by or through the Declarant shall satisfy all insurance responsibilities of the Board.

To the extent available at reasonable cost and terms, all Association insurance shall:

(i) be written with a company authorized to do business in the State of Georgia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the Owners, who shall be insured under such policy to the extent of the Owners' interest;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(iv) contain an inflation guard endorsement; and

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause.

In addition, the Board shall use reasonable efforts to secure insurance policies which provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, and the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(iv) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Community covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing and/or restoring the property to substantially the same condition which existed prior to the damage or destruction, allowing for changes or improvements necessitated by changes in applicable use or building codes. Any damage to or destruction of structures or improvements located on the Common Area shall be repaired or reconstructed unless

Members representing at least sixty-seven percent (67%) of the total eligible votes in the Association, Declarant and Approved Builder, until their rights have terminated pursuant to Article XI hereof, decide not to repair or reconstruct within ninety (90) days after the loss. If the Association determines that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard and this Declaration.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and may be placed in a capital improvements account or otherwise used by the Board in its sole discretion. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy a Special Assessment against those Units subject to assessment to cover the shortfall.

6.2. Owners' Insurance. Each Owner shall be responsible for insuring his or her own Unit and any structures or improvements located thereon and any personal property owned and/or maintained by the Owner or the occupants of its Unit, their respective family members, guests, or invitees, within the Unit or elsewhere in the Community.

In the event of damage to or destruction of improvements or structures on or comprising a Unit, the Owner shall, within one hundred eighty (180) days thereafter, complete the repair or reconstruction of the damaged structures or improvements in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX or, in the alternative, the Owner shall clear the Unit of all debris and ruins and thereafter maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard and this Declaration. The Owner shall pay any costs not covered by insurance proceeds.

Neither the Association, Approved Builder, the Declarant, nor their respective agents, representatives, officers, directors and employees shall bear any responsibility for the maintenance or safekeeping of personal property of any Owner or occupant of a Unit, their family, guests, or invitees, nor shall the Association, Declarant, Approved Builder, or their respective officers, directors, employees, agents and representatives be held liable for the conditions of, or any loss or damage to, any such personal property except to the extent directly attributable to the reckless acts or willful

misconduct of the Association, Declarant, Approved Builder, or their respective agents or employees.

ARTICLE VII

ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1. Annexation Without Approval of Membership. Until all of the property described on Exhibit "B" has been subjected to this Declaration or thirty (30) years after the Recording of the Declaration, whichever is earlier, Declarant may, from time to time, unilaterally subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the real property described in Exhibit "B." Declarant may transfer or assign the right to annex property to another Person, individual or entity, provided that such transfer or assignment is memorialized in a written, Recorded instrument executed by Declarant and consented Approved Builder, which consent shall not be unreasonably withheld, conditioned or delayed.

Annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the owner of such property, if other than Declarant. Any annexation shall be effective upon the filing for Record of such Supplemental Declaration, unless a later effective date is provided therein. Notwithstanding the foregoing, nothing in this Declaration shall be construed to require the Declarant to annex or develop any of the property described in Exhibit "B".

7.2. Annexation With Approval of Membership. The Association may annex any real property to the provisions of this Declaration by Recording a Supplemental Declaration with the consent of: (a) the owner of such property; (b) the affirmative vote of Members representing at least two-thirds (2/3) of the total eligible votes in the Association present in person or by proxy at a meeting duly called for such purpose; (c) the Declarant, until its' rights have terminated as provided in Article XIII hereof; and (d) Approved Builder, until its rights have terminated as provided in Article XIII hereof. Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by: (x) the President and the Secretary of the Association; (y) by the owner of the property to be annexed; and (z) by Declarant, if Declarant's consent is required. Any annexation shall be effective upon the filing of Record of such Supplemental Declaration, unless a later effective date is provided therein.

7.3. Withdrawal of Property. Declarant, with the consent of Approved Builder (which consent shall not be unreasonably withheld, conditioned or delayed) reserves the right to amend this Declaration to remove any portion of the Community

from the coverage of this Declaration and the jurisdiction of the Association, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community. Any such withdrawal shall be accomplished by filing an amendment to the Declaration describing the property to be removed from the provisions of the Declaration and jurisdiction of the Association and such amendment shall be effective upon Recordation, unless a later effective date is provided therein. Such amendment shall be signed by: (a) the Declarant; (b) Approved Builder; and (c) the Owner of the property to be withdrawn, if not Declarant or Approved Builder, and shall not require the consent of any other Unit Owners in the Community.

7.4. Additional Covenants and Easements. Declarant, or Approved Builder with the consent of Declarant, may subject any portion of the Community to additional covenants and easements by Recording a Supplemental Declaration, concurrent with or after the annexation of the subject property, setting forth such additional covenants and easements on the property described therein. Any such Supplemental Declaration shall require the written consent of the Declarant and Approved Builder, as the case may be, and the owner(s) of the subject property, if other than Declarant. Any Supplemental Declaration 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.

ARTICLE VIII

ASSESSMENTS

8.1. Creation of Assessments.

(a) Types. There are hereby created, and the Association is authorized to levy, three types of assessments: (i) General Assessments as described in Section 8.3; (ii) Special Assessments as described in Section 8.5; and (iii) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay these assessments.

(b) Personal Obligation and Lien. All assessments, together with interest (computed from the due date of such assessment at a rate of ten percent (10%) per annum), late charges (in an amount equal to the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount of the assessment or installment not paid when due), costs of collection, and reasonable attorneys' fees actually incurred, shall be a charge and continuing lien upon each Unit and also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon the transfer or conveyance of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of the transfer or conveyance.

However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage or any other purchaser of a Unit who obtains title to a Unit pursuant to the foreclosure of the Mortgage shall be liable for unpaid assessments which accrued prior to the date of acquisition of title. The Recording of this Declaration shall constitute Record notice of the existence of a lien and no further Recordation of any lien shall be required.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at the closing of the transfer of title to a Unit. The General Assessment shall be an annual assessment due and payable in advance on the first day of each fiscal year; provided, the Board may by resolution permit payment in two or more installments or change the due date of the General Assessment. If any Owner is delinquent in paying any assessment or installment thereof or any other charge levied on his Unit, the Board may, upon ten (10) days written notice, accelerate the installments and require the General Assessment to be paid in full immediately. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments. As provided in O.C.G.A. Section 44-5-60(e), the obligation for the payment of assessments and fees arising hereunder shall include costs of collection, which shall include, without limitation, reasonable attorneys' fees actually incurred and the award of attorneys' fees shall not be construed in accordance with O.C.G.A. Section 13-1-11(a)(2).

Except for those Units which are not subject to assessment pursuant to Section 8.8 hereof, no Owner may be exempt from liability for assessments for any reason, including, without limitation: (a) non-use of the Common Area, including, without limitation, nonuse of the Amenity Area; (b) abandonment of the Unit; or (c) any other means. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes. The obligation to pay assessments is a separate and independent covenant on the part of each Owner.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with Declarant or other entities for the payment of Common Expenses.

8.2. Computation of Budget and General Assessments. At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year. General Assessments shall be fixed at a uniform rate for all Units subject to assessment under Section 8.8. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available

to the Association, including the surplus from prior years and any assessment income expected to be generated from any additional Units, if any.

The budget and notice of the amount of the General Assessment for the following year shall be available to each Owner at least thirty (30) days prior to the due date of the General Assessment or any installment thereof. The budget and the General Assessment shall become effective unless disapproved at a meeting by at least sixty-seven percent (67%) of the total eligible vote of the Association and the Declarant and Approved Builder until their rights have terminated pursuant to Article XI hereof. There shall be no obligation to call such a meeting unless a petition for a special meeting is presented to the Board within ten (10) days of the delivery of the notice of the General Assessment.

If a budget is not adopted for any year or the budget is disapproved by the Association, Declarant and Approved Builder as provided herein, then until such time as a budget is adopted, the budget in effect for the immediately preceding year shall continue for the current year.

8.3. Reserve Budget. The Board may prepare a reserve budget which takes into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. If established, the Board shall include as a line item in the annual budget a capital contribution in an amount sufficient to meet the Association's projected needs over the budget period. There shall be no obligation to establish a reserve budget and make such assessments. If reserves are not established or are insufficient for the repair or replacement of any capital asset, Special Assessments may be levied as provided in Section 8.5 hereof.

8.4. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments against all Owners in the Community from time to time to cover unbudgeted or unanticipated expenses or expenses in excess of those budgeted. Except for Special Assessments authorized under Section 6.1 hereof, any Special Assessment which would exceed the amount of the General Assessment attributable to a Unit in any fiscal year shall require the affirmative vote or written consent of a majority of the total eligible votes in the Association, and the written consent of Declarant and Approved Builder until their rights have terminated pursuant to Article XI hereof in order to be effective. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Special Assessments shall be levied equally on all Units subject to assessment under Section 8.8.

8.5. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Unit or Units as follows:

(a) to cover the costs, including overhead and/or administrative costs, of providing benefits, items, or services to the Unit or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants in the Community (which might include, without limitation, landscape maintenance or pest control), which assessments may be levied in advance of the provision of the requested benefit, item, or service or as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration and the By-Laws; provided, however, prior to the imposition of any monetary fines, the Board shall provide the Unit Owner with prior written notice and an opportunity for a hearing in accordance with Section 3.22 of the By-Laws.

By way of explanation and not limitation, the following shall constitute Specific Assessments: (a) fines; and (b) the cost of maintenance performed by the Association which is the responsibility of a Unit Owner.

In addition to the foregoing, the Board of Directors may also specifically assess Owners for Association expenses as follows: (a) expenses of the Association which benefit less than all of the Units may be specifically assessed equitably among all of the Units which are benefited according to the benefit received; (b) expenses of the Association which benefit all Units, but do not provide an equal benefit to all Units, may be specifically assessed equitably among all Units according to the benefit received; and (c) expenses of the Association which are incurred by or attributable to a particular Owner or the occupants, guests, licensees or invitees of such Owner may be specifically assessed against the Unit of such Owner.

8.6. Nonpayment of Assessments; Lien for Assessments. The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, costs of collection, and reasonable attorneys' fees actually incurred as provided in this Article VIII. Such lien shall be superior to all other liens, except: (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; and (b) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Georgia law.

Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge (in an amount equal to the greater of Ten and

No/100 Dollars (\$10.00) or ten percent (10%) of the amount of the assessment or installment not paid when due) and interest (computed from the due date of such assessment at a rate of ten percent (10%) per annum). As provided in O.C.G.A. Section 44-5-60(e), the obligation for the payment of assessments and fees arising hereunder shall include costs of collection, which shall include, without limitation, reasonable attorneys' fees actually incurred and the award of attorneys' fees shall not be construed in accordance with O.C.G.A. Section 13-1-11(a)(2).

The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of Coweta County, Georgia, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. The Association may also suspend the: (a) membership rights of an Owner, including the right to vote; (b) right of an Owner to use and enjoy the Common Area; and (c) right of an Owner to receive any services or benefits provided to such Unit by the Association, if any. Any suspension shall not affect an Owner's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent lien on such Unit in favor of the Association.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey such Unit. While the Association owns a Unit following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the General Assessment that would have been charged to the foreclosed Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments arising prior to the date of such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit arising prior to the date of acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.8.

8.7. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day of the month after such Unit has been issued a certificate of occupancy for the residential dwelling located thereon by the appropriate governmental agency and conveyed to a Person intending to

occupy said Unit for residential use or use such Unit for residential purposes. The first annual General Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

8.8. Failure to Assess. The failure of the Board to fix assessment amounts or rates or to deliver or mail 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 General Assessments on the same basis as the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.9. Exempt Property. The following property shall be exempt from the payment of assessments:

(a) All Common Area and such portions of the Community owned by Declarant which are included in the Area of Common Responsibility pursuant to Section 5.1;

(b) Any property dedicated to and accepted by any governmental authority or public utility;

(c) Any property acquired by the Association at a foreclosure sale as set forth in Section 8.7 hereof; and

(d) Any Unit which is not subject to assessment pursuant to Section 8.8 hereof.

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

ARTICLE IX

RULES

9.1. General. Subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules and regulations applicable to the Common Area. The Board shall send notice by mail to all Owners concerning any such proposed action at least five (5) business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at such Board meeting prior to any action being taken.

Such proposed rule or restriction shall become effective unless disapproved at a meeting duly called for such purpose by Members representing at least fifty-one percent (51%) of the total eligible Association vote and by Declarant until its rights terminate as provided in Article XI hereof. The Board shall have no obligation to call a meeting of the Members to consider disapproval of a proposed rule or regulation except upon petition of the Members as required for special meetings in the By-Laws.

9.2. Rights of Owners. Except as may be specifically set forth in this Declaration (either initially or by amendment), no rule shall be adopted in violation of the following provisions:

(a) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Holiday Displays. The Board may adopt reasonable rules and regulations governing, limiting or prohibiting the display of religious and holiday signs, symbols, and decorations outside of a structure located on a Unit, and may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and occupants.

(c) Leasing of Units. All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents; provided, however, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

Every Owner agrees to cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto and is responsible for all violations caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. In the

event that the lessee or a person living with the lessee violates the Declaration, By-Laws, or a rule or regulation or for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with the Declaration and By-Laws. If the fine is not paid by the lessee within the time period established by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay such fine. Unpaid fines shall constitute a lien against the Unit.

(d) No Discrimination. No rule shall have the effect of discriminating against any Person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

ARTICLE X EASEMENTS

10.1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to the willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

10.2. Easements for Utilities, Etc.

(a) There are hereby reserved to Declarant and granted to Approved Builder, the Association, and their respective designees (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Community (but not through any structure, including, without limitation, any residential dwelling, located on a Unit) to the extent reasonably necessary for: (i) monitoring, replacing, repairing, maintaining, and operating cable television systems, master television antenna systems, and other devices for sending and/or receiving data and/or other electronic signals; (ii) security and similar systems; (iii) roads, walkways, pathways, and trails; (iv) drainage systems; (v) street lights and signage; (vi) all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and (vii) installing any of the foregoing on property which Declarant, Approved Builder or the Association owns or within easements designated for such purposes on Recorded Plats of the Community.

Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Community for ingress, egress, installing, reading, replacing, repairing, and maintaining utility lines, meters, and boxes, as applicable. The Board of Directors, without a vote of the Owners, shall have the right, power and authority to grant permits, licenses, utility easements and other easements under, through, or over the Units and/or the Common Area as may be reasonably necessary to or desirable for the proper maintenance and ongoing operation of the Community.

(b) There is hereby reserved to Declarant, so long as Declarant owns any property described on Exhibit "A" or Exhibit "B" or has the right to unilaterally annex additional property to this Declaration, and Approved Builder, until its rights terminate as provided herein, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant or Approved Builder, as the case may be, in connection with the orderly development of any property described on Exhibit "A" or Exhibit "B." To the extent reasonably possible, such easements over Units shall be limited to setback areas adjacent to the perimeter boundary of each Unit.

(c) Any damage to a Unit resulting from the exercise of the easements described in this Section 11.2 hereof shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not permit entry into any structure located on a Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

10.3. Easements for Drainage. Declarant hereby reserves a perpetual easement across the entire Community for itself and Approved Builder to alter drainage and water flow. This right shall include, but is not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls, and altering channeling, or piping water flow across any Unit or any property in the Community. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole cost and expense.

It is anticipated that increased storm water run-off across downstream Units will result from the construction of impervious surface within or adjacent to the Community. Neither the Declarant, the Association, Approved Builder nor any other builder or Owner constructing according to plans and specifications approved under Article IX hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within the Community.

The Declarant, Approved Builder and the Association, in compliance with any applicable laws and regulations, shall have a blanket easement to pump water from any water bodies within the Community for irrigation purposes. No fences, structures, driveways, plantings, swings, wood piles, dog runs, or any other objects, temporary or permanent, shall be permitted in such areas without the Association's prior written approval, other than those initially installed by Declarant.

10.4. Easements to Serve Additional Property. Declarant, and its duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees hereby reserve an easement over the Common Area for itself and Approved Builder for the purposes of enjoyment, use, access, and development of any property described in Exhibit "B," regardless of whether such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing utilities on or through such property. Declarant agrees that it and its successors or assigns shall not be responsible for any damage caused to the Common Area as a result of the exercise of this easement and such damage shall be repaired by the Person causing such damage at its sole cost and expense.

10.5. Easement for Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with the Governing Documents. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, and all police officers, firefighters, 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; provided, however, the easement granted herein shall not authorize entry onto any single family dwelling located on a Unit without the consent of the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable period of time after requested by the Board.

10.6. Easement for Landscaping and Signage Easements. Declarant hereby reserves for itself, Approved Builder, and the Association perpetual, non-exclusive easements exercisable by their respective employees, agents, and contractors over those portions of the Community designated as "Landscaping and Signage Easements" (or similar label), if any, on the Recorded Plats for the purpose of installing, maintaining, repairing, and replacing lot bollards, neighborhood entrance monuments, signs, fences, lighting, irrigation systems, and landscaping within such easement areas regardless of whether the same are located on Units, Common Area or within a public right-of-way.

Nothing herein shall obligate Declarant, Approved Builder or the Association to exercise such easements or to construct or install any of the foregoing within any Landscaping and Signage Easement or such similar area identified on the Plat.

10.7. Easement to Inspect and Right to Correct. Declarant reserves for itself, Approved Builder and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, thing, or condition which may exist on any portion of the property within the Community, including Units, and a perpetual, nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling located on a Unit shall be permitted without the consent of the Owner. The Person exercising this easement shall promptly repair, at such Person's own cost and expense, any damage resulting from such exercise.

10.8 Easement for Construction and Sales. Notwithstanding any provisions contained in the Declaration, the By-Laws, Articles of Incorporation, use restrictions, rules and regulations and any amendments thereto, Declarant reserves for itself, Approved Builder and any builder or developer approved by Declarant until Declarant's right unilaterally to subject property to this Declaration terminates and thereafter so long as Declarant, Approved Builder or any other builder or developer approved by Declarant owns any property in the Community to maintain and carry on development activities, upon such portion of the Community as Declarant or Approved Builder may reasonably deem necessary. This reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant, may be required, convenient, or incidental to the development, construction, and sales activities related to property within or near the Community. This easement shall include, without limitation:

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

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

(c) The right to tie into 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;

(d) The right (but not the obligation) to construct recreational facilities on Common Area;

(e) The right to carry on sales and promotional activities in the Community;

(f) The right to place directional and marketing signs on any portion of the Community, including any Unit or Common Area;

(g) The right to construct and operate business offices, signs, construction trailers, model residences, and sales offices and other activities incidental to the construction, development and sales of Units in the Community; and

(h) The right of Declarant and Approved Builder to use residences, offices, or other buildings they own or lease as model residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, and reasonable steps shall be taken to protect such property from damage. Any damage shall be repaired by the Person causing the damage at its sole cost and expense.

10.9 Easement for Fences. Declarant hereby reserves for itself and Approved Builder an easement across any Unit which borders upon or contains a portion of any detention pond or retention pond for the purpose of access to such detention pond or retention pond, and for the purpose of erecting any fence which is either required by the subdivision development and construction plans or governmental regulation, rule, ordinance, or plan approval requirement. In addition to the foregoing, the Association shall have an easement to maintain any fence enclosing such storm water detention/retention pond, which easement area shall be three feet (3') on either side of said fence as originally constructed.

10.10 Easement for Maintenance - Association. There are hereby reserved to the Association blanket easements over the Community, including, without limitation, the Units, as necessary to enable the Association to fulfill its maintenance responsibilities under Article V hereof. The Association shall maintain the facilities and improvements located within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing seventy-five percent (75%) of the total eligible votes in the Association and the Declarant, so long as Declarant owns any property within the Community or has the right to unilaterally annex additional property in the Community, agree in writing to discontinue such maintenance.

10.11 Easement for Maintenance - Unit Owner. Declarant hereby reserves for the benefit of each Unit reciprocal appurtenant easements between adjacent Units for the purpose of maintaining or repairing the improvements located on each Unit which easement shall extend to a distance of five (5) feet as measured from any point on the common boundary between the Units. The easement shall be used only for such

period of time as is reasonably necessary in order to complete the maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Unit over which this easement is exercised which arises out of such maintenance or repair work.

ARTICLE XI

DECLARANT AND APPROVED BUILDER RIGHTS

(a) Assignment or Transfer of Declarant Rights. Any or all of the special rights and obligations of Declarant set forth in this Declaration or the By-Laws may be transferred or assigned in whole or in part to other Persons, provided that the transfer or assignment shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No transfer or assignment of the rights of Declarant provided for herein shall be effective unless it is in a written instrument signed by Declarant and Approved Builder (which consent shall not be unreasonably withheld, conditioned or delayed) and duly Recorded.

Notwithstanding anything to the contrary herein, upon the written request of Approved Builder, Declarant shall assign rights of Declarant to such Approved Builder, which assignment or transfer shall be Recorded in connection with the acquisition of the last Units to be purchased by Approved Builder pursuant to a lot sale contract or similar agreement by and between Declarant and Approved Builder. In such case, all rights granted to such Approved Builder hereunder shall cease and such Approved Builder shall have the right to exercise all rights of the Declarant arising under this Declaration pursuant to such assignment or similar Recorded document.

(b) Marketing and Sales Rights of Declarant and Approved Builder. Declarant and Approved Builder may maintain and carry on without fee or charge upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant or Approved Builder, may be reasonably required, convenient, or incidental to the construction, sale or leasing of Units, including, but not limited to, business offices, signs, model homes, construction trailers and sales or leasing offices. Declarant and Approved Builder shall have easements for access to and use of such facilities. Declarant and Approved Builder shall have the right and an easement to maintain signs in the Area of Common Responsibility until their rights terminate as provided herein.

(c) Use of Experts. No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant, Approved Builder and any builder involved in the design or construction have been first notified

in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

(d) Termination of Rights of Declarant. The rights of Declarant to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the By-Laws shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant no longer owns any property described on Exhibit "A" or Exhibit "B" and no longer has the right to unilaterally annex additional property to the Community and each Unit has been improved with a dwelling for which a certificate of occupancy has been issued and conveyed to an Owner intending to use the Unit for residential use or purposes; or (b) the Recording by Declarant of a written instrument terminating all of Declarant's rights, which document shall be consented to by Approved Builder. Any termination of the rights of Declarant shall also require the prior written approval of Approved Builder, which consent shall not be unreasonably withheld, conditioned or delayed.

Notwithstanding the foregoing, Declarant may, in its sole discretion, relinquish certain authority granted to it under the Governing Documents while retaining authority over others. For example and without limitation, the Declarant may terminate its right to appoint and remove the officers and directors of the Association, but reserve all other rights under the Declaration and By-Laws. Any right, power or authority of the Declarant which may be terminated or relinquished prior to the termination of the rights of Declarant hereunder shall be by a written Recorded instrument only and no such right, power or authority shall be relinquished or terminated by implication or otherwise.

(f) Termination of Rights of Approved Builder. The rights of Approved Builder to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the By-Laws shall cease and be of no further force and effect upon the earlier of: (i) the date that Approved Builder no longer owns any property in the Community and no longer has the option pursuant to a contract to acquire additional property within the Community; or (ii) the Recording by Approved Builder of a written instrument terminating all of Approved Builder's rights hereunder.

ARTICLE XII

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

12.1. Agreement to Avoid Litigation. Declarant, Approved Builder, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (individually, "Bound Party" and collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the

Community without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Section 14.2 ("Claims") shall be resolved using the procedures set forth in Section 14.3.

12.2. Claims. All claims, grievances, or disputes arising out of or relating to the design, construction, or repair of improvements on the Community shall be subject to the provisions of Section 12.3; provided, however, any action by the Association against an Owner to enforce the provisions of this Declaration, which shall include, but not be limited to, any suit by the Association to obtain a temporary restraining order, injunctive relief or any suit or other action to collect past due assessments, shall not be subject to the provisions of Section 12.3.

In addition to the foregoing, any suit between Owners, which does not include Declarant, Approved Builder or the Association as a party, and any suit in which any indispensable party is not a Bound Party shall also be exempt from the provisions of Section 12.3.

12.3. Mandatory Dispute Resolution Procedures for Claims. **GEORGIA LAW CONTAINS IMPORTANT REQUIREMENTS THAT MUST BE FOLLOWED BEFORE FILING A LAWSUIT OR OTHER ACTION FOR DEFECTIVE CONSTRUCTION AGAINST THE CONTRACTOR WHO CONSTRUCTED, IMPROVED, OR REPAIRED THE RESIDENTIAL DWELLING LOCATED ON A UNIT. NINETY DAYS BEFORE FILING A LAWSUIT OR OTHER ACTION, THE CONTRACTOR MUST BE SERVED A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS ALLEGED TO BE DEFECTIVE. UNDER THE LAW, A CONTRACTOR HAS THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS OR BOTH. THERE IS NO OBLIGATION TO ACCEPT ANY OFFER MADE BY A CONTRACTOR. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND THE FAILURE TO FOLLOW THEM MAY AFFECT THE ABILITY TO FILE A LAWSUIT OR OTHER ACTION.**

FOR PURPOSES OF O.C.G.A. § 8-2-35, et seq., as amended. THE DEFINITION OF CONSTRUCTION DEFECT AS SET FORTH IN O.C.G.A. § 8-2-35 et seq., as amended, SHALL APPLY.

(a) Notice. The Association shall, no later than ninety (90) days before initiating an action against Declarant, Approved Builder, or any other contractor, provide service of written notice of the claim on the respondent by certified mail or overnight delivery with return receipt. The notice of claim shall state that the Association asserts a construction defect claim or claims in the Area of Common Responsibility and is providing notice of the claim or claims. The notice of claim shall

also describe the claim or claims in sufficient detail to explain the nature of the alleged construction defects and the results of the defects. In addition, the Association shall provide to the Declarant, Approved Builder, or contractor any evidence that depicts the nature and cause of the construction defect, including expert reports, photographs, and videotapes, if that evidence would be discoverable under evidentiary rules.

(b) **Authority to File Suit.** An action by the Association against the Declarant, Approved Builder or a contractor to recover damages resulting from construction defects in the Area of Common Responsibility may be maintained only after the Association complies with the following:

(i) The Members of the Association have voted to approve commencement of an action by two-thirds (2/3) of the votes cast, by statutory written ballot as provided in O.C.G.A. 14-3-708 or have approved commencement of an action by the affirmative vote of at least two-thirds of the total membership at a meeting of the Members at which a quorum is present;

(ii) The full Board of Directors of the Association and the claimant have met in person and conferred in a good faith attempt to resolve the Association's claim or the claimant has definitively declined or ignored the requests to meet with the Board of Directors of the Association; and,

(iii) If O.C.G.A. § 8-2-35 *et seq.* is in effect, the Association has otherwise satisfied all of the preaction requirements for a claimant to commence an action pursuant to O.C.G.A. § 8-2-35 *et seq.*, as amended.

(c) **Additional Pre-Suit Requirements.** In the event the Association duly calls and notices a meeting for the purpose of obtaining the approval of the Members as provided in Section 12.3(b)(i) above, a copy of the notice shall also be provided to the Declarant and Approved Builder at least twenty-one (21) calendar days before the meeting until the rights of Declarant and Approved Builder terminate as provided in Article XI hereof.

In addition, at least three (3) business days in advance of the meeting at which the Members vote or at the time a statutory written ballot is circulated to the Members to obtain approval of an action to recover damages resulting from construction defects in the Area of Common Responsibility, the Association shall provide each Owner with a copy of the notice of claim provided to the contractor and an additional written description of claims and the reasons the Board is recommending consideration of the litigation.

(d) **Destructive Testing.** The Association or an attorney for the Association shall not employ a person to perform destructive tests to determine any

damage or injury to a Unit or the Area of Common Responsibility caused by a construction defect unless:

- (i) The person is licensed as a contractor pursuant to law;
- (ii) The Association has obtained the prior written approval of each Unit Owner whose Unit will be directly affected by such testing;
- (iii) The Association or the person so employed obtains all permits required to conduct such tests and to repair any damage resulting from such tests;
- (iv) Reasonable prior notice and an opportunity to observe the tests is given to the Declarant or contractor against whom an action may be brought as a result of the tests; and,
- (v) If O.C.G.A. § 8-2-35 *et seq.* is in effect, any additional requirements set forth in O.C.G.A. § 8-2-35 *et seq.*, as amended, have been satisfied.

Notwithstanding the foregoing, the Board of Directors of the Association may, without giving notice to the Unit Owners, employ a contractor and such other persons as are necessary to make such immediate repairs to the Unit or Area of Common Responsibility as are required to protect the health, safety, and welfare of the Unit Owners.

12.4 Allocation of Costs of Resolving Claims. All costs, including, without limitation, any attorneys' fees, incurred in complying with this Section shall be borne by the party incurring same. Any and all subsequent costs, including any attorneys' fees, shall be made in accordance with the Right to Repair Act as set forth in O.C.G.A. § 8-2-35 *et seq.*, as amended, if the Right to Repair Act is in effect.

12.5 Enforcement of Resolution. After resolution of any claim, if any party fails to abide by the terms of any agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Article XII. In such event, the party taking action to enforce the agreement shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, reasonable attorneys' fees actually incurred and court costs.

ARTICLE XIII

GENERAL PROVISIONS

13.1. Duration. Subject to the limitations of Georgia law, this Declaration shall have perpetual duration. If Georgia law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall remain in effect for the maximum period permitted and shall automatically be extended at the expiration of such period for successive periods of twenty (20) years each. In the event a written instrument signed by the then Owners of at least two-thirds (2/3) of the Units has been Recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to terminate the same, the Declaration shall be terminated as specified therein.

13.2. Amendment. This Declaration may be amended as provided in this Section. Amendments to this Declaration shall become effective upon Recordation, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. The amendments authorized by this Section may be of uniform or non-uniform application and Owners shall be deemed to have agreed that the Declaration may be amended as provided herein and that any rule of law requiring unanimous approval of amendments having a non-uniform application shall not apply.

(a) By Declarant. So long as Declarant owns any property subject to, or which may be subjected to, this Declaration, it may unilaterally amend this Declaration if such amendment is: (i) required to bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) required to enable any title insurance company to issue title insurance coverage; (iii) required by an institutional or governmental lender or purchaser of mortgage loans; or (iv) necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans; provided, such amendment does not adversely affect the title to an Owner's Unit unless such Unit Owner consents in writing.

Further, Declarant may unilaterally amend this Declaration for any other purpose; provided such amendment does not materially adversely affect the substantive rights of any Owners to use and enjoy their Units hereunder, or adversely affect title to any Unit without the consent of the Owner of such Unit.

(b) By the Owners. This Declaration may be amended upon the affirmative vote, written consent, or any combination thereof, of Members representing

at least two-thirds (2/3) of the total eligible votes in the Association and the consent of Declarant and Approved Builder until their rights have terminated as provided in Article XI hereof.

No provision of this Declaration which reserves or grants special rights to the Approved Builder shall be amended without the prior written consent of the Approved Builder.

(c) By the Board. The Board of Directors, with the written consent of the Declarant and without a vote of the Members, may amend this Declaration: (i) to elect to be governed by and thereafter comply with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.*; (ii) to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (iii) to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration; (iv) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Units subject to this Declaration; or (v) to enable any governmental agency or private insurance company, including without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Units subject to this Declaration; provided, however, such amendment shall not adversely affect the title to any Unit unless the Owner of such Unit consents thereto in writing.

(d) Consent of Approved Builder Required. Until the rights of Approved Builder terminate as provided herein, any amendment to the Declaration shall require the prior written approval of Approved Builder in order to be effective.

The consent of the Declarant or Approved Builder to any amendment shall be evidenced by the execution of said amendment by Declarant or Approved Builder. The consent of the requisite number of Members to any amendment shall be evidenced by the execution of the amendment by said Members, or, in the alternative, the sworn statement of the President, Vice President or Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Members was lawfully obtained and that any notices required by the Declaration, By-Laws, Articles of Incorporation or Georgia law were given.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignees of such right or privilege. Any amendment which affects or modifies the Open Space shall require the prior written approval of Coweta County to be effective.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

13.3. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

13.4. Litigation. No judicial, administrative, or arbitration proceeding for any claim, grievance, or dispute arising out of, resulting from or relating to anything other than the design, construction or repair of improvements on the Community, shall be commenced or prosecuted by the Association unless approved in writing by seventy-five percent (75%) of the total eligible Association vote taken at a meeting duly called pursuant to the By-Laws for such purpose. This Section shall not apply, however, to: (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens or the filing of lawsuits for injunctive relief); (b) the imposition and collection of assessments as provided in Article VIII; (c) proceedings involving challenges to *ad valorem* taxation; (d) counter-claims brought by the Association in proceedings instituted against it; (e) claims set forth in Section 12.2; or (f) actions brought by the Association against any contractor, vendor or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

13.5. Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this Section shall preclude any Supplemental Declaration from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same. In the event of a conflict between this Declaration and the provisions set forth in any Supplemental Declaration, the more restrictive provision shall control.

13.6. Compliance. Every Owner and occupant of any Unit shall comply with the Governing Documents and the failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Unit Owner(s) to recover sums

due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

13.7. Exhibits. Exhibit "A" and Exhibit "B" attached to this Declaration are incorporated by this reference and the amendment of such exhibits, unless otherwise provided therein, shall be governed by the provisions of Section 13.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

13.8. Nondiscrimination. No action shall be taken by the Declarant, 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 disability.

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

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 27th day of October, 2021

DECLARANT: UC CHATTERON SPRINGS, LLC, a
Georgia limited liability company

By: *CL* (SEAL)

Its: *managers*

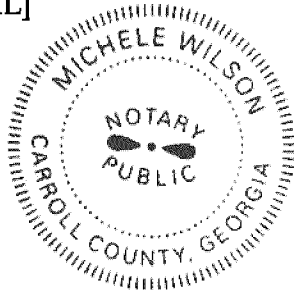
Signed, sealed, and delivered
in the presence of:

 [Signature]
WITNESS

 Michele Wilson
NOTARY PUBLIC

My Commission Expires: 04-03-2023

[AFFIX NOTARY SEAL]



CONSENT OF LIEN HOLDER

THE PIEDMONT BANK, a Georgia bank ("Lender"), as holder of that certain Deed to Secure Debt and Security Agreement, dated October 28, 2020, and recorded October 30, 2020 in Deed Book 62528, Page 1, *et seq.*, Fulton County, Georgia land records (hereinafter referred to as "Security Deed"), encumbering all or a portion of the property described in Exhibit "A" hereof, hereby consents to this Declaration of Covenants, Conditions, and Restrictions for Chatteron Springs and agrees that any foreclosure of the security title and interest under the Security Deed or any other instrument that Lender holds shall be subject to the Declaration and any amendments thereto with respect to the property described in Exhibit "A".

This 27th day of October, 2021.

LENDER: THE PIEDMONT BANK, a Georgia bank

By: [Signature]
 Name: Tammy D Kraus
 Title: SVP

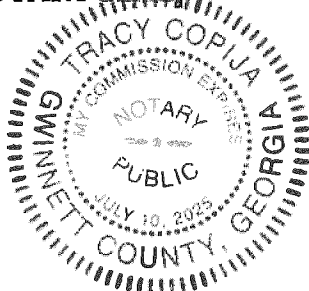
[SEAL]

Signed, sealed, and delivered
 in the presence of:

[Signature]
 WITNESS
[Signature]
 NOTARY PUBLIC

My Commission Expires: 7-10-2025

[NOTARY SEAL]



CONSENT OF LIEN HOLDER

D.R. HORTON, INC, a Delaware corporation ("Lender"), as holder of that certain Earnest Money Deed to Secure Debt, Assignment of Leases and Rents and Security Agreement, dated January 4, 2021, and recorded January 15, 2021 in Deed Book 62990, Page 356, *et seq.*, Fulton County, Georgia land records (hereinafter referred to as "Security Deed"), encumbering all or a portion of the property described in Exhibit "A" hereof, hereby consents to this Declaration of Covenants, Conditions, and Restrictions for Chatteron Springs and agrees that any foreclosure of the security title and interest under the Security Deeds or any other instrument that Lender holds shall be subject to the Declaration and any amendments thereto with respect to the property described in Exhibit "A".

This 27th day of October, 2021.

LENDER: **D.R. HORTON, INC.,** a Delaware corporation

By: Megan McAfee
 Name: Megan McAfee
 Title: Assistant Secretary

[CORPORATE SEAL]

Signed, sealed, and delivered
 in the presence of:

Robert Walker

WITNESS

Kimberly M. Lucas

NOTARY PUBLIC

My Commission Expires: 8/17/2023



[NOTARY SEAL]

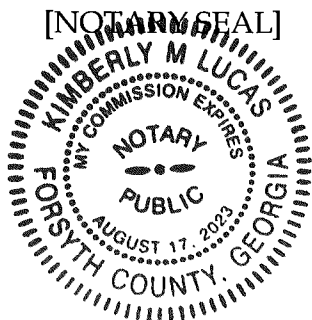


EXHIBIT "A"

Land Initially Submitted

ALL THAT TRACT or parcel of land lying or being in Land Lots 111, 112, 121 and 122 of the 9F district of Fulton County, City of Union City, Georgia, and being shown as 21.891 acres, more or less, as per that certain ALTA/NSPS Land and Title Survey for UC Chatteron Springs, LLC and First American Title Insurance Company prepared by Atwell, LLC, Clyde R. Eldridge, Georgia RLS #2659 dated 08/06/2020, last revised 08/16/2020, and being more particularly described as follows:

Commencing at the intersection of the southwesterly right-of-way line of Koweta Road (public right-of-way varies) with the northwesterly right-of-way line of Chatteron Road (public 60-foot right-of-way) said point being the POINT OF BEGINNING;

THENCE along the said northwesterly right-of-way line of Chatteron Road South 44°39'16" West, a distance of 80.81 feet to a point;

THENCE continuing along the said northwesterly right-of-way line of Chatteron Road southwesterly a distance of 228.51 feet along the arc of a curve to the left, having a radius of 1380.00 feet and being subtended by a chord which bears South 39°54'39" West, for a distance of 228.25 feet, to a point;

THENCE continuing along the said northwesterly right-of-way line of Chatteron Road South 35°10'01" West, a distance of 153.27 feet to a one-inch iron pipe found;

THENCE leaving said right-of-way and proceed North 62°44'35" West, a distance of 297.24 feet to a three-quarter inch iron pipe found;

THENCE South 26°40'22" West, a distance of 108.19 feet to a point;

THENCE South 27°11'51" West, a distance of 196.81 feet to a one-half inch rebar with cap;

THENCE North 81°54'27" West, a distance of 6.94 feet to a one-half inch rebar with cap;

THENCE South 77°20'04" West, a distance of 223.43 feet to a one-half inch rebar with cap;

THENCE South 88°57'22" West, a distance of 138.69 feet to a point;

THENCE South 66°54'44" West, a distance of 925.00 feet to a one-half inch rebar with cap (hereinafter referred to as Traverse Point "A") said point on the south end of a traverse line shown on the survey running along the east side of Deep Creek,

THENCE from Traverse Point "A" continuing South 66°54'44" West, a distance of 113.0 feet to a point in the centerline of Deep Creek;

THENCE along the said centerline of Deep Creek in a northerly direction and following the meanderings of the creek thereof 565.00 feet, more or less, to a point;

THENCE leaving said centerline of Deep Creek and proceed North 68°25'51" East, a distance of 12.83 feet, more or less, to a three-quarter inch rebar with cap, (hereinafter referred to as Traverse Point "B"), with Traverse Points "A" and "B" being connected by the following bearing and distance: North 11°18'46" West, a distance of 520.01 feet;

THENCE leaving said traverse line proceed North 68°25'52" East, a distance of 1108.99 feet to a one-inch pinch top pipe;

THENCE North 69°38'08" East, a distance of 99.98 feet to a one-inch pinch top pipe;

THENCE North 68°22'54" East, a distance of 169.86 feet to a point;

THENCE North 68°48'43" East, a distance of 254.76 feet to a one-half inch rebar with cap;

THENCE South 18°21'15" East, a distance of 192.67 feet to a one-inch rebar spun;

THENCE South 67°51'56" East, a distance of 163.54 feet to a one-half inch rebar with cap;

THENCE North 74°22'57" East, a distance of 101.39 feet to a one-inch rebar spun;

THENCE North 19°12'23" East, a distance of 207.24 feet to a one-half inch rebar with cap on the southwesterly right-of-way line of Koweta Road (public right-of-way varies);

THENCE along the said southwesterly right-of-way line of Koweta Road southeasterly a distance of 211.78 feet along the arc of a curve to the left, having a radius of 779.72 feet and being subtended by a chord which bears South 32°06'32" East, for a distance of 211.13 feet, to the POINT OF BEGINNING.

Said tract or parcel of land containing 953,559 Square Feet or 21.891 Acres, more or less, to the centerline of Deep Creek.

EXHIBIT "B"

Land Subject to Annexation

The following property is not subject to this Declaration, but may be annexed in accordance with the terms of the Declaration. Any parcel or tract of land which is:

1. Adjacent to the property described on Exhibit "A" or adjacent to property previously annexed to the Declaration.
2. Located within a one (1) mile radius of the property described in Exhibit "A".

EXHIBIT "C"

BY-LAWS

OF

CHATTERON SPRINGS HOMEOWNERS ASSOCIATION, INC.

BY-LAWS**OF****CHATTERON SPRINGS HOMEOWNERS ASSOCIATION, INC.****TABLE OF CONTENTS**

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BY-LAWS
OF
CHATTERON SPRINGS HOMEOWNERS ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

1.1. Name.

The name of the corporation is Chatteron Springs Homeowners Association, Inc. ("Association").

1.2. Principal Office.

The principal office of the Association shall be located in Fulton County, Georgia. The Association may have such other offices, either within or outside of the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Chatteron Springs, Recorded in Fulton County, Georgia, as it may be amended and/or supplemented from time to time ("Declaration"), unless the context indicates otherwise, or the meanings given in the Georgia Nonprofit Corporation Code (O.C.G.A. Section 14-3-101, *et seq.*) (the "Nonprofit Code"). Statutory references shall be construed as meaning the referenced statute or portion thereof as the same may exist from time to time.

Article II
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership.

The Association shall have two classes of membership, as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings.

Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board, either within the Community or as convenient as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3. Annual Meetings.

The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the closing of the first home or when twenty five percent (25%) of the homes in the Community have been sold, whichever is later, unless the Board determines that it is in the best interest of the Community to hold it earlier. Subsequent regular and annual meetings shall be set by the Board on a date and at a time set by the Board in its sole discretion.

2.4. Special Meetings.

The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon the delivery of a petition signed and dated by Members representing at least twenty five percent (25%) of the total eligible votes in the Association.

2.5. Notice of Meetings.

Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting not less than ten (10) nor more than fifty (50) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting. Until the rights of Declarant and Approved Builder terminate as provided in the Declaration, a copy of the notice shall also be delivered, either personally or by certified mail, return receipt requested, at the address each has registered with the Secretary of the Association, or alternatively, if no address is on file with the Secretary, the address of the registered agent on file with the Georgia Secretary of State to Declarant and/or Approved Builder not less than ten (10) nor more than fifty (50) days before the date of such meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears

on the records of the Association and to the Declarant and Approved Builder at their address on file with the Georgia Secretary of State, with postage prepaid.

2.6. Waiver of Notice.

Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing or by electronic transmission signed by the Member entitled to notice and delivered to the Association for inclusion in the minutes for filing with the Association's records, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member or the Member's proxy shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings.

If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not fixed by those in attendance at the original meeting or if for any reason a new date is fixed for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members, the Declarant and Approved Builder in the manner prescribed for regular meetings.

The Members represented at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8. Voting.

The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such provisions are specifically incorporated by this reference.

2.9. Proxies.

At all meetings of Members, each Member may vote in person (if a corporation, partnership, or trust, through any officer, director, partner, manager, member or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Georgia law. All proxies shall be either in writing or by electronic transmission specifying the Unit(s) for which it is given, signed by the Member or its duly authorized

attorney-in-fact, dated and filed with the Association's Secretary or his or her designee prior to any meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. An electronic transmission must contain or be accompanied by information from which it can be determined that the Member, Member's agent or Member's attorney-in-fact authorized the electronic transmission. Proxies may be delivered to the Board of Directors by personal delivery, U.S. mail or electronic transmission to the Secretary or other officer or agent authorized to tabulate votes. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of notice by the Secretary of the death or judicially declared incompetence of a Member; (b) receipt by the Secretary or other officer or agent authorized to tabulate votes of written revocation signed by the Member; (c) receipt by the Secretary or other officer or agent authorized to tabulate votes of a subsequent appointment form signed by the Member; (d) attendance by the Member and voting in person at any meeting; or (e) the expiration of eleven (11) months from the date of the proxy appointment form unless an earlier date is specified therein.

2.10. Majority.

As used in these By-Laws, the term "majority" shall mean those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

2.11. Quorum.

Except as otherwise provided in these By-Laws or in the Declaration, the presence, in person or by proxy, of Members entitled to cast twenty five percent (25%) of the total eligible votes in the Association shall constitute a quorum at all meetings of the Association. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough Members to leave less than quorum.

2.12. Conduct of Meetings.

The President or any designee the Board approves shall preside over all Association meetings. The Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action by Written Consent.

Any action required or permitted to be approved by the Members may be approved without a meeting if one (1) or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed, either personally or by an

electronic transmission, and dated by Members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first Member signs a consent. Such action shall be approved when the Secretary receives a sufficient number of such consents dated within seventy (70) days of the record date for such action. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives written notice of the approval to all Members who did not sign a consent. Each consent in writing or by electronic transmission shall be included in the minutes of meetings of Members filed in the permanent records of the Association. No consent in writing or by electronic transmission shall be valid unless: (1) the consenting Member has been furnished the same material that, pursuant to the Nonprofit Code, would have been required to be sent to Members in a notice of a meeting at which the proposed action would have been submitted to the Members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished.

2.14. Action by Written Ballot.

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

2.15. Record Date.

The Board of Directors shall fix in advance a record date for a determination of Members entitled to notice of and to vote at any meeting of Members or any adjournment thereof, or to make a determination of Members for any other purpose, such date to be

not more than seventy (70) days before the date on which the particular action requiring such determination of Members is to be taken.

Article III

Board of Directors: Selection, Meetings, Powers

A. Composition and Selection.

3.1. Governing Body; Composition.

The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by Declarant, the directors shall be Members or residents; provided, no Owner and resident representing the same Unit may serve on the Board at the same time. In the case of a Member which is not a natural person, any officer, director, partner, employee, or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member.

3.2. Number of Directors.

The initial Board shall consist of three (3) directors determined by the Declarant in writing in its sole discretion. Thereafter, the Board shall consist of three (3) directors, as provided in Section 3.5 below.

3.3. Directors Appointed by Declarant.

Declarant shall have the right to appoint or remove any Board member or members or any Association officer or officers until such time as the first of the following events shall occur:

- (a) thirty (30) years from the date the Declaration was Recorded;
- (b) the date on which one hundred percent (100%) the Units permitted under the applicable zoning density for the Community as shown on the Recorded Plat are sold; or
- (c) the surrender by Declarant, in writing, of the authority to appoint and remove the Association's directors and officers, which instrument shall also be signed by Approved Builder, which approval shall not be unreasonably withheld, conditioned or delayed.

3.4. Nomination and Election Procedures.

Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All

candidates shall have a reasonable opportunity to communicate their qualification to the Members and to solicit votes.

After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.13 or Section 2.14 in lieu of a meeting) and the Class A Members shall elect three directors as follows: the initial term of two (2) directors shall be fixed at two (2) years and the initial term of one (1) director shall be fixed at one (1) year. Thereafter, all successors shall be elected to a term of two (2) years. At annual meetings thereafter (or pursuant to Section 2.13 or Section 2.14 in lieu of a meeting), directors shall be elected as necessary to fill vacant seats on the Board. All eligible Members of the Association may vote on all directors to be elected, and the candidates receiving the most votes shall be elected. Notwithstanding anything herein to the contrary, the members of the Board of Directors shall continue in office until their respective successors shall have been elected and take office.

3.5. Removal of Directors and Vacancies.

Any director elected by the Class A Members may be removed, with or without cause, by Class A Members holding a majority of the votes entitled to be cast. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such director.

Additionally, any director elected by the Class A Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and the Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of a director elected by the Class A Members, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members shall elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by Declarant nor to any director serving as a representative of Declarant. Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by or elected as a representative of Declarant.

B. Meetings.

3.6. Organizational Meetings.

The first meeting of the Board following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as the Board shall fix.

3.7. Regular Meetings.

Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine.

3.8. Special Meetings.

Special meetings of the Board of Directors shall be held when called by written notice signed by the President or Vice President or by any two directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered.

3.9. Notice; Waiver of Notice.

(a) Notice of the time and place of a regular meeting shall be communicated to directors not less than four (4) calendar days prior to the meeting. Notice of the time and place of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the date of the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, computer, fiberoptics, or such other electric communication device. All such notices shall be given at the director's telephone number, fax number, electronic mail number, or sent to the director's address as shown on the records of the Association.

Notices sent by first class mail shall be deposited into a United States mailbox at least seven business days before the time set for the meeting. Notices given by personal delivery, telephone, or other device shall be delivered or transmitted at least seventy-two (72) hours before the time set for the meeting.

(b) The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if: (i) a quorum is present, and (ii) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any

director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10. Telephonic Participation in Meetings.

Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection shall constitute presence in person at such meeting.

3.11. Quorum of Board of Directors.

At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called, may be transacted without further notice.

3.12. Compensation.

Directors shall not receive any compensation from the Association for acting as such. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested director.

3.13. Conduct of Meetings.

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall keep a minute book of Board meetings recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.14. Open Meetings.

Subject to the provisions of Section 3.16, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board and reconvene in executive session, and may exclude Members, to discuss matters of a sensitive nature, such as pending or threatened litigation and personnel matters.

3.15. Action Without a Formal Meeting.

Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.16. Telephonic Participation.

One or more directors may participate in and vote during any meeting of the Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

C. Powers and Duties.

3.17. Powers.

The Board of Directors shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Declaration, By-Laws and Articles of Incorporation and as provided by law. The Board may do or cause to be done all acts and things as are not directed by the Declaration, By-Laws, Articles of Incorporation or Georgia law to be done and exercised exclusively by the membership generally.

3.18. Duties.

The duties of the Board shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;

(b) levying and collecting assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve, and using such funds to operate the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending use restrictions and rules in accordance with the Declaration;

(g) opening bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Declaration and these By-Laws;

(i) enforcing by legal means the provisions of the Governing Documents and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Members concerning the Association, which enforcement power shall include, without limitation, the power to levy fines as provided herein and in the Declaration in such amounts as from time to time the Board of Directors may deem proper in the circumstances, counting each day a violation continues after notice from the Board of Directors as a separate violation;

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the cost of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Community;

(n) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required under Georgia law, the Articles of Incorporation, or the Declaration; and

(o) authorizing contracts on behalf of the Association.

3.19. Right of Declarant and Approved Builder to Disapprove Actions.

Until the rights of Declarant and Approved Builder terminate as provided in the Declaration, Declarant and Approved Builder shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in the sole judgment of the Declarant or Approved Builder, as the case may be, would tend to impair the rights of Declarant, Approved Builder or builders under the Governing Documents, or interfere with the development of or construction on any portion of the Community, or diminish the level of services being provided by the Association.

(a) Declarant and Approved Builder shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, or if no address is on file with the Secretary, notice shall be given to the address of the registered agent on file with the Secretary of State of the State of Georgia, and shall set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) Declarant and Approved Builder shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy, or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

Declarant, Approved Builder and their representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. Declarant, acting through any officer, director, agent, or authorized representative, and Approved Builder, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. This right to disapprove may be used to block the proposed actions set forth in subsection (a) above, but shall not include a right to require any action or counteraction on behalf of any

committee, the Board, or the Association. Declarant and Approved Builder shall not use their right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. Management.

The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. Declarant, or an affiliate of Declarant, may be employed as managing agent or manager. The term of any management agreement shall not exceed one year and shall be subject to termination by either party without cause and without penalty upon not more than ninety (90) days written notice. The Board of Directors may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21. Borrowing.

The Association shall have the power to borrow money for any legal purpose; provided, however, except as otherwise provided in the Declaration, the Board shall obtain membership approval in the same manner as for special assessments in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

3.22. Enforcement.

In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote for the violation of any duty imposed under the Governing Documents. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Unit or the right to use and enjoy the Common Area, including the right to use any Community recreational facilities, if the Owner is more than thirty (30) days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, tenant, employee, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupant; provided, if the fine is not paid by the occupant within the time period set by the Board, the fine shall be assessed against the Unit and its Owner upon notice from the Association. The Board's failure to enforce any provision of the Governing Documents shall not be deemed a waiver of the right to do so thereafter.

(a) Notice. Prior to imposition of a fine (a late charge shall not constitute a fine), the Board or the Declarant, as the case may be, or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation and the time

period in which to correct it, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, within which the alleged violator may present a written request for a hearing to the Board; (iv) the name, address and telephone number of the person to contact to challenge the fine; (v) that statements, evidence, and witnesses may be produced by the violator at the hearing; and (vi) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is made within ten (10) days, or twenty-four (24) hours in the event of an unapproved sign, of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period or the twenty-four (24) hour period, as applicable. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted ten (10) day or twenty-four (24) hour period, as applicable, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules) or, by following with the dispute resolution procedures set forth in Article XV of the Declaration, if applicable. In addition, the Board shall have the right to file suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass.

3.23. Board Standards.

While conducting the Association's business affairs, the members of the Board shall act as fiduciaries and are subject to insulation from liability as provided for directors of corporations by Georgia law and as otherwise provided by the Governing Documents. Directors shall exercise the ordinary and reasonable care of directors of a corporation subject to the business judgment rule.

A director shall act in accordance with the business judgment rule so long as the director:

(a) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(b) affirmatively undertakes to make decisions which are necessary for the Association's continued and successful operation and, when decisions are made, they are made on an informed basis;

(c) acts on a disinterested basis, promptly discloses any real or potential conflict of interests (pecuniary or other), and avoids participation in such decisions and actions; and,

(d) acts in a non-fraudulent manner and without reckless indifference to the Association's affairs.

A director acting in accordance with the business judgment rule shall be protected from personal liability. Unless the Governing Documents require that specific action be taken, the failure to take such specific action shall not, without further showing that the Board acted in violation of the business judgment rule, be deemed a violation of a Board duty.

Board determinations of the meaning, scope, and application of Governing Document provisions shall be upheld and enforced so long as such determinations are reasonable. The Board shall exercise its power in a fair, non discriminatory manner and shall adhere to the procedures established in the Governing Documents.

Article IV Officers

4.1. Officers.

The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary. This Section 4.1 shall not apply to the Declarant during the period in which the Declarant has the right to appoint and remove the officers and directors of the Association.

4.2. President.

The President shall be the chief executive officer of the Association and shall preside at all meetings of the Members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall keep the Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Board of Directors.

4.3. Vice President.

The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Board or delegated to a Vice President by the President.

4.4. Secretary.

The Secretary shall keep the minutes of all meetings of the Members and of the Board of Directors; notify the Members and directors of meetings as provided by these By-Laws and Georgia law; have custody of the records and books of the Association; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of any officer of the Association; and perform such other duties as the President, or the Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.5. Treasurer.

The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

4.6. Election and Term of Office.

Except for officers appointed by the Declarant, the Board shall appoint the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

4.7. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the best interests of the Association will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.8. Powers and Duties.

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

4.9. Resignation.

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

4.10. Compensation.

Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12.

4.11. Additional Officers and Agents.

The Board of Directors may appoint such other officers, including assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

Article V Committees

Advisory committees to perform such tasks and to serve for such periods as may be designated by the Board or as provided in the Declaration are hereby authorized.

Each committee shall be composed and shall operate in accordance with the terms of the Declaration or resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. An advisory committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation, the Declaration, these By-Laws or the Georgia Nonprofit Corporation Code.

Article VI Miscellaneous

6.1. Fiscal Year.

The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law or the Governing Documents.

6.3. Conflicts.

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

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, the Declarant, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit the following documents: (i) the Declaration, By-Laws, and Articles of Incorporation and any amendments to the foregoing; (ii) the Use Restrictions and Rules; (iii) the membership register; (iv) books of account; and (v) the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at the office of the management agent or manager, if any, or at such other place within the Community as the Board shall designate.

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

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

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

6.5. Notices.

Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or when sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member or if by electronic transmission by a form of electronic transmission consented by the Board of Directors as provided in a resolution of the Board of Directors and otherwise in accordance with the Nonprofit Code.; or,

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section or if by electronic transmission by a form of electronic transmission consented by the Board of Directors as provided in a resolution of the Board of Directors and otherwise in accordance with the Nonprofit Code.

6.6 Electronic Records, Signatures and Documents. To the extent permitted by the Uniform Electronic Transaction Act, O.C.G.A. § 10-12-1, *et seq.*, the Nonprofit Code, the Declaration and these By-Laws, the Association and its members, officers, directors, Owners and Occupants may perform any obligation or exercise any right by use of electronic means providing sufficient security, reliability, identification and verifiability, which electronic means have been approved by the Board of Directors in its sole discretion.

6.7. Amendment.

(a) By Declarant. So long as Declarant has the right to appoint and remove officers and directors, Declarant may unilaterally amend these By-Laws for any purpose; provided that such amendment shall not materially adversely affect the substantive rights of an Owner to use and enjoy his or her Unit or adversely affect the title to any Unit unless the Owner shall consent thereto in writing. Thereafter, Declarant may amend these By-Laws if such amendment is specifically required to enable any governmental or institutional lender, purchaser, guarantor, or insurer of mortgage loans to make, purchase, insure, or guarantee mortgage loans on the Units.

(b) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least two-thirds (2/3) of the total votes in the Association, the consent of Declarant, so long as Declarant owns any property in the Community or has the right to unilaterally annex additional property to the Community. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to these By-Laws shall become effective upon Recordation, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

(d) Consent of Approved Builder Required. Any amendment to these By-Laws shall require the approval of Approved Builder in order to be valid.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

If a Member consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Member has the authority so to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.