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Weissman PC
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

ZEPHYR TOWNHOMES



**One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500**

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STATE OF GEORGIA
COUNTY OF FULTON

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

FOR

ZEPHYR TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR ZEPHYR TOWNHOMES ("Declaration," as further defined in Section 1.18 of this Declaration), is made on the date set forth below by **EA HOMES LP**, a Delaware limited partnership (hereinafter referred to as the "Declarant," as further defined in Section 1.17 of this Declaration);

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Community," as further defined in Section 1.15 of this Declaration);

WHEREAS, Declarant desires to develop "Townhome Units" (as such term is defined in the Master Declaration) within the Community and establish this Declaration as a "Townhome Declaration" (as such term is defined in the Master Declaration);

WHEREAS, the real property described in Exhibit "A" hereto and any real property subsequently subjected to the provisions of this Declaration shall be deemed a "Townhome Community" as contemplated in the Master Declaration;

WHEREAS, Declarant intends by this Declaration to impose upon the Community mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of real property within the Community. In addition, Declarant desires to provide a flexible and reasonable procedure for the overall development of the Community, and to establish a method for the administration, maintenance, preservation, use and enjoyment of such real property as are now or hereafter subject to this Declaration;

WHEREAS, as set forth in Sections 15.17 and 15.18 and in other provisions of this Declaration, each Owner (as further defined in Section 1.55 of this Declaration), by acceptance of deed to a Lot (as further defined in Section 1.36 of this Declaration), acknowledges that, in addition to being subject to and bound by the Community Instruments (as defined in Section 1.16 of this Declaration), Owner is subject to the Master Community Instruments (as further defined in Section 1.42 of this Declaration) and the Residential Community Instruments (as further defined in Section 1.66 of this Declaration); and

NOW, THEREFORE, Declarant hereby declares that the real property described in Exhibit "A" of this Declaration, including the improvements constructed or to be constructed thereon, is subjected to the provisions of this Declaration, and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, Assessments, and liens, set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors in title, and assigns and shall be for the benefit of all owners of the property subject to this Declaration.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO CREATE A CONDOMINIUM REGIME SUBJECT TO THE GEORGIA CONDOMINIUM ACT, O.C.G.A. § 44-3-70, ET SEQ.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO SUBMIT THE PROPERTY TO THE TERMS OF THE GEORGIA PROPERTY OWNERS' MASTER ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.



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ARTICLE 1. DEFINITIONS

Generally, terms used in the Community Instruments (as defined below) shall have their normal, generally accepted meanings, meanings given in the Georgia Nonprofit Corporation Code, or meanings given in the Master Community Instruments. Unless the context otherwise requires, certain terms used in the Community Instruments shall be defined as follows:

Section 1.1. Additional Property shall mean and refer to the real property described in Exhibit "B" attached hereto and incorporated herein, which Declarant may, but shall have no obligation to, submit to the Community as provided in this Declaration.

Section 1.2. Annual Assessment shall mean and refer to the assessment to be uniformly levied by the Board against each Lot on an equal basis as more particularly described in Article 5 below.

Section 1.3. Architectural Review Committee or ARC shall mean and refer to the committee established to exercise the design and architectural review powers set forth in this Declaration. During the Development Period, Declarant shall serve as the Architectural Review Committee, and upon the expiration of the Development Period, the Board of Directors shall serve as the Architectural Review Committee unless the Board of Directors, by resolution, appoints a separate Architectural Review Committee.

Section 1.4. Areas of Common Responsibility shall mean and refer to the Common Property, together with those additional areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person become the responsibility of the Association.

Section 1.5. Articles of Incorporation or Articles shall mean and refer to the Articles of Incorporation of Zephyr Townhome Unit Owners' Association, Inc., which have been filed with the Georgia Secretary of State, as may be amended from time to time.

Section 1.6. Assessment shall mean and collectively refer to all assessments authorized and levied under Article 5 of this Declaration and shall refer to the Annual Assessments, Specific Assessments and Special Assessments.

Section 1.7. Association shall mean and refer to Zephyr Townhome Unit Owners' Association, Inc., a Georgia nonprofit corporation, along with its successors and assigns.

Section 1.8. Association Claim Period shall have the meaning set forth in Section 14.8(a) of this Declaration.

Section 1.9. Board of Directors or Board shall mean and refer to the appointed or elected body of the Association, as applicable, having its normal meaning under Georgia corporate law.

Section 1.10. Bound Part(ies) shall have the meaning set forth in Section 14.1 of this Declaration.

Section 1.11. Bylaws shall mean and refer to the Bylaws of Zephyr Townhome Unit Owners' Association, Inc., attached to this Declaration as Exhibit "D" and incorporated herein by this reference, as amended.

Section 1.12. Common Expenses shall mean and collectively refer to the expenses lawfully made or incurred by or on behalf of the Association, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Areas of Common Responsibility, the Master Assessments, the Residential Community Assessments, and all funds lawfully assessed for the creation and maintenance of reserves pursuant to the Community Instruments.



Section 1.13. Common Profits shall mean and refer to all income collected or accrued by or on behalf of the Association other than income derived from Assessments.

Section 1.14. Common Property shall mean and refer to any and all real and personal property and easements and other interests, together with the facilities and improvements located in the Community, which the Association, now or in the future, owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including areas designated as Common Property by Declarant from time to time, as well as areas designated as the "common area," "open space," "open area" or "common property" on a Plat.

Section 1.15. Community shall mean and refer to that certain real property and interests herein described in Exhibit "A" attached hereto and incorporated herein by this reference, and any of the Additional Property that is later submitted to the provisions of this Declaration

Section 1.16. Community Instruments shall mean and refer to this Declaration and all exhibits hereto (including the Bylaws), the Articles of Incorporation, the plats, plans and survey, and any design standards and Rules and Regulations, all as may be supplemented or amended from time to time.

Section 1.17. Declarant shall mean and refer to EA HOMES, LP, a Delaware limited partnership, and such of its successors-in-title who shall (i) acquire, from a predecessor "Declarant," and for the purpose of development or sale, all or any portion of the real property described in Exhibit "A" hereto or the Additional Property, and (ii) be designated as Declarant in the deed of transfer by which such successors-in-title shall so acquire its interest in such real property or by written assignment of Declarant rights in an instrument recorded in the Official Records. In all events, there shall only be one "Declarant" at any one time; in no event shall more than one (1) Person have the right to exercise the power and authority of the "Declarant" at any one time. The expiration of the Development Period shall not terminate or alter the status of the above-referenced entity and its successor-in-title and/or assign, as Declarant hereunder or divest it of other rights specifically reserved to Declarant in this Declaration.

Section 1.18. Declaration shall mean and refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Zephyr Townhomes recorded in the Official Records, as may be amended from time to time.

Section 1.19. Design Guidelines shall mean the architectural guidelines and application and review procedures for the Community that are adopted by the Architectural Review Committee, as may be amended from time to time.

Section 1.20. Development Period shall mean and refer to the period of time commencing on the Effective Date of this Declaration and terminating upon the later of: (i) the date on which Declarant no longer owns any real property within the Community; or (ii) the expiration of Declarant's right to submit Additional Property to the Community.

Section 1.21. Dispute shall have the meaning set forth in Section 14.5 of this Declaration.

Section 1.22. Domestic Partner shall mean and refer to any adult who cohabitates with an Owner and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's Secretary. A person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

Section 1.23. Effective Date shall mean and refer to the date that this Declaration is recorded in the Official Records.

Section 1.24. Electronic Record shall mean and refer to a Record that is created, generated, sent, communicated, received, or stored by electronic means.



Section 1.25. Electronic Signature shall mean and refer to an electronic signature, sound, symbol, or process attached to or logically associated with a Record and executed or adopted by a person with the intent to sign the Record.

Section 1.26. Eligible Mortgage Holder shall mean and refer to those holders of first Mortgages secured by Lots in the Community who have requested notice of certain items as set forth in this Declaration.

Section 1.27. Emergency shall mean and refer to any situation or condition where the applicable Person, in its reasonable judgment, concludes that a particular action (including, without limitation, the expenditure of funds) is immediately necessary to: (i) protect the Community from imminent danger of material damage; (ii) protect any natural Person from imminent danger of personal injury; or (iii) avoid an interruption or suspension of utility services or other necessary material services to the Community, the failure of which service would have a material adverse effect (as that term is generally used and not as defined in this Declaration) on the Community.

Section 1.28. Environmental Laws shall mean and refer to all Laws pertaining to environmental regulation or the use, processing, storage disposal, generation or transportation of Hazardous Substances or any contamination, cleanup or disclosure related thereto, including but not limited to, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.* and state equivalents, and such regulations as may be promulgated with respect thereto.

Section 1.29. Exterior Architectural Modifications shall have the same meaning as the "Exterior Architectural Modifications" as set forth in the Residential Community Declaration.

Section 1.30. Fenced Area shall mean and refer to any portion of a Lot enclosed within a fence as part of the original construction of a Residence on a Lot.

Section 1.31. Georgia Nonprofit Corporation Code shall mean and refer to the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*, as amended from time to time.

Section 1.32. Governmental Authority shall mean and collectively refer to any federal, state, county, city or local governmental or quasi-governmental authority, entity, or body (or any department or agency thereof) exercising jurisdiction over a particular subject matter.

Section 1.33. Hazardous Substances shall mean and collectively refer to those substances now or hereafter included within (whether as a result of such substance's inclusion on a list, physical characteristics or otherwise) any of the definitions of "hazardous substances," "hazardous waste," "hazardous materials," "pollutant," "contaminant" or "toxic substance" under or otherwise regulated by, any Environmental Laws, including but not limited to, the following: (i) mixtures containing listed Hazardous Substances and waste generated from the treatment, storage or disposal of Hazardous Substances, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) radioactive materials, (v) petroleum (including crude oil or any fraction thereof), natural gas, natural gas liquids, liquefied natural gas and synthetic gas, and (vi) Mold.

Section 1.34. Interior Architectural Modifications shall have the meaning set forth in Section 6.3 of this Declaration.

Section 1.35. Laws shall mean and collectively refer to applicable federal, state, and local laws including but not limited to, Environmental Laws, statutes, ordinances, codes, rules, regulations, common law, orders, requirements and applicable judicial decisions or decrees, as presently existing and hereafter amended, of any Governmental Authority.



Section 1.36. Lot shall mean and refer to any plot of land in the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family residence site as shown on the Plat.

Section 1.37. Majority shall mean and refer to those eligible votes by Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

Section 1.38. Master Assessment shall have the same meaning as "Master Assessment" as set forth in the Master Declaration.

Section 1.39. Master Association shall have the same meaning as "Master Association" as set forth in the Master Declaration.

Section 1.40. Master Bylaws shall have the same meaning as "Master Bylaws" as set forth in the Master Declaration.

Section 1.41. Master Community shall have the same meaning as "Master Community" as set forth in the Master Declaration.

Section 1.42. Master Community Instruments shall have the same meaning as "Master Community Instruments" as set forth in the Master Declaration.

Section 1.43. Master Community-Wide Standard shall have the same meaning as "Master Community-Wide Standard" as set forth in the Master Declaration.

Section 1.44. Master Declaration shall mean and refer to that certain Declaration of Covenants, Conditions, Restrictions and Easements for Zephyr Community recorded of even date herewith in the Official Records, as may be amended from time to time.

Section 1.45. Mold shall have the meaning set forth in Section 8.6 of this Declaration.

Section 1.46. Mortgage shall mean and refer to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation including, but not limited to, a transfer or conveyance of fee title for such purpose.

Section 1.47. Mortgagee or Mortgage Holder shall mean and refer to the holder of a Mortgage.

Section 1.49. Nondiscretionary Expenses shall mean and collectively refer to the following Common Expenses, the payment and amount of which are not within the discretion of the Association: utility charges, real estate and personal property taxes and Assessments, insurance premiums for policies obtained by the Association, and amounts due and payable under the service contracts and other agreements entered into by the Association.

Section 1.50. Notice of Application Completion shall have the meaning set forth in Section 6.3(b) of this Declaration.

Section 1.51. Notice to Cure shall have the meaning set forth in Section 15.3 of this Declaration.

Section 1.52. Occupant shall mean and refer to any natural person (be it an Owner or a tenant or tenant of an Owner) who occupies a Lot (and the Residence located thereon) for any period of time. Where the context dictates, the term "Occupant" shall also be deemed to include the family members, occasional social guests, tenants, licensees, and invitees of the Occupant.



Section 1.53. O.C.G.A. shall mean and refer to the Official Code of Georgia Annotated as may be amended.

Section 1.54. Official Records shall mean and refer to the official land records of the Clerk of the Superior Court of Fulton County, Georgia.

Section 1.55. Owner shall mean and refer to the record owner, whether one (1) or more Persons, of the fee simple title to any Lot located within the Community, but not include any Person who is only a Mortgage Holder.

Section 1.56. Owner Claim Period shall have the meaning set forth in Section 14.7(a) of this Declaration.

Section 1.57. Person shall mean and refer to any natural person, as well as a corporation, limited liability company, joint venture, partnership (general or limited), association, trust, or other legal entity.

Section 1.58. Plat shall mean and refer to the recorded subdivision plat(s) for the Community recorded in the Official Records, as may be amended and/or supplemented from time to time.

Section 1.59. Record shall mean and refer to information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Section 1.60. Residence shall mean and refer to an improvement situated upon a Lot intended for independent use and occupancy as a single-family residential dwelling. A Lot and the improvements located thereon shall not become a "Residence" until the Residence has been substantially constructed and a certificate of occupancy has been issued by the appropriate Governmental Authority for the residential occupancy of the same.

Section 1.61. Residential Community Architectural Review Committee shall have the same meaning as the term "Architectural Review Committee" as such term is defined in Article 2 of the Residential Community Declaration.

Section 1.62. Residential Community Assessment shall have the same meaning as the "Residential Community Assessment" as set forth in the Residential Community Declaration.

Section 1.63. Residential Community Association shall have the same meaning as the "Residential Community Association" as set forth in the Residential Community Declaration.

Section 1.64. Residential Community Bylaws shall have the same meaning as the "Residential Community Bylaws" as set forth in the Residential Community Declaration.

Section 1.65. Residential Community Declaration shall mean and refer to that certain Declaration of Covenants, Conditions, Restrictions and Easements for Zephyr Residential Community recorded of even date herewith in the Official Records, as may be amended from time to time.

Section 1.66. Residential Community Instruments shall have the same meaning as the "Residential Community Instruments" as set forth in the Residential Community Declaration.

Section 1.67. Residential Community Rules and Regulations shall have the same meaning as the "Rules and Regulations" as set forth in the Residential Community Declaration.

Section 1.68. Respondent shall have the meaning set forth in Section 14.3 of this Declaration.



Section 1.69. Rules and Regulations shall mean and refer to those rules and regulations that are adopted by the Association, acting through its Board of Directors, as amended from time to time, as more particularly set forth in Section 4.1(a) of this Declaration.

Section 1.70. Special Assessment shall mean and refer to an Assessment uniformly levied by the Board of Directors against all Lots on an equal basis to fund an expense of the Association not included in the annual budget or to otherwise fund a shortfall in the operating account of the Association.

Section 1.71. Specific Assessment shall mean an Assessment levied by the Board of Directors against a Lot as provided below:

(i) Any Common Expenses benefiting less than all of the Lots (including, but not limited to, Common Expenses associated with the maintenance, repair, renovation, restoration, or replacement of any Exclusive Common Property) may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefited Lots according to the respective benefit received.

(ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots may be specifically assessed by the Board of Directors against such Lot or Lots upon the conduct committed which occasioned any such Common Expenses.

(iii) Any Common Expenses significantly disproportionately benefiting all the Lots may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefited Lots according to the respective benefit received.

Additionally, fines and other charges assessed against less than all the Lots shall be deemed Specific Assessments

Section 1.72. Statutory Overnight Delivery shall have the meaning set forth in O.C.G.A. §9-10-12, as amended.

Section 1.73. Supplemental Declaration shall mean and refer to an amendment or supplement to this Declaration, which subjects Additional Property to this Declaration or imposes additional restrictions and obligations on the Community, or a portion thereof.

Section 1.74. Total Association Vote shall mean and refer to all of the eligible votes attributed to members of the Association (including votes attributable to Declarant), and the consent of Declarant during the Development Period.

Section 1.75. Violator shall have the meaning set forth in Section 15.3 of this Declaration.

ARTICLE 2. PROPERTY SUBJECT TO THIS DECLARATION; CONVEYANCE AND PARTITION OF THE COMMON PROPERTY

Section 2.1. Property Submitted. The real property which is, by the recording of this Declaration, subject to the covenants and restrictions set forth in this Declaration is the real property described in Exhibit "A" attached and made a part of this Declaration.

Section 2.2. Other Property. Only the real property described in Exhibit "A" is made subject to this Declaration. However, by one (1) or more Supplemental Declarations, other real property may be subjected to this Declaration, as provided in Article 13 of this Declaration.



Section 2.3. Conveyance of Common Property by Declarant to the Association.

Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall be Common Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section 2.3.

Section 2.4. Removal of Improvements on Common Property by Declarant. During the Development Period, Declarant shall have the right, privilege, and option from time to time to remove, add, reconfigure, relocate, modify, and alter any and all improvements located on the Common Property.

Section 2.5. Partition of the Common Property. The Common Property shall remain undivided, and no Owner or any other Person shall bring any action for partition or division of the whole or any part of the Common Property without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

ARTICLE 3. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Membership. Every Person who is the record owner of a fee interest in any Lot, is subject to this Declaration shall automatically be a member in the Association. Membership shall not include Persons who hold a security interest only and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall go along with and may not be separated from ownership of any Lot.

Section 3.2. Voting. Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in a Lot, the vote for such Lot shall be cast as those Owners decide and instruct the Association's secretary prior to any meeting. If the Association's secretary is not instructed, the vote of the Lot, as the case may be, shall be suspended in the event more than one (1) Owner of a Lot attempts to cast it.

ARTICLE 4. ASSOCIATION RIGHTS AND RESTRICTIONS

Section 4.1. Association Rights and Restrictions. The Association, acting through its Board of Directors, shall have the rights set forth in this Section 4.1 in addition to, and not in limitation of, all other rights it may have pursuant to applicable Laws and the Community Instruments. Notwithstanding anything to the contrary stated in this Declaration, all actions required or permitted to be taken by the Board of Directors may be taken by the Association unless and until the Association determines otherwise.

Section 4.2. Right of Entry onto the Lots. The Board of Directors shall have the right and authority to enter onto a Lot for maintenance (but only to the extent such maintenance is the responsibility of the Association), Emergency or life-safety purposes, which right may be exercised by the Board of Directors, and/or its officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. For the purposes of this Section 4.2, an emergency justifying immediate entry onto a Lot (and the Residence located thereon, as reasonably necessary) shall include, but not be limited to, the following situations: a water or other utility leak, fire, strong foul odor, obvious insect infestation or sounds indicating that a Person or animal might be injured or sick and require immediate medical attention. Except in an Emergency, the Board of Directors shall be permitted to enter onto a Lot (and the Residence located thereon, as reasonably necessary) after providing at least forty-eight (48) hours advance notice to the Owner of the Lot over which access is desired.



No Person exercising the rights granted in this Section 4.2 shall be liable for trespass, damages or in any other manner by virtue of exercising such rights, except for negligence. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that the Board of Directors shall have no duty or obligation to enter onto a Lot (and the Residence located thereon). Notwithstanding anything to the contrary stated in this Declaration, any entry onto a Lot (and the Residence located thereon) by the Association, acting through its Board of Directors and/or its agents, shall be subject to any restrictions set forth in any lease or occupancy agreement affecting such Lot.

Section 4.3. Rules and Regulations. The Board of Directors shall have the right and authority to adopt and to enforce reasonable Rules and Regulations governing the use of the Areas of Common Responsibility.

Section 4.4. Right of Enforcement. The Board of Directors shall have the right and authority to enforce the provisions of the Community Instruments by imposing reasonable monetary fines, exercising self-help powers, and suspending use and voting privileges and services paid for as a Common Expense, as provided herein. These powers, however, shall not limit any other legal means of enforcing the Community Instruments by the Association. Any fines levied in accordance with the Community Instruments shall be considered an Assessment against a Lot and may be collected in the manner provided for collection of other Assessments. In addition, the Board of Directors, by contract or other agreement, may enforce county, state, and federal ordinances, if applicable, and permit local and other governments to enforce ordinances on the Community for the benefit of the Association.

Section 4.5. Permits, Licenses, Easements, Etc. The Board of Directors shall have the right and authority to grant and accept permits, licenses, leases, utility easements and other easements over, through and under the Common Property that the Board of Directors deems necessary for (i) the proper maintenance or operation of the Community; and (ii) the ongoing development and operation of the Community.

Section 4.6. Rights of Maintenance. The Board of Directors shall have the right and authority to control, manage, operate, maintain, improve, and replace all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration, and to pay all taxes or other expenses with respect to same.

Section 4.7. Property Rights. The Board of Directors shall have the right and authority to acquire, lease, hold and dispose of tangible and intangible personal property and real property; provided that no such disposal of real property shall (i) cause the Common Property or any Lot to fail to comply with applicable Laws; (ii) unreasonably interfere with or obstruct utility service to, or drainage and support of, any Lot; or (iii) unreasonably interfere with ingress or egress to and from any Lot or the remaining Common Property.

Section 4.8. Casualty Loss. The Board of Directors shall have the right and authority to represent and act on behalf of the Association in the event of damage or destruction as a result of casualty loss in accordance with the provisions of this Declaration.

Section 4.9. Condemnation. The Board of Directors shall have the right and authority to represent and act on behalf of the Association in the event of any loss resulting from condemnation or eminent domain in accordance with the provisions of this Declaration.

Section 4.10. Insurance. The Board of Directors shall have the right and authority to purchase insurance for the Common Property and/or the members of the Board of Directors, having deductibles authorized by the Board of Directors.

Section 4.11. Management Firm. The Board of Directors shall have the right and authority to designate, hire, and dismiss a property management firm for the operation of the Association and the



operation, maintenance, repair, and replacement of the Common Property and any other areas that are the responsibility of the Association. In addition, the Board of Directors shall have the right and authority to provide for the compensation of such management firm, as well as for the purchase of equipment, supplies, and material to be used by such management firm in the performance of their duties. All costs and expenses related to the management firm shall constitute part of the Common Expenses.

Section 4.12. Trash Removal Services. The Board of Directors shall have the right and authority to designate, hire, and dismiss a company to provide exclusive trash removal services to the entire Community.

Section 4.13. Financial Accounts. The Board of Directors shall have the right and authority to open bank accounts and other financial accounts and designate the required signatories.

Section 4.14. Joint Agreements, Contracts, Etc. The Board of Directors shall have the right and authority to enter into joint agreements and contracts with one (1) or more Owners for the provision of services, including, without limitation, management, landscaping, utilities, and property monitoring services; provided that no such agreements shall (i) cause the Common Property or any Lot to fail to comply with applicable Laws; (ii) unreasonably interfere with or obstruct utility service to, or drainage and support of, any Lot or the Common Property; or (iii) unreasonably interfere with ingress or egress to and from any Lot or the remaining Common Property. Moreover, the fees and costs associated with any such joint agreements and contracts shall be commercially reasonable and market rate.

Section 4.15. Governmental Authority. The Board of Directors shall have the right and authority to represent and act on behalf of the Owners in dealings with a Governmental Authority in matters that will or may affect all Owners hereunder.

Section 4.16. Variances. Notwithstanding anything to the contrary stated in this Declaration, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of the Community Instruments if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 4.17. Representation on the Master Association. The Board of Directors shall have the right and authority to exercise the obligations of a "Townhome Association" or a "Parcel Association" as contemplated in the Master Declaration, including, without limitation paying Assessments to the Master Association and serving as a "Voting Delegate" on behalf of the Association in representing the Community in Master Association affairs, all as more specifically set forth in the Master Community Instruments.

Section 4.18. Representation on the Residential Community Association. The Board of Directors shall have the right and authority to exercise the obligations of a "Townhome Association" or a "Parcel Association" as contemplated in the Residential Community Declaration, including, without limitation paying Assessments to the Residential Community Association and serving as a "Voting Delegate" on behalf of the Association in representing the Community in Residential Community Association affairs, all as more specifically set forth in the Residential Community Instruments.

NOTWITHSTANDING ANYTHING TO THE CONTRARY STATED IN THIS DECLARATION, THE ASSOCIATION SHALL NOT BE OBLIGATED TO TAKE ANY ACTION TO ENFORCE ANY COVENANT, USE RESTRICTION OR RULE THAT THE BOARD OF DIRECTORS, IN EXERCISE OF ITS BUSINESS JUDGMENT, DETERMINES IS OR IS LIKELY TO BE CONSTRUED AS INCONSISTENT WITH APPLICABLE LEGAL REQUIREMENTS OR IN ANY CASE IN WHICH THE BOARD OF DIRECTORS REASONABLY DETERMINES THAT THE ASSOCIATION'S POSITION IS NOT STRONG ENOUGH TO JUSTIFY TAKING SUCH ACTION. SUCH A DECISION SHALL NOT BE CONSTRUED A WAIVER OF THE RIGHT OF THE ASSOCIATION TO ENFORCE SUCH PROVISION AT A LATER TIME UNDER OTHER CIRCUMSTANCES OR ESTOP THE ASSOCIATION FROM ENFORCING ANY OTHER COVENANT, USE RESTRICTION OR RULE.



IN ADDITION, NOTWITHSTANDING ANYTHING TO THE CONTRARY STATED IN THE COMMUNITY INSTRUMENTS, DURING THE DEVELOPMENT PERIOD, THE ASSOCIATION SHALL NOT EXERCISE ANY AUTHORITY THAT WOULD (I) IMPAIR THE RIGHTS OF DECLARANT UNDER THIS DECLARATION, (II) INTERFERE WITH DECLARANT'S DEVELOPMENT OF, CONSTRUCTION ON OR MARKETING OF ANY PORTION OF THE COMMUNITY, (III) DIMINISH THE LEVEL OF SERVICES BEING PROVIDED BY THE ASSOCIATION OR (IV) PASS ANY INCREASE IN ANY TRANSFER, INITIATION OR ADMINISTRATIVE FEES ASSOCIATED WITH THE TRANSFER OF TITLE TO A LOT WITHOUT THE PRIOR WRITTEN PERMISSION OF THE DECLARANT.

ARTICLE 5. ASSESSMENTS

Section 5.1. Purpose of Assessment. The Association shall have the power to levy Assessments as provided herein. The Assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the common benefit and enjoyment of the Owners and Occupants of the Lots as may be more specifically authorized from time to time by the Board of Directors. Each Owner shall pay an equal share of the Common Expenses in accordance with the annual budget of the Association.

Section 5.2. Types of Assessments. Each Owner of a Lot, by acceptance of a deed to a Lot whether or not it shall be so expressed in such deed, is deemed to covenant, and agree to pay to the Association the following types of Assessments with such Assessments to be established and collected as hereinafter provided:

- (i) Annual Assessments;
- (ii) Special Assessments; and
- (iii) Specific Assessments.

Section 5.3. Annual Budget and Annual Assessments.

(a) Preparation of the Annual Budget. For each fiscal year, the Board of Directors shall prepare a budget listing by category the estimated Common Expenses for such year (including the establishment and maintenance of such reserves as the Board of Directors may consider reasonable and appropriate and any amounts the Association is required to pay under the Master Declaration and the Residential Community Declaration). The Board of Directors shall cause the proposed annual budget and Annual Assessments roster based thereon to be delivered to all Owners at least twenty-one (21) days prior to the Association's annual meeting. The budget and the Assessments shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a Majority of the Total Association Vote; provided, however, if a quorum is not obtained at the annual meeting, the budget and the Assessments shall become effective even though a vote to disapprove the budget could not be called for at such meeting.

(b) Annual Assessments. Subject to Section 5.7 below, each Owner shall pay an Annual Assessment. The amount of the Common Expenses paid as an Annual Assessment shall be based on the total Common Expenses as estimated in the annual budget, less the following:

- (i) Any amounts in the budget to be funded by the payment of Specific Assessments; and
- (ii) Undistributed and unreserved Common Profits.



(c) Failure to Establish Annual Budget. In the event that the Owners disapprove the proposed budget, or the Board of Directors fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board of Directors may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and Annual Assessment shall be delivered to the Owners at least twenty-one (21) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings. Notwithstanding anything to the contrary stated in this Declaration, the Association shall pay all Nondiscretionary Expenses prior to the date on which payment of such Nondiscretionary Expenses is due.

(d) Annual Budget Adjustments. The Board of Directors shall have the right to:

- (i) not spend the full amount budgeted for any particular line item in the budget;
- (ii) spend more than what has been budgeted;
- (iii) shift revenues within the annual budget from one line to another; and
- (iv) adopt a revised annual budget during the fiscal year; provided, however, (A) such proposed revised annual budget and Annual Assessment shall be delivered to the Owners at least twenty-one (21) days prior to the proposed effective date thereof and at least seven (7) days prior to a special meeting of the Association, and (B) the revised annual budget and the Annual Assessments shall become effective unless disapproved at a duly called and constituted special meeting of the Association by a vote of a Majority of the Total Association Vote, provided, if a quorum is not obtained at such special meeting, the revised annual budget shall become effective even though a vote to disapprove the revised annual budget could not be called for at such meeting.

Notwithstanding anything to the contrary herein, during the Development Period, Declarant shall have the right to unilaterally adjust the annual budget and amount of Annual Assessments (without the prior consent of the Board or the other Owners) to reflect phases and amenities that Declarant anticipates (but does not warrant) will be part of the Community during the applicable year. Such budget may initially include expenses for items that are not part of the Community, but that Declarant anticipates (but does not warrant) will be part of the Community during the applicable year. Owners shall pay Annual Assessments based on such annual budget irrespective as to whether the anticipated phases are actually submitted to the Declaration.

Section 5.4. Capital Reserve Budget and Contribution. The Board of Directors shall annually prepare a capital reserve budget, which shall take into account the number and nature of replaceable assets, the expected life of each asset and the expected repair or replacement cost. The Board of Directors may set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal Annual Assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board of Directors and included within the annual budget and Annual Assessment as provided above. A copy of the capital reserve budget shall be distributed to each Owner in the same manner as the operating budget. Notwithstanding anything to the contrary in this Declaration, Declarant shall have no obligation to fund or otherwise contribute toward the capital reserves of the Association, and, neither Declarant nor the directors and officers of the Association shall be required to prepare a capital reserve budget, set any other capital reserve contribution, or otherwise collect amounts for capital reserves.

Section 5.5. Special Assessments. In addition to the Annual Assessment provided for in this Article 5, the Board of Directors shall have authority at any time to levy a Special Assessment against Each



Owner in equal amounts. The Board of Directors shall send notice of any Special Assessment to each Owner.

Section 5.6. Specific Assessments. Pursuant to this Section 5.6, the Board of Directors may, in its sole discretion and at any time and in addition to any other rights it may have, levy a Specific Assessment against the Lots that the Board of Directors deems appropriate. The Board of Directors shall send notice of any Specific Assessment to the applicable Owner(s). Failure of the Board of Directors to exercise its authority under this Section 5.6 shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Directors' right to exercise its authority under this Section 5.6 in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority under this Section 5.6. The Board may not levy Specific Assessments for periodic maintenance, repair, or replacement of any portion of the Common Property or the Lots which the Association has the obligation to maintain, repair, or replace, but may levy Specific Assessments for the following:

(i) Any other Common Expenses that solely benefit only one (1) Lot shall be levied as a Specific Assessment against the benefitted Lot.

(ii) Any other Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the Permittees of any such Lot(s) shall be levied as a Specific Assessment against such Lot(s) based upon the conduct committed which occasioned any such Common Expenses, provided that the Board of Directors' authority to specifically assess hereunder is limited only to those costs not covered by the Association's insurance policies.

(iii) Any other Common Expenses that significantly and disproportionately benefit one Lot more than the other Lots shall be levied equitably as a Specific Assessment against the benefitted Lot(s); provided, however, such Specific Assessment shall be supported by measurable, objective criteria (e.g., invoices or other objective cost analysis showing relative usage of services or facilities by the benefitted Lot(s)).

(iv) If any charge imposed by the Master Association upon the Association results from an Owner or its Permittees not complying with the Master Community Instruments or causing any damage to the Master Community, such Owner shall be responsible for all of such charges.

(v) If any charge imposed by the Residential Community Association upon the Association results from an Owner or its Permittees not complying with the Residential Community Instruments or causing any damage to the Residential Community, such Owner shall be responsible for all of such charges.

Failure of the Board of Directors to exercise its authority under this Section 5.6 shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board of Directors' right to exercise its authority under this Section 5.6 in the future with respect to any expenses, including an expense for which the Board of Directors has not previously exercised its authority to assess as a Specific Assessment under this Section 5.6.

Section 5.7. Payment of Assessments.

(a) Annual Assessments. Unless otherwise provided by the Board of Directors, the Annual Assessments shall be paid in equal monthly installments due on the first day of each month. The Board of Directors may additionally require that the portion of the Annual Assessment comprised of the Master Assessment and/or the Residential Community Assessment be payable in a single installment due on or before the first day of the calendar year or such other date selected by the Board of Directors.



Notwithstanding anything to the contrary stated in this Declaration or the Bylaws, Declarant shall have no obligation to fund budgetary deficits of the Association.

(b) Special Assessment and Specific Assessments. The Board of Directors shall establish the date payment of any Special Assessment or Specific Assessment is due. In reasonable discretion of the Board of Directors, Special Assessments or Specific Assessments may be paid in installments.

(c) Exemptions. Except for Declarant during the Development Period, no Owner may waive or otherwise exempt himself or herself from liability for or otherwise withhold payment of Assessments for any reason whatsoever, including, by way of illustration, but not limitation, abandonment of a Lot or nonuse of the Common Property. The obligation to pay Assessments is a separate and independent covenant in the part of each Owner, and no diminution or abatement of any Assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any Laws.

Section 5.8. Date of Commencement of Assessments.

(a) General. Assessments shall commence as to a Lot upon the issuance by the applicable Governmental Authority of the first certificate of occupancy for any Residence in a building with attached Residences in which such Lot is situated. Notwithstanding the foregoing, Declarant shall not be responsible for the payment of any type of Assessment, except that Assessments shall commence on Lots containing occupied Residences (but excluding those Lots containing model homes or a sales center) that are owned by Declarant on the first day of the month following the occupancy of the Residence.

(b) During the Development Period. During the Development Period, Declarant may (i) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the Assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of Declarant, or (ii) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community. Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan. Notwithstanding anything to the contrary stated in this Declaration, Declarant shall have no obligation to fund budgetary deficits of the Association.

Section 5.9. Creation of the Lien and Personal Obligation For Assessments. All Assessments, together with charges, interest, costs, and reasonable attorneys' fees actually incurred, in the maximum amount permitted by this Declaration, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each Assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the Assessment fell due. Each such Owner of a Lot and its grantee shall be jointly and severally liable for all Assessments and charges due and payable at the time of any conveyance; provided, however, the liability of a grantee for the unpaid Assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure. The equitable charge and lien provided for in this Section 5.9 shall be in favor of the Association for the use and benefit of all Owners. Each Owner, by its acceptance of a deed to a Lot, vests in the Association or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose such liens. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same.



Section 5.10. Non-Payment of Assessments; Delinquency. Any Assessment and related charges that are due to the Association pursuant to this Declaration or any portion thereof, that is not paid when due shall be delinquent and the Owner shall be in default. Enforcement under this Section 5.10 is not dependent upon or related to other restrictions and/or other actions. Without limitation, the Board of Directors may impose the following:

(a) Late Charge. If any Assessment, any related charges or any portion thereof is not paid in full by the tenth (10th) day of the due date, a late charge equal to ten percent (10%) of the amount not paid (or such higher amounts as may be authorized by applicable Laws) may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum (or such higher rate as may be permitted under applicable Laws) shall accrue from the due date. By taking title to a Lot, each Owner shall be deemed to agree that the foregoing late fee constitutes liquidated damages to the Association as the injury caused to the Association by the late payment is difficult or impossible of accurate estimation, the late fees are intended to provide for damages rather than for a penalty, and the sum stipulated is a reasonable pre-estimate of the probable loss to the Association.

(b) Application of Partial Payment. If part payment of the Assessment and/or related charges is made, the amount received may be applied first to costs and reasonable attorneys' fees actually incurred, then to late charges, then to interest, then to delinquent Assessments and then to current Assessments.

(c) Acceleration. If any Assessment, any related charges or any portion thereof remains delinquent and unpaid for a period greater than fifteen (15) days from the date due, a notice of delinquency may be given to that Owner stating that if the Assessment, fine or charge remains delinquent for more than ten (10) days from the date of the notice of delinquency, the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid installments of the Base Assessment for the then-current fiscal year and of any Special Assessment or Specific Assessment without any further notice being given to the delinquent Owner. Upon acceleration, that Owner shall be obligated to pay the entire amount so accelerated.

(d) Various Remedies. If Assessments and other charges or any portion thereof remain unpaid for more than thirty (30) days after the Assessment payments first become delinquent, the Association, acting through the Board of Directors, may: (i) institute suit to collect all amounts due pursuant to the provisions of this Declaration, the Bylaws and applicable Laws, including reasonable attorneys' fees actually incurred, and/or obtain an order to foreclose the Association's lien for such amounts as provided in Section 5.9 above; (ii) suspend delinquent Owner's right to vote; and (iii) suspend the right of the delinquent Owner and its Occupant to use the Common Property (including the right to bring or park vehicles on the Common Property or have guests bring or park vehicles on the Common Property, but only if applicable to the Community). However, the Board may not limit pedestrian, medical, fire, police or other health, safety, service or emergency vehicle ingress or egress to or from the Lot or deny necessary parking of clearly and properly identified handicapped vehicles used by handicapped Owners or Occupants protected by the Fair Housing Amendments Act of 1988. Prior to suspending parking privileges, the Association shall provide the delinquent Owner or Occupant written notice of its intention to do so, sent by certified mail not less than ten (10) days prior to the date of such suspension.

(e) Suspension of Utility and Other Services. If any Assessment or other charge is delinquent for thirty (30) days or more, and the Association has obtained judgment(s) totaling more than Seven Hundred Fifty Dollars (\$750) against the Owner or encumbering the Lot, then, in addition to all other rights provided under Georgia law and herein, the Association shall have the right, in compliance with any requirements set forth in the O.C.G.A. §44-3-76, to suspend water, electricity, gas, heat or air conditioning services to the Lot paid for as a Common Expense by the Association. Any costs incurred by the Association in discontinuing and/or reconnecting any utility or service, including reasonable attorneys' fees actually incurred, shall be an Assessment against the Lot. The utility or service shall not be required to be restored until the judgment(s) is (are) paid in full, at which time the Association shall make arrangements for restoration of the utility or service. An Owner whose utility or service has been



suspended hereunder shall not be entitled to use any such utility or service from any source, and any such unauthorized use shall be considered a theft of services under O.C.G.A. §16-8-5.

Notwithstanding the above, if cable television, satellite or internet service or any other utility or similar service is provided by the Association as a Common Expense, that service may be suspended upon ten (10) days' written notice to the delinquent Owner, without obtaining any judgment against the Owner. Any costs incurred by the Association in discontinuing and/or reconnecting any such utility or service, including reasonable attorneys' fees actually incurred, shall be an Assessment against the Lot. The utility or service shall not be required to be restored until the past due amount is paid in full, at which time the Association shall make arrangements for restoration of the utility or service. An Owner whose utility or service has been suspended hereunder shall not be entitled to use any such utility or service from any source, and any such unauthorized use shall be considered a theft of services under O.C.G.A. §16-8-5.

Section 5.11. Surplus Funds and Common Profits.

(a) Surplus Funds. If the Board of Directors reasonably determines that during a fiscal year there will likely be a surplus of Assessments paid by an Owner at the end of such fiscal year (excluding amounts designated for reserves), the Board may, but shall not be required to, reduce the amount of the Assessments to be collected from such Owner for the remainder of that fiscal year. Any Owner who has already paid such Owner's entire Assessment obligation for the fiscal year at the time of such reduction shall, in the discretion of the Owner, either receive a refund of the overpayment or a credit of the amount of the overpayment towards the Owner's Assessment obligation to the Association for the following fiscal year. Notwithstanding the above, the Association may first apply the amount of any overpayment toward any other amount the Owner may owe to the Association.

(b) Common Profits. Common Profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such Common Profits to the payment of Common Expenses shall, at the option of the Board of Directors, either be distributed to the Owners or credited to the next Assessment chargeable to the Owners or added to the Association's capital reserve account.

Section 5.12. Initiation Fees. General. The purchaser of each Lot at the closing of the sale or resale of a Lot shall pay to the Association an initiation fee in such amount, if any, as may from time to time be set by resolution of the Board of Directors. The initiation fee shall not be deemed an advance payment of Annual Assessments or Special Assessments. The Board shall have discretion to increase the initiation fee by resolution of the Board; provided, however, the initiation fee shall not be changed by the Board without Declarant's consent during the Development Period.

(b) Exceptions. Notwithstanding anything to the contrary herein, the initiation fee shall not be due from: (i) any grantee who is the Domestic Partner, spouse or former spouse of the grantor; (ii) any grantee that is a wholly-owned entity of the grantor; (iii) any grantee to whom a Lot is conveyed by a will or through the law of intestacy; (iv) any grantee of a Lot who obtains title pursuant to judicial or nonjudicial foreclosure (or deed in lieu of foreclosure) of any first Mortgage of record or secondary purchase money Mortgage of record (provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot); or (v) any grantee who is the Declarant. The initiation fee shall be an Assessment, which is the personal obligation of the Owner, and shall constitute a lien, which may be collected as provided in this Article 5. The initiation fees may be used for any purpose determined appropriate by the Board, including, without limitation, working capital or capital reserve funds.

Section 5.13. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of Assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee as a prerequisite to the issuance of such a



statement. Such written statement shall be binding on the Association as to the amount of Assessments due on the Lot as of the date specified therein.

ARTICLE 6. ARCHITECTURAL STANDARDS

Section 6.1. General. The primary purpose of these architectural requirements is to protect and preserve property values in the Community by maintaining architectural and aesthetic harmony and compatibility among the Lots and the structures and improvements on the Lots in the Community. The architectural requirements and standards may be designed and applied to reflect that Lots within the Community are of varying sizes, topographies and locations, and those improvements and modifications suitable for one Lot may be inappropriate for another Lot.

Section 6.2. Exterior Architectural Modifications. Unless permitted in the Residential Community Declaration, no Owner or Occupant may make any Exterior Architectural Modifications without the prior written consent of the Residential Community Architectural Review Committee under Article 13 of the Residential Community Declaration. Granting or withholding such approval shall be within the sole discretion of Residential Community Architectural Review Committee as set forth in Article 13 of the Residential Community Declaration.

Section 6.3. Interior Architectural Modifications. No Owner or Occupant may make any of the following changes, modifications, additions, or alterations without the prior written consent of the Architectural Review Committee as set forth in this Article 6 (hereinafter collectively referred to as "**Interior Architectural Modifications**"):

(a) **Alterations to the Interiors of the Residences.** Except as provided herein, no Owner or Occupant may make any alteration within a Residence which involves connecting to Common Property pipes, lines, conduits and/or other apparatus for access to common utilities without prior written Architectural Review Committee approval (including, but not limited to, installation of washers and dryers or modifying connection of washers and dryers). Except as provided herein, no Owner or Occupant shall make any alteration within a Residence that places an excessive load on any structural or load bearing portions of a Residence without first obtaining the prior written approval of the Architectural Review Committee. Such approval shall not be granted by the Architectural Review Committee unless the Owner has presented to the Architectural Review Committee a report or drawing prepared by a licensed structural engineer showing that compensating measures will be taken to ensure the structural integrity of the Residence and the building in which the Residence is located. All building code requirements must be complied with, and necessary permits and approvals secured for any alteration within a Residence. Notwithstanding the above, all Owners desiring to make any alteration within a Residence or alterations to a Residence affecting the Common Property or structure or load bearing portions of a Residence must submit an application to the Architectural Review Committee as set forth in this Section 6.3 in order for the Architectural Review Committee to make the determination of whether the Architectural Review Committee's approval is required.

Notwithstanding the above, if any Owner acquires an adjoining Lot (with adjoining Residences), such Owner shall have the right (subject to the prior written approval of the Mortgagees of the Residences involved) to remove all or any part of any intervening partition or to create doorways or other apertures therein, for so long as no portion of any structural or load bearing portions of the Residences are materially weakened or removed and the Architectural Review Committee has approved the plans described above and no portion of any Common Property is damaged, destroyed or endangered, other than that partition and any chutes, flues, ducts, conduits, wires or other apparatus contained therein which shall be relocated by such Owner if such facilities serve any other part of the Community.

(b) **Request for Approval of Interior Architectural Modifications.**



(i) Application. An application for approval of Interior Architectural Modifications as required under this Section 6.3 shall be in writing and shall provide such information as the Architectural Review Committee may reasonably require, including, but not limited to, the name, address, and phone number of any contractor or sub-contractor that will be performing work on the Lot and/or in the Residence, and copies of all permits required under applicable Laws. Once an application and all required information is received by the Architectural Review Committee, the Architectural Review Committee shall stamp the application as being complete and shall then forward to the applicant a written notice of application completion (the "**Notice of Application Completion**"). The Architectural Review Committee shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, materials to be used, harmony with the external design of the existing buildings, Residences and structures on the Community (and on the Master Community), the location in relation to surrounding structures and topography, and the impact of such approval, if any, on the increase or decrease of sounds and vibrations between the Residences. In addition, the Architectural Review Committee shall be authorized to stop any construction that is not in conformance with approved plans. In the event that the Architectural Review Committee fails to approve or to disapprove such application within forty-five (45) days after the date of the Notice of Application Completion, Architectural Review Committee approval will not be required and this Section 6.3 will be deemed complied with; provided, however, even if the requirements of this Section 6.3 are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Community Instruments.

(ii) Appeal. In the event that the Architectural Review Committee or its designated representative disapproves any application or part thereof, an Owner shall have the right to appeal the Architectural Review Committee's decision to the Board of Directors. The Board of Directors shall rule on the appeal within forty-five (45) days of receiving written notice requesting an appeal from the Owner. In ruling on the appeal, the Board of Directors shall consider all relevant materials presented to it by either the Owner or the Architectural Review Committee, the decision of the Architectural Review Committee, and the application of the Owner to the Architectural Review Committee. The Board of Directors shall have the final authority to approve, disapprove or conditionally approve or disapprove the application of the Owner. If the Board of Directors does not receive written notice from the Owner by certified mail requesting an appeal within fourteen (14) days from the date of the Architectural Review Committee's notice to the Owner of its decision, the decision of the Architectural Review Committee shall become final, and all rights of appeal shall terminate and thereafter be void.

(iii) Condition of Approval. As a condition of approval of Interior Architectural Modifications, an Owner, on behalf of Owner and Owner's successors-in-title, shall assume all responsibilities for maintenance, repair, replacement, and insurance of such Interior Architectural Modifications, as approved, unless otherwise agreed to in writing by the Architectural Review Committee. In the discretion of the Architectural Review Committee, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of him or herself and Owner's successors-in title. It is the responsibility of each Owner of a Lot to determine for him or herself what Interior Architectural Modifications have been made to such Residence by any predecessor-in title.

(iv) Limitation of Liability. Review and approval of any application pursuant to this Section 6.3 is made on the basis of aesthetic considerations only, and Declarant, the Association, the Board of Directors, the Architectural Review Committee, and the member of any of the foregoing, shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or for ensuring compliance with building codes and other governmental requirements. In addition, Declarant, the Association, the Board of Directors, the Architectural Review Committee, and the members of any of the foregoing shall not be held liable for any injury, damages or loss arising out of the manner or quality of approved construction or modifications to, any Residence.



(v) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Architectural Review Committee will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the Board of Directors and/or the Architectural Review Committee may adopt different architectural standards for different parts of the Community, based on street visibility and location of the proposed modification in the building. The approval of the Architectural Review Committee of any proposals, plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval and consent of the Architectural Review Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval or consent.

(vi) Commencement of Construction. All Interior Architectural Modifications approved by the Architectural Review Committee hereunder must be commence within six (6) months from the date of approval. If not commenced within six (6) months from the date of such approval, then such approval shall be deemed automatically revoked by the Architectural Review Committee, unless the Architectural Review Committee gives a written extension for commencing the work. In addition, all Interior Architectural Modifications approved by the Architectural Review Committee hereunder shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the Architectural Review Committee. All Interior Architectural Modifications approved by the Architectural Review Committee must be completed in their entirety. An Owner may not construct only a portion or part of an Interior Architectural Modification approved by the Architectural Review Committee. Notwithstanding anything to the contrary stated in this Declaration or design guidelines adopted by the Architectural Review Committee, no Interior Architectural Modification approved by the Architectural Review Committee shall be commenced until the Owner conspicuously posts an approval permit and such permit shall remain conspicuously until all construction activities are completed. Said approval permit shall serve only to provide notice to the Occupants of the Community that the Interior Architectural Modifications being made to a Lot has been approved by the Architectural Review Committee, and shall be in addition to, and not in lieu of, all necessary permits or approvals required by a Governmental Authority.

Section 6.4. Enforcement. Construction, alterations, changes, modifications, additions, or other work that are done in violation of Article 6 shall be deemed to be nonconforming. Upon written request from the Architectural Review Committee, the Owner shall, at its own cost and expense, remove such construction, alteration or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board of Directors or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. All costs thereof, including reasonable attorneys' fees actually incurred, shall be levied as a Specific Assessment and lien against such Owner's Lot and collected as an Assessment pursuant to this Declaration. In addition to the foregoing, the Board of Directors shall have the authority and standing on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Article 6 and its decisions. Furthermore, the Board of Directors shall have the authority to record in the Official Records notices of violation of the provisions of this Article 6.

Moreover, if any Owner or Occupant makes Exterior Architectural Modifications in violation of this Article 6, Owner does so at Owner's sole risk and expense, and shall be subject to enforcement actions by the Residential Community Architectural Review Committee under Article 13 of the Residential Community Declaration. In addition, the Board of Directors may require that such Exterior Architectural Modifications be removed or that it remain on the Common Property without reimbursement to the Owner or Occupant for any expense Owner may have incurred in making the Exterior Architectural Modifications



Section 6.5. Encroachments onto the Common Property. The Architectural Review Committee may permit, subject to this Article 6, Owners to make encroachments onto the Common Property as it deems acceptable in its sole and absolute discretion.

Section 6.6. Approval Under the Residential Community Declaration. The provisions for architectural review contained in this Declaration shall be in addition to, and not in lieu of the architectural review provisions contained in the Residential Community Declaration. Whenever approval of the Board of Directors or the Architectural Review Committee is required under this Declaration, the granting of such approval shall not dispense with the need also to comply with the approval procedures set forth in the Master Declaration, as applicable.

Section 6.7. Exemption of Declarant. Notwithstanding anything to the contrary stated herein, the initial improvements constructed on the Community and all architectural modifications thereto that are made by Declarant shall not be subject to approval pursuant to this Article 6. Moreover, Declarant shall not be required to obtain any approvals under this Article 6 during the Development Period.

ARTICLE 7. USE RESTRICTIONS AND RULES

Section 7.1. General. Each Owner of a Lot shall be responsible for ensuring that the Owner's guests, tenants, licensees, invitees, and Occupants comply with all provisions of the Community Instruments and the Rules and Regulations. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's guests, tenants, licensees, invitees, or Occupants, as a result of such Person's violation of the Community Instruments, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's guests, tenants, licensees, invitees, or Occupants. In addition to the use restrictions set forth in this Article 7 and elsewhere in this Declaration, the Board of Directors may adopt Rules and Regulations in accordance with the terms hereof and as specified in the Bylaws.

Section 7.2. Use of Lots. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, except that the Owner or Occupant residing in a Residence may conduct ancillary business activities within the Residence located on such Lot so long as, in the opinion of the Board of Directors:

- (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside of the Lot;
- (ii) the business activity does not involve visitation of the Lot by non-domestic employees, clients, customers, suppliers, or other business invitees;
- (iii) the business activity is legal and conforms to all zoning requirements for the Community;
- (iv) the business activity does not increase traffic on the Community in excess of what would normally be expected for Lots in the Community without business activity (other than by a reasonable number of deliveries, as may be determined in the sole discretion of the Board of Directors, by couriers, express mail carriers, parcel delivery services and other such similar delivery services);
- (v) the business activity within a Residence does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage;



(vi) the business activity within a Residence is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use or threaten the security or safety of other residents of the Community, as determined in the sole and absolute discretion of the Board of Directors; and

(vii) the business activity within a Residence does not result in a materially greater use of the Common Property or Association services.

The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis that involves the provision of goods or services to Persons other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (A) such activity is engaged in full or part time; (B) such activity is intended to or does generate a profit; or (C) a license is required therefor. Notwithstanding the above, the use of any portion of the Common Property by a full or part-time on-site management agent operating on behalf of the Association shall not be considered a trade or business within the meaning of this Article 7.

Section 7.3. Number of Occupants. The maximum number of Occupants in a Lot shall be limited to two (2) people per bedroom. This occupancy restriction shall not apply to require the removal of any Person lawfully occupying a Lot on the date of the recording of this Declaration. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto or any other applicable Laws.

If an Owner of a Lot is a corporation, partnership, trust, or other legal entity not being a natural person, the entity shall designate in writing to the Board of Directors the name(s) of the person(s) who will occupy the Lot. The designated Person(s) to occupy the Lot may not be changed more frequently than once every six (6) months without the express written consent of the Board of Directors as determined in the Board of Directors' sole discretion.

Section 7.4. Prohibition of Damage, Nuisance and Noise. Without the prior written consent of the Board of Directors, nothing shall be done or kept on the Community or any part thereof, which would increase the rate of insurance on the Community or any Lot or part thereof, which would be in violation of any statute, rule ordinance, regulation, permit or other validly imposed requirements of any Governmental Authority or which would increase the Common Expenses.

The Lots are built in close proximity to one another, resulting in the sharing of common walls, floors, and ceilings. As a result, noise and vibration may be detectable between Lots or between Lots and the Common Property. Therefore, an Owner or Occupant shall not conduct activities within a Lot or use a Lot in a manner that interferes with or causes disruption to the use and quiet enjoyment of another Lot by its respective Owner and/or Occupant.

Furthermore, noxious, destructive, or offensive activity shall not be carried on within any portion of the Community. No Owner or Occupant of a Lot may use or allow the use of the Lot or any portion of the Community at any time, in any way or for any purpose that may endanger the health, unreasonably annoy, or disturb or cause embarrassment or discomfort to other Owners or Occupants or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Lot may use or allow the use of a Lot or the Common Property in any manner that creates disturbing noises, including, without limitation, use of stereo speakers or equipment that will, in the sole discretion of the Board of Directors, interfere with the rights, comfort or convenience of the other Owners or Occupants. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with Owner's property or personal rights.

No Owner, Occupant or agent of such Owner or Occupant shall do any work which, in the reasonable opinion of the Board of Directors or its designee, would jeopardize the soundness or safety of the Community or any structure thereon, would reduce the value thereof or would impair any easement or



other interest in the real property thereto, without, in every such case, the prior unanimous written consent of all members of the Association and their Mortgagees.

No damage to or waste of the Common Property or any part thereof, shall be permitted by any Owner, Occupant or their respective guests, tenants, licensees, and invitees. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, Occupant or their respective guests, tenants, licensees, and invitees.

Section 7.5. Vehicles; Parking. No Owner or Occupant may keep or bring onto the Community more than a reasonable number of vehicles, at any time, as determined by the Board of Directors. All vehicles permitted under this Section 7.5 shall be parked within a garage or on other portions of the Community, if any, that are authorized in writing by the Board. Disabled and stored vehicles are prohibited from being parked on the Community, except in a garage. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains on the Community without being driven for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, jet-skis and trailers for same, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding vans used by handicapped persons, mini vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), recreational vehicles (RVs and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors other than Sheriffs, Marshals, or police officers' vehicles marked as such, are also prohibited from being parked on the Community, except in portions of the Community, if any, that may be designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles, and vehicles with commercial writings on their exteriors shall be allowed temporarily within the Community during normal business hours for the purpose of serving a Lot or the Common Property; provided, however, no such vehicle shall remain within the Community overnight or for any purpose unless prior written consent of the Board is first obtained.

If any vehicle is parked on any portion of the Community in violation of this Section 7.5 or in violation of the Rules and Regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the Person that will do the towing or booting and the name and telephone number of a Person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle. No notice shall be required and the Board or agent of the Association may have the vehicle towed immediately if a vehicle: (i) is parked in a fire lane; (ii) is blocking another vehicle, garage or access to another Owner's Lot; (iii) is obstructing the flow of traffic; (iv) is parked on any grassy area; (v) is parked in a parking space that has been assigned as exclusively serving a Lot; or (vi) is otherwise creating a hazardous condition. If a vehicle is towed in accordance with this Section 7.5, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Notwithstanding the foregoing, Declarant and its agents, subcontractors and assigns shall have the right, during regular business hours, to park vehicles on any and all streets within the Community as needed in order to facilitate the construction, development and build out of the Community.

Section 7.6. Garages. It is prohibited for an Owner or Occupant of a Lot that includes a garage to convert such garage to any other use. All garages shall be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible. Garage doors shall remain closed at all times, except for necessary use, ingress, and egress.



Section 7.7. Traffic Regulations. All vehicular traffic on any streets or alleys in the Community shall be subject to the provisions of applicable Laws concerning operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable Rules and Regulations governing vehicular and pedestrian traffic, including reasonable life-safety measures and speed limits, and including modifications of those in force on public streets, within the Community. The Association shall be entitled to enforce same by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof. In the event of a conflict between such provisions of applicable Laws and such Rules and Regulations promulgated by the Association, the Rules and Regulations shall govern. Only drivers properly licensed to operate motor vehicles on the public roads within the State of Georgia may operate any type of motor vehicle within the Community. All vehicles of any kind and nature which are operated on the streets or alleys in the Community shall be operated in a careful, prudent, safe, and quiet manner and with due consideration for the rights of all Owners and Occupants.

Section 7.8. Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept, or permitted on any portion of the Community; provided, however, an Owner or Occupant may keep up to a total of three (3) dogs and three (3) cats per Lot, unless otherwise permitted by the Board of Directors in its sole and absolute discretion. No pets shall be kept, bred, or maintained for any commercial purpose, and no improvement for the care, housing, or confinement of any pet, such as dog houses and dog runs, shall be constructed or maintained on any part of the Community. Pets must be kept on a leash at all times when on the Common Property and on a Lot of another Owner. When on the Common Property or a Lot of another Owner, pets must be kept on a leash (or the physical control of a responsible person). Feces left by pets upon any portion of the Community must be removed by the owner of the pet or the person responsible for the pet.

No potbellied pigs, snakes or other animals determined in the Board's sole discretion to be dangerous may be brought onto or kept on the Community at any time. Furthermore, any pet that endangers the health of any Owner or Occupant (in the Board's sole discretion), makes objectionable noise, or constitutes a nuisance or inconvenience to the Owners or Occupants or to the owner of any property located adjacent to the Community, may be permanently removed by the Board from the Community upon seven (7) days written notice to the owner of such pet. If the Owner or Occupant fails to remove the pet from the Community, the Board may remove the pet. Notwithstanding the foregoing, any pet which, in the Board's sole discretion, presents an immediate danger to the health, life-safety or property of any Occupant of the Community may be removed by the Board without prior written notice to the pet's owner.

All Owners and Occupants keeping pets within the Community shall comply with all applicable Laws. Without prejudice to the Board's right to remove any such household pets, the Board may prohibit a household pet that has caused damage or injury from being walked in the Community. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall also be registered, licensed, and inoculated as required by Laws. Furthermore, any Owner or Occupant who keeps or maintains any pet upon the Community shall be deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Community.

Section 7.9. Signs. Except as may be provided for in this Declaration or as may be required by legal proceedings, and except for signs which may be erected by Declarant, no signs, advertising posters, "For Sale," "For Rent" and other similar signs, flyers, political placards or billboards of any kind shall be erected or placed by an Owner, Occupant or other Person, or permitted to remain on the Community without the prior written consent of the Board or its designee. Notwithstanding the foregoing, the following signs may be displayed on a Lot without the prior written consent of the Board or its designee: (i) one (1) professionally lettered security sign not to exceed four inches (4") by four inches (4") in size; or (ii) one (1) professionally lettered "For Sale" sign not to exceed two feet (2') by two feet (2') in size or a "For Sale" sign provided by a professional Realtor®. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. In addition, the Board shall also have the authority to adopt Rules and Regulations permitting temporary signs on Lots announcing birthdays, graduations, or other events for



limited periods of time. No advertising, directional, or vendor signs shall be permitted within the Community except as authorized by Declarant.

Section 7.10. Antennas and Satellite Dishes. Except as provided below and as provided for in the Rules and Regulations, no satellite dish, antenna, or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic wave or radiation shall be erected, used, or maintained on any portion of the Community; provided, however, the Association shall have the right to erect, construct, and maintain such devices. The following shall apply to all Owners:

(i) No transmission antenna of any kind may be erected anywhere on the Community without written approval of the Board of Directors or the Architectural Review Committee.

(ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one (1) meter in diameter shall be placed, allowed, or maintained upon the Community.

(iii) DBS and MMDS satellite dishes or antennas one (1) meter or less in diameter and television broadcast service antennas may be installed only in accordance with Federal Communication Commission (FCC) rules and the Rules and Regulations, both as may be amended from time to time.

Moreover, for so long as not prohibited by any FCC rule, no satellite dish, antenna, or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic wave or radiation shall be located on the front or side of any Residence that is visible from the street or another Residence. In the event of a transfer of a Lot that includes the satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with Community Documents regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

Section 7.11. Firearms and Fireworks. The display or discharge of firearms or fireworks on any portion of the Community prohibited; provided, however, the display of lawful firearms on the Common Elements is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property to or from an Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. § 25-10-1, as amended. Notwithstanding anything to the contrary stated in this Declaration or the Rules and Regulations, an Owner or Occupant shall not be restricted from using firearms in extreme situations for self-defense, provided that (i) any such use of a firearm shall be in accordance with all applicable Laws, and (ii) this Section 7.11 is interpreted as the Association endorsing or encouraging the use of any firearm.

Section 7.12. Garbage, Rubbish, Trash, Litter, Debris, Recyclables and Similar Waste. As provided in Section 4.12 of the Master Declaration, the board of directors of the Master Association shall be authorized to designate a company to provide exclusive trash removal services to the Community. All garbage, rubbish, trash, litter, debris, recyclables, and similar waste shall be contained in sealed bags and shall be deposited directly into the appropriate trash removal container. Garbage, rubbish, trash, litter, debris, recyclables, and similar waste shall not be allowed outside of appropriate trash removal containers for any period of time, temporarily or otherwise. This Section 7.12 is not applicable to garbage, rubbish, trash, litter, debris, recyclables, and similar waste related to construction, renovation or other improvements made by an Owner (or its Occupants), and all such materials shall be removed by Owner from the Community and shall not be allowed to accumulate unreasonably on any portion of the Community.

Section 7.13. Clotheslines, Garbage Cans, Woodpiles, Recreational and Other Equipment. All clotheslines, garbage cans, recycling containers, woodpiles, and related equipment and other similar items shall be located or screened so as to be concealed from view from any street or road. All



construction debris, rubbish, trash, recyclables, and garbage shall be regularly removed and shall not be allowed to accumulate.

Section 7.14. Fences. Other than fences constructed as part of the initial approved construction of the structures and improvements on a Lot by Declarant, no fence, fencing type barrier of any kind (including fencing enclosures for pets) shall be placed, erected, allowed, or maintained upon any portion of the Community without the prior written consent of the Architectural Review Committee.

Section 7.15. Air Conditioning Units. No window air conditioning units may be installed on any Lot. Condensing units for air conditioners shall only be located on the roof of a Residence.

Section 7.16. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any Residence. Exterior sculptures, benches, fountains, flags, and similar items may not be placed in the front yard of a Lot or on the front exterior of a Residence without the prior written approval of the Architectural Review Committee.

Section 7.17. Flags. Except for flags which may be installed by Declarant, no flags may be displayed on any Lot without prior written approval in accordance with the provisions of Article 6 of this Declaration or as may be otherwise permitted in the Architectural Guidelines or this Section 7.17. No approval shall be required to display the flag of the United States of America and the current flag of the State of Georgia on the Lot in accordance with the provisions of the U.S. Flag Code (36 US Code 10) and usual and customary practice. The Board of Directors may promulgate reasonable Rules and Regulations with respect to the display of flags in the Community, including, without limitation, regulating the size of flags that may be displayed and imposing reasonable time, place and manner restrictions pertaining to the display of the United States flag; provided, however, the Association shall not enact any Rule or Regulation which has the effect of prohibiting any Owner from displaying the flag of the United States of America on a Lot in contravention of the Freedom to Display the American Flag Act of 2005.

Section 7.18. Decks, Patios, and Porches. No laundry, garments, towels, or objects other than potted plants, grills, and patio furniture, shall be placed on the roof decks, steps, decks or vestibules, except as may be authorized by the Board of Directors. Notwithstanding the foregoing, patio furniture made of plastic material shall not be placed on a front porch. In addition, objects shall not be permitted to hang over or be attached to any deck, patio, or porch or to otherwise protrude outside of the vertical plane formed by the exterior surface of a deck, patio, or porch. No deck, patio or porch shall be enclosed without prior approval in accordance with the provisions of Article 6 of this Declaration.

Section 7.19. Utility Lines. Except as may be permitted under and pursuant to Article 6 of this Declaration, no overhead utility lines, including lines for cable television, shall be installed within the Community, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

Section 7.20. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on a Lot unless approved in accordance with the provisions of Article 6 of this Declaration.

Section 7.21. Entry Features. Owners shall not alter, remove, or add improvements to any entry features or streetscapes constructed on any Lot in connection with the original development of the Community, or any part of any easement area associated therewith without prior approval in accordance with the provisions of Article 6 of this Declaration.

Section 7.22. Tree Removal. No trees located on a Lot having a diameter of six (6) inches or more (measured from a point two (2) feet above ground level) and a height of more than ten (10) feet above the ground shall be removed without the prior written consent of the Architectural Review Committee, except for (i) diseased or dead trees; (ii) trees needing to be removed to promote the growth of other trees or for life-safety reasons; (iii) trees the main trunk of which are within ten (10) feet of the Residence, driveway, or



walkways constructed or to be constructed on a Lot. Owners acknowledge that there may also be applicable Laws restricting tree removal, and in the event of any conflict between such Laws and this Declaration, the more restrictive provision shall apply. Owner shall provide the Board with documentation explaining why a tree that meets the requirements of Subsections (i) or (ii) above needs to be removed (such as a letter from an arborist) prior to removing such tree. This provision shall not apply to the removal of trees by Declarant or the Association. Notwithstanding anything to the contrary stated in this Declaration, in the event a diseased or dead tree located on the Common Property that was originally planted by Declarant is removed by the Association, the Association shall replace such removed tree with one of the same species and similar size if reasonably available.

Section 7.23. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, storm drains or by installation of fencing. Declarant hereby reserves a perpetual easement across the Community for the purpose of altering drainage and water flow. 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 expense.

Section 7.24. Sight Distance at Intersections. All property located at street intersections and at the intersections of streets and driveways shall be landscaped so as to permit safe sight across the corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight distance problem.

Section 7.25. Subdivision of Lots; Boundary Line Changes. No Lot shall be subdivided, or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant, however, hereby expressly reserve the right to subdivide, combine and/or replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 7.26. Mailboxes. The Community will contain a central mailbox area and/or mailbox kiosk area as determined by the Board or as installed by Declarant and maintained by the Association.

Section 7.27. Address Markers. All address markers and/or address posts shall be of the same type and color as originally installed on a Lot and any modification to or change in address markers and/or address posts shall require the prior written approval of the Architectural Review Committee pursuant to Article 6 hereof.

Section 7.28. Recreational Equipment. No recreational or playground equipment including, but not limited to, swing sets, jungle gyms, playhouses, trampolines, tennis courts, and basketball goals, shall be erected, constructed, or installed on any Lot unless its location, design, and type are approved by the Architectural Review Committee.

Section 7.29. Window Treatments. All window treatments visible from the exterior of the front of such Residence shall be white, off-white or another color approved in writing by the Architectural Review Committee. In no event should bed sheets, blankets, plastic, paper, foil, or similar type items be used as window treatments.

Section 7.30. Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Community without the prior written consent of the Master Board of Directors.

Section 7.31. Lighting. Except as may be permitted by the Architectural Review Committee, exterior lighting, and decorations visible from the street shall not be permitted except for (i) approved lighting as originally installed on a Lot; (ii) streetlights in conformity with an established street lighting program for the



Master Community; and (iii) reasonable seasonal decorative lights as permitted under the Master Rules and Regulations.

Section 7.32. Solar Panels. Notwithstanding any provision to the contrary contained in this Declaration, Owners shall be permitted to install solar panels on portions of the roof of the Residence, provided that solar panels are not visible from the front of the Lot.

Section 7.33. Sidewalks. Other than sidewalks and walkways constructed in the Community by Declarant, all sidewalks and walkways are subject to approval or disapproval under Article 6 herein.

Section 7.34. Erosion Control and Contamination. No activity which may create erosion or siltation problems in the Community shall be undertaken on any Lot without the prior written approval of the Architectural Review Committee or its designee, of plans and specifications for the prevention and control of such erosion or siltation. Such plans and specifications shall be designed by a professional engineer licensed in the State of Georgia and all costs and expenses related thereto shall be borne exclusively by the Owner of such Lot. The Architectural Review Committee or its designee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, clean-up activities and requiring landscaping as provided for in this Section 7.34. No activity which results in contamination of or any damage to any stream, water course or any other Lot shall be conducted on any Lot, and each Owner shall be liable for all resulting damages from such activity and for restoration of a property damaged from contamination resulting from or attributable to such activity. In addition, prior to commencing any structures and improvements on a Lot, the Owner of such Lot and any builders, subcontractors, or other agents of such Owner, shall fulfill their obligations to comply with the requirements of the State of Georgia Department of Natural Resources, Environmental Protection Division or any other Governmental Agency having jurisdiction thereof.

Section 7.35. Buffer and Improvement Setbacks. The Community may contain setbacks, undisturbed buffers, zoning buffers, and/or undisturbed buffer areas, or similarly named areas, as may be shown on the Plat(s) or identified as zoning conditions affecting the Community. Any buffer areas shall exist as undisturbed natural buffer areas of existing vegetation. Without the approval of the Architectural Review Committee, an Owner shall not disturb any undisturbed buffer areas in any way, including, without limitation, the construction of any improvements in the undisturbed buffer, landscaping, or cutting of trees, bushes, or other vegetation. In addition, no improvements may be erected within any impervious setback area without the approval of the Architectural Review Committee. Furthermore, an Owner shall not maintain or trim the vegetation in any undisturbed buffer or impervious setback areas. The Association is allowed to maintain and trim the vegetation in any undisturbed buffer or impervious setback areas at the direction of the Board, but only in accordance with all applicable zoning and code requirements.

Section 7.36. Wireless Internet System. An Owner or Occupant may install a wireless internet communication network or similar system ("WiFi System") or otherwise use a WiFi System in a Residence, provided precautions are taken to insure against interfering with, disturbing or intercepting computer, communications or other permitted electronic signals, networks or systems installed in other portions of the Community. The Association may establish reasonable requirements relating to the installation of WiFi Systems that must be complied with, including, without limitation, requiring assurance from the installer of the system that proper precautions are being taken.

Notwithstanding the above, compliance with requirements relating to the installation of WiFi Systems is not a guarantee that any WiFi System installed or otherwise used in a Residence will not interfere with, disturb, or intercept other signals, networks, or systems. Each Owner is responsible for insuring that the WiFi System installed or otherwise used in such Owner's Residence does not so interfere with, disturb, or intercept other signals, networks, or systems within the Community. The Association may require that any WiFi System found to cause such problems be terminated.



The Association, Declarant, and their respective current and former partners, members, directors, officers, agents, employees, affiliates, and committee members, shall not in any way be considered insurers or guarantors of the availability, proper operation, or use of any WiFi System in the Community, nor shall any of such Persons be held liable for any loss or damage relating to the use or operation of WiFi Systems in the Community.

Section 7.37. Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept on, parked on, stored on, or removed from any part of the Common Property without the prior written consent of the Board, except as specifically provided in this Declaration. Unless permitted by the Board of Directors, there shall be no gardening or landscaping on the Common Property (except for those portions of the Common Property that are specifically designated by the Board as a "community garden") by Owners or Occupants without the prior written consent of the Board. This Section 7.37 shall not apply to Declarant during the Development Period.

ARTICLE 8. MAINTENANCE; CONVEYANCE OF COMMON PROPERTY TO THE ASSOCIATION

Section 8.1. Association's Responsibility. The Association shall maintain and keep in good repair the Areas of Common Responsibility to the extent not maintained by a public entity, Governmental Authority, the Master Association, or owners of a neighboring property. The Association shall perform all maintenance in a manner consistent with the Master Community-Wide Standard and shall include, without limitation, the following:

- (i) all storm water drainage systems and storm water retention detention or ponds and structures located in the Community, if and to the extent such ponds are not maintained by a public entity, Governmental Authority, Master Association, or owners of a neighboring property;
- (ii) all entrance features in the Community whether located on a Lot or on the Common Property;
- (iii) driveways and sidewalks located within the Community;
- (iv) any streets and roads located within the Community;
- (v) all landscaping and greenspaces located within the Community, except for those portions located within a Fenced Area of a Lot, or maintained by the Master Association;
- (vi) all street lighting located within the Community;
- (vii) any central mailbox areas and mailbox kiosks located within the Community;
- (viii) any Community fencing (as determined by the Board) which is located on Lots but not Fenced Areas;
- (ix) certain exterior portions of the Residences as provided in Section 8.3 below;
- (x) all pipes, wires, conduits, and lines which serve more than (1) Lot or the Common Property, including, without limitation, water and sanitary sewer pipes or facilities and fire lines, if and to the extent the same are not maintained by the Master Association, a Governmental Authority, or another third party.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether located within or outside the Community, where the Board has determined that such maintenance would benefit the Association.



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

Section 8.2. Owner's Responsibility. Except as provided in Section 8.1 above or Section 8.3 below and unless such maintenance responsibility is otherwise assumed or assigned to the Association pursuant to this Declaration or assumed or assigned to the Master Association pursuant to the Master Declaration, all maintenance of the Lots and all structures, parking areas, landscaping within Fenced Areas (if any), and other improvements on a Lot shall be the sole responsibility of the Owner, who shall maintain, repair, and replace such areas in a manner consistent with the Master Community-Wide Standard and this Declaration. Such obligation shall include, without limitation, the following:

- (i) prompt removal of all litter, trash, refuse, and waste;
- (ii) keeping improvements and exterior lighting in good repair and working order;
- (iii) all portions of the Lot as provided in Section 8.3 below; and
- (iv) all pipes, wires, and conduits, including, without limitation, plumbing, electric and sanitary sewer systems, which exclusively serve the Lot.

No landscaping shall be installed except in accordance with the Declaration and the Master Declaration. In the event that the Board of Directors determines that such areas are not maintained in a manner consistent with the Master Community-Wide Standard and this Declaration, except in an emergency situation, the Board of Directors shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall state the maintenance, repairs, or replacement deemed necessary. The Owner shall have thirty (30) days after receipt of the notice to complete the maintenance, repair, or replacement. In the event that the maintenance, repair, or replacement is not capable of completion within a thirty (30) day period, the Owner shall begin the work and shall complete it within a reasonable time. If the Board determines that (i) an emergency exists, or (ii) that an Owner has not complied, the Association may provide the maintenance, repair, or replacement at that Owner's sole cost and expense, and all costs including reasonable attorneys' fees shall be added to and become a part of the Assessment obligation of the Owner and shall become a lien against the Lot.

Section 8.3. Exterior Lot Maintenance.

(a) By the Association. The Association shall maintain and keep in good repair the following exterior portions of the Residence located on a Lot: (i) exterior surfaces of garage doors (excluding the obligation to replace any garage door); (ii) the roof decking and shingles or other covering and surface materials of Residences; (iii) the downspouts and gutters; and (iv) exterior painting and/or pressure washing, including, without limitation any patios or deck appurtenant thereto. All maintenance performed by the Association shall be in accordance with a schedule determined by the Board in its sole discretion.

(b) By the Owner. Each Owner shall be responsible for maintaining and keeping in good repair the following: (i) steps, decks (whether enclosed or not) and deck surfaces (including joists and structural components), balconies, rooftop terraces, patios (whether enclosed or not) and patio surfaces and landscaping within Fenced Areas, if any, except for periodic pressure washing and/or staining by the Association as provided in Subsection (a) above; (ii) HVAC or similar equipment, regardless of whether the same is located outside the boundary of a Lot; (iii) all doors, including screen and storm doors, hinges, frames and door frames and hardware which



are part of the entry system; (iv) hose bibs contained in exterior walls of a Lot; (v) lighting fixtures pertaining to a particular Lot and being located outside an entryway or in a garage; (vi) window screens, window frames and glass; (vii) foundations and footing, including waterproofing, either above or below grade and all structural components of the Lot; (viii) except as otherwise specifically provided herein, any pipe, wire, line and conduit which serves only one (1) Lot, regardless of whether such pipe, wire, line or conduit is located within or outside of the Lot's boundaries; and (ix) all other portions of the Lot and the Residence located thereon which are not maintained by the Association pursuant to Section 8.3(a) hereof.

(c) Additional. The Board of Directors may promulgate Rules and Regulations setting forth the extent of maintenance to be performed by the Association and may assume responsibility for providing additional maintenance, including, but not limited to, siding and fencing. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform maintenance hereunder on behalf of the Association.

Section 8.4. Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary as the composition of the Board of Directors changes. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article 6. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations by the Board.

Section 8.5. Party Walls and Fences

(a) General Rules of Laws to Apply. Each wall or fence built as a part of the original construction on the Lots which shall serve and or separate any two (2) adjoining Lots shall constitute a party wall or party fence, as applicable. To the extent consistent with the provisions of this Section 8.5, the general rule of law regarding the party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. No Owner shall make any modification to a party that may compromise the structural integrity of the adjacent Lot, acoustic privacy, or fire rating.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared equally by the Owners who make use of the wall or fence.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the party wall or fence may restore it. If other Owners thereafter use the wall or fence, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section 8.5 shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

Section 8.6. Mold Disclosure and Waiver. Mold, mildew, fungi, and microbiological organisms (collectively, "Mold") are present in soil, air and elsewhere in the environment. Mold can proliferate in various environments, including, among others, damp areas such as bathrooms and within walls and partitions. Concerns have been expressed about the possible adverse effects on human health from exposure to Mold. According to the Consumer Product Safety Commission and the American Lung Association, some diseases or illnesses have been linked with biological pollutants in the indoor environment, including some forms of Mold. However, it is believed that many of these conditions may also have causes unrelated to the indoor environment. Therefore, as of the date of this Declaration, it is unknown how many potential health problems relate primarily or exclusively to indoor air quality or Mold. Declarant



and the Association are not qualified and have not undertaken to evaluate all aspects of this very complex issue. Declarant and the Association have not performed any testing or evaluation of, and make no representations or warranties, express or implied, concerning the past, current, or future presence or absence of Mold on a Lot (or the Residence located thereon) or within the vicinity of the Community. Declarant and the Association recommend that each Owner, at the Owner's expense conduct its own investigation and consult with such experts as the Owner deems appropriate regarding the occurrence and effects of Mold, the potential sensitivity or special risk the Owner, Owner's family members, and other individuals, who will occupy or use a Lot (or the Residence located thereon).

When excessive moisture or water accumulates indoors, Mold growth can and will occur, particularly if the moisture problem remains unaddressed. There is no practical way to eliminate all Mold in an indoor environment. The key to controlling indoor Mold growth is to control moisture. Each Owner shall maintain Owner's Lot (and the Residence located thereon) in such a manner as to reduce the potential for increased Mold formation or growth, including, without limitation, keeping dryer and other vents and/or fans clear and functioning and preventing and repairing plumbing, window and other leaks and sources of moisture. Each Owner shall conduct periodic inspections of Owner's Lot (and the Residence located thereon) and any other portion of the Community for which the Owner is responsible to maintain, for the presence of Mold or conditions that may increase the ability of Mold to propagate within Owner's Lot (and the Residence located thereon) or other portions of the Community. Furthermore, each Owner shall monitor Owner's Lot (and the Residence located thereon) and any other portion of the Community for which the Owner is responsible to maintain, on a continual basis for excessive moisture, water, or Mold accumulation. If water or moisture is discovered in or around an Owner's Lot (and the Residence located thereon), such Owner shall immediately seek to eliminate the source of the water or moisture. Failure to eliminate the source of moisture can result in additional damage and the growth of Mold. Declarant will not be responsible for damages, and each Owner, by taking title to a Lot, hereby waives all rights to damages and subrogation of damages. Each Owner shall defend and indemnify Declarant and the Association and hold Declarant and the Association harmless from damages, including all cases of personal injury or property damage, caused by the presence of Mold and/or water or moisture on a Lot (and the Residence located thereon) or other portions of the Community to the extent that the damages are caused by: (i) the Owner's negligence or failure to properly maintain and monitor Owner's Lot (and the Residence located thereon) or other portions of the Community for which the Owner is responsible for maintaining or (ii) the Owner's failure to promptly take appropriate corrective measures and minimize any damage caused by water or moisture (including, without limitation, failure to promptly notify and engage the help of appropriate professionals or experts).

ARTICLE 9. INSURANCE AND CASUALTY LOSSES

Section 9.1. Association Insurance Responsibilities.

(a) Casualty Insurance.

(i) The Board of Directors shall utilize commercially reasonable efforts to secure a blanket hazard insurance policy for the Common Property providing "special perils" coverage in an amount equal to full replacement cost, before application of deductibles, of all improvements and structures located thereon. The Board may also insure such other insurable improvements on the Lots that the Association elects (but is not obligated) to insure.

(ii) If "special perils" coverage is not reasonably available at reasonable cost, the Board shall obtain, at a minimum, fire, and extended coverage for the Common Property, including coverage for vandalism and malicious mischief, in like amounts.

(iii) The Association may exclude from coverage required by this Section 9.1 items covered by builder's risk insurance, such coverage to be in an amount consonant with the full



replacement value thereof, but only during such period of time as the builder's risk insurance remains in full force and effect.

(iv) All property insurance obtained by the Association pursuant to this Declaration shall designate the Association as the named insured

(b) Liability Insurance.

(i) The Association, acting through the Board of Directors, shall obtain commercial general liability insurance of not less than One Million Dollars (\$1,000,000) for a single occurrence and Two Million Dollars (\$2,000,000) aggregate and such other coverage required by the Master Declaration. The general liability policy or policies shall cover occurrences commonly insured against arising out of or in connection with the use, ownership, or maintenance of the Common Property and other portions of the Community which the Association has the responsibility to maintain.

(ii) All liability insurance obtained by the Association pursuant to this Declaration shall cover the Association and the officers, agents and employees of the Association, the Owners, and their respective Mortgagees. The Association shall be designated as the named insured, individually and as agent for the Owners collectively, without naming them individually, and as agent for their respective Mortgagees.

(c) Other Insurance. The Board shall obtain as a Common Expense: workers' compensation insurance if and to the extent necessary to meet the requirements of law;

(ii) officers' and directors' liability insurance in such amounts as the Board may determine;

(iii) any other insurance the Association is required to obtain by the Master Declaration;

(iv) if reasonably available, fidelity bonds or employee dishonesty insurance, covering officers, directors, employees, and other Persons who handle or are responsible for handling Association funds. Such bonds or insurance, if reasonably available, shall be in an amount consistent with the best business judgment of the Board of Directors, but in no event less than three (3) months Assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on the implementation of financial controls which take one or more of the following forms: (i) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (ii) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (iii) two (2) members of the Board of Directors must sign any checks written on the reserve account; and

(v) such other insurance as the Board of Directors may determine to be necessary or desirable.

Section 9.2. Owners' Insurance Responsibilities.



(i) The Association has no obligation to obtain and maintain insurance covering an Owner's Lot or the personal property and any Owner or Occupant.

(ii) Each Owner or Occupant shall be responsible for insuring their respective personal property. Except if insured by the Master Association or Association (but without any such obligation for the Association), every Owner shall obtain and maintain at all times insurance covering the full insurable replacement value of improvements and betterments in Owner's Residence.

(iii) Each Owner shall obtain and maintain personal liability insurance of not less than Two Hundred Thousand Dollars (\$200,000) per occurrence (or such higher amount as may be requested by the Board or required by the Master Declaration) for bodily injury and property damage and shall name the Association as an additional insured. Such policies shall provide a waiver of recovery and subrogation in favor of the Association.

(iv) Upon request by the Association, the Owner shall furnish a copy of any required insurance policy or policies to the Association. In the event that any such Owner fails to obtain insurance as required by this Section 9.2, the Association may (but shall not be obligated to) purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner as a Specific Assessment.

Section 9.3. Other Requirements.

(i) All policies of insurance shall be written with an insurance company licensed or authorized to do business in the State of Georgia. The company shall provide insurance certificates to each Owner and each Mortgagee upon request.

(ii) The Board shall use reasonable efforts to obtain policies that will provide the following:

(A) the insurer waives its rights of subrogation of any claims against directors, officers, and the Owners;

(B) any "other insurance" clause contained in any policy obtained by the Association shall expressly exclude individual Owners' policies from its operation;

(C) until the expiration of thirty (30) days after the insurer gives notice in writing to any Eligible Mortgage Holder, the Eligible Mortgage Holder's insurance coverage will not be affected or jeopardized by any act or conduct of the Owner of such Lot, the other Owners, the Board of Directors, or any of their agents or employees, provided, however, only ten (10) days written notice shall be required for cancellation for nonpayment of premiums;

(D) the policies may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days prior notice in writing to the Board of Directors, the Owners, and all Eligible Mortgage Holders, provided, however, only ten (10) days written notice shall be required for cancellation for nonpayment of premiums; and

(E) an agreed amount endorsement waiving co-insurance limitations in the Association's property insurance policy waiving co-insurance limitations.

(iii) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, no Mortgagee having an interest in



such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(iv) In no event shall the insurance coverage obtained and maintained by the Association hereunder be brought into contribution with insurance purchased by individual Owners or their Mortgagees.

(v) The Board of Directors shall, at least every two (2) years, conduct an insurance review to determine if the policy in force is adequate to meet the needs of the Association and to satisfy the requirements of this Article 9. Such responsibility may be performed, and shall be deemed reasonably performed, by the Board requesting the Association's insurance agent and/or other qualified Person verify that insurance policies in existence meet the needs of the Association and satisfy the requirements of this Article 9.

Section 9.4. Repair and Reconstruction.

(a) Common Property. Subject to the Master Declaration, in the event of damage to or destruction of all or any part of the Common Property as a result of fire or other casualty, unless within sixty (60) days after the casualty, Owners holding at least two-thirds (2/3) of the Total Association Vote and Declarant (during the Development Period) agree not to repair or rebuild, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the Common Property. In the event of substantial damage or destruction, each Eligible Mortgage Holder shall be entitled to written notice of the damage and nothing in the Declaration shall be construed to afford a priority to any Owner with respect to the distribution of proceeds to any such Lot.

(b) Lots. Subject to the Master Declaration, the damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be commenced by the Owner within seventy-five (75) days after the damage or within the required period and shall be diligently and continuously pursued until their completion. The foregoing shall not apply to any Lot to the extent such Lot is insured by the Association in which case the Association (to the extent of its insurance obligation) shall be responsible for, in good faith and with due diligence, settling the loss and restoring the damaged or destroyed portion.

Section 9.5. Cost Estimates. Promptly after a fire or other casualty causing damage to the Common Property, the Board of Directors shall obtain reliable and detailed estimates of the cost of repairing and restoring the Common Property to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board of Directors determines to be necessary.

Section 9.6. Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the costs of reconstruction and repair of the Common Property, the additional costs shall be assessed against all Owners as Special Assessments. If there are surplus funds after repair and reconstruction is completed, such funds shall be common funds of the Association to be used as directed by the Board of Directors.

Section 9.7. Encroachments. Encroachments upon or in favor of Lots that may be created as a result of any reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the improvements in the Community were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the reconstructed improvements shall stand.

Section 9.8. Construction Fund. The net proceeds of the insurance collected by the Association on account of a casualty and the funds collected by the Association from Assessments against



Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Article 9 to be disbursed by the Association in reasonably appropriate progress payments to such contractor(s), supplier(s) and personnel performing the work or supplying materials or services for the repair and reconstruction of the Common Property or Lot(s) as are designated by the Board of Directors. This Section 9.8 shall not apply to the net proceeds of insurance from policies carried by an Owner (and not the Association).

ARTICLE 10. CONDEMNATION

Subject to the Master Declaration, in the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after the taking, Owners holding at least eighty percent (80%) of the Total Association Vote other than Declarant and the Declarant otherwise agree, the Association shall restore or replace the improvements taken on the remaining land included in the Common Property to the extent lands are available.

In addition, subject to the Master Declaration, if any portion of the Common Property is taken by eminent domain, the award therefor shall be allocated to the Owners on an equal basis; provided, however, that the portion of the award attributable to the taking of any permanently assigned Exclusive Common Property shall be allocated to the Owner of the Lot to which that Exclusive Common Property was so assigned at the time of the taking. If any Exclusive Common Property is permanently assigned to more than one (1) Lot at the time of the taking, the portion of the award attributable to the taking thereof shall be allocated in equal shares to the Owners of the Lots to which it was so assigned.

Any or all of the matters which, under this Article 10, are prescribed for the determination of a court may instead be resolved by Amendment to the Declaration agreed to by Owners holding a Majority of the Total Association Vote, including the Owner(s) of all Lots wholly or partially taken, or to which there is appurtenant any Exclusive Common Property wholly or partially taken, together with the Mortgagee of each such Lot.

ARTICLE 11. MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article 11 apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 11.1. Notices of Action. An Eligible Mortgage Holder, who provides a written request to the Association (such request to state the name and address of such Eligible Mortgage Holder and the Lot number) will be entitled to timely written notice of:

- (i) any condemnation loss or any casualty loss which affects a material portion of the Community, or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder;
- (ii) any delinquency in the payment of Assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;
- (iii) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or



(iv) any proposed action, which would require the consent of a specified percentage of Mortgagees.

Section 11.2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Association easement areas.

Section 11.3. Notice to the Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 11.4. Liability for Common Expenses. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or Assessments by the Association chargeable to such Lot which became due prior to such acquisition of title unless otherwise required by applicable law. Such unpaid share of Common Expenses or Assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors, and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title.

Section 11.5. Applicability of this Article 11. Nothing contained in this Article 11 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article 11.

Section 11.6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within sixty (60) days of the date of the Association's request.

ARTICLE 12. EASEMENTS

Section 12.1. Easements for Utilities. There is reserved to Declarant and the Association blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (i) all utilities serving the Community or any portion of the Common Property, including, but not limited to, gas, water, sanitary sewer, telecommunications, and electricity, (ii) water runoff and storm drainage systems, and (iii) any other services such as, but not limited to, a master television antenna system, cable television system, or security system which may be installed to serve the Community. It shall be expressly permissible for Declarant, the Association, or the designee of either, to do or to authorize the installation, repairing, replacing, and maintaining of the wires, conduits, cables, and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, Declarant or Board, as applicable, shall have the right to grant such easement.

To the extent that any utility line, pipe, wire, or conduit serving any Lot shall lie wholly or partially within the boundaries of another Lot or the Common Property (including, but not limited, within the foundation or concrete slabs), such Lot or Common Property shall be burdened with a non-exclusive easement for the use, maintenance, repair and replacement of such utility line, pipe, wire or conduit, such non-exclusive easement to be in favor of the Lot served by the same. It shall be the obligation of the benefited Owner to maintain, replace and repair any pipe, line, conduit, duct, or wire owned by such Owner, even if such pipe, line conduit, duct or wire is located within the boundaries of a Lot of another Owner. In such circumstance, the benefited Owner shall repair all incidental damage to any Lot resulting from performance of any such work.



Section 12.2. Easement for Entry. The Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. This right may also be exercised by the agents of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. The Board shall have the right to enter to cure any condition that may increase the possibility of a fire, slope erosion, or other hazard if an Owner or Occupant does not cure the condition after request by the Board and in such event, the Owner shall be obligated to reimburse the Association for the cost of curing such condition and the Association may charge such cost to the Lot, as a Specific Assessment. For purposes of this Section 12.2, a water or other utility leak, fire, strong foul odor, obvious insect infestation, or sounds indicating that a person or animal might be injured or sick and require immediate medical attention shall be considered emergencies justifying immediate entry onto any Lot. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a property shall exist.

Section 12.3. Use and Enjoyment. Each Owner shall have a right and a non-exclusive easement of use and enjoyment in and to the Common Property (including the right of access, ingress and egress to and from his, her or its Lot over those portions of the Community designated for such purpose), and such non-exclusive easement shall be appurtenant to and shall pass with the title to such Lot, subject to (i) to the right of the Association to control the use and enjoyment of the Common Property as provided by the terms of this Declaration including, but not limited to, the right of the Association to suspend voting and use privileges as provided herein; (ii) the right of the Association to discharge its rights and obligations, under the Community Instruments, including without limitation, the repair and maintenance responsibilities of the Association; (iii) the right of the Association to borrow money and to grant as security for the payment of such loan all or any portion of the Common Property; and (d) the right of the Association to dedicate or grant licenses, permits, easements, and rights of way over, under, and through the Common Property.

Section 12.4. Easement for Maintenance. Declarant expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, including any Lot, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required pursuant to this Declaration. This maintenance shall be performed with a minimum of interference to the quiet enjoyment of a Lot.

Section 12.5. Support. Every portion of a Lot contributing to the support of improvements on an abutting Lot shall be burdened with a non-exclusive easement of support for the benefit of such abutting Lot.

Section 12.6. Encroachments and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and adjacent portion of the Common Property or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). However, an easement for encroachment shall not exist if the willful conduct by an Owner, Occupant, or the Association caused the encroachment.

Section 12.7. Construction and Sale Period Easement. Notwithstanding anything to the contrary stated in the Community Instruments, during the Development Period, Declarant reserves an easement across all property in the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibit "A" to this Declaration and the Additional Property, including, but without limitation, (i) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot; (ii) the right to tie into any portion of the Community with driveways, parking areas and walkways; (iii) the right to tie into and/or otherwise connect and use (without a tap-on or any



other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (iv) the right to grant easements over, under, in or on the Community, including, without limitation, the Lots, for the benefit of the Additional Property for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (v) the right to carry on sales and promotional activities in the Community; (vi) the right to erect and maintain signs; (vii) the right to construct and operate business offices, construction trailers, model residences, and sales offices; and (viii) the right to use the parking facilities within the Community. Declarant may use Residences, offices, or other buildings owned or leased by Declarant as model residences and sales offices. Rights exercised pursuant to the reserved easements in this Section 12.7 shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section 12.7 shall not be amended without Declarant's express written consent until Declarant's rights hereunder have terminated as hereinabove provided.

Section 12.8. Easement for Entry Features and Street Signs. There is hereby reserved to Declarant, and granted to the Association, and the designees of either, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to grade the land under and around the entry features.

Section 12.9. Easements for Drainage. There is hereby reserved to Declarant and the Association an easement upon, across, above and under all storm water drainage easement areas as shown on the Plat(s) for access, ingress, egress, installation, alteration, repairing, replacing, and maintaining the storm water drainage system and related facilities serving the Community or any portion thereof (but without obligation on the part of Declarant). Areas of storm drainage piping and retention or detention ponds within the Community may be maintained by governmental entities and such governmental entities may have easements over, across and under such areas. This easement shall include the right (but not obligation on the part of Declarant) to construct and maintain catch basins, retention or detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill, except as otherwise handled by governmental entities. In addition, there is hereby reserved to Declarant and granted to the Association a blanket easement across all Lots for creating and maintaining satisfactory drainage in the Community (but without obligation on the part of Declarant); provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. It is anticipated that increased storm water run-off across downstream Lots will result from the construction of impervious surface in the Community. Neither Declarant nor the Association (or any builder or Owner) constructing according to plans and specifications approved or deemed approved under Article 6 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from such construction.

Section 12.10. Public in General. The easements and rights created in this Article 12 do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, that nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights are previously recorded in the Official Records or which may exist in favor of property owners adjoining the Community. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon fifteen (15) days prior written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Community), all or any portion of the Community which, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Declaration.



Section 12.11. Cooperation. All easements granted in this Declaration and the use thereof, shall be deemed to be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted. Each Owner agrees to cooperate with the reasonable requests of the other Owner and Association in furtherance of the spirit and intent of the matters addressed in this Declaration.

Section 12.12. Damages Resulting From the Exercise of Easement Rights. Rights exercised pursuant to the exercise of the easement rights granted in this Declaration 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 the Person causing the damage shall be responsible for any related expenses of damage (including, but not limited, to reasonable attorneys' fees actually incurred).

ARTICLE 13. ANNEXATION AND WITHDRAWAL OF PROPERTY

Section 13.1. Annexation by Declarant. For thirty (30) years after the Effective Date, Declarant shall be entitled to unilaterally annex a portion or all of the Additional Property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Official Records a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall require the signature of the Declarant only (and owner of the subjected property if not Declarant) and shall be effective upon the filing for record of such Supplemental Declaration, unless otherwise provided in such Supplemental Declaration.

Section 13.2. Annexation by Association. Subject to the consent of the owner, upon the affirmative vote, or written consent, or any combination thereof, of Owners holding a majority of the Total Association Vote, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Official Records a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing in the Official Records of such Supplemental Declaration, unless otherwise provided in the Supplemental Declaration.

Section 13.3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article 13 for the purpose of removing any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

Section 13.4. Additional Covenants and Easements. Declarant may unilaterally subject any portion of the Community submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property and shall require the written consent of the owner(s) of such property, if other than Declarant.

ARTICLE 14. DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

Section 14.1. General. Declarant, Owners, Occupants, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article 14 (individually, a "**Bound Party**" and collectively, the "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage a resolution of disputes



involving the Community and this Declaration without the emotional and financial costs of litigation. Instead, the Bound Parties agree to the following dispute resolution procedures.

Section 14.2. Claims. The following actions shall not constitute a Claim and shall not be subject to the provisions of this Article 14:

- (i) suit by the Association against a Bound Party to enforce the provisions of Article VI of this Declaration;
- (ii) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary to maintain the status quo and preserve the Association's ability to enforce the provisions of the Articles VII and VIII of this Declaration;
- (iii) any suit between Owners that does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Instruments; and
- (iv) any suit in which any indispensable party is not a Bound Party.

Section 14.3. Notice. The Bound Party asserting a Claim against another Bound Party ("**Respondent**") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and
- (iii) the resolution or remedy proposed by the Bound Party asserting a Claim; and
- (iv) that the Bound Party asserting a Claim will meet with the Respondent to discuss in good faith ways to resolve the Claim.

Section 14.4. Hearing. Prior to filing any Claim against the Association, the Board, or any officer, director, or property manager of the Association, an Owner or Occupant must request and attend a hearing with the Board. Any such request shall be in writing and shall be personally delivered to any member of the Board or the property manager, if any, of the Association. The Owner or Occupant shall, in such request and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner or Occupant's grievance. Upon receiving a request for a hearing, the Board shall give notice of the date, time, and place of the hearing to the Owner or Occupant requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) or more than twenty-one (21) days from the date of receipt of the request, except with approval of such Owner or Occupant.

Section 14.5. Waiver of Jury Trial; Mediation and Arbitration. If the Board is unable to resolve the dispute to the satisfaction of the Owner or Occupant at the hearing described in Section 14.4 above (the "**Dispute**"), then the Board may require that such Dispute be submitted to mediation before an agency or entity selected by the Board providing certified mediation services in Fulton County, Georgia or the metropolitan Atlanta area, and the Owner or Occupant agrees to participate in such mediation. Owner or Occupant further agrees that its participation in mediation is a condition precedent to such Owner or Occupant pursuing any other available remedy in relation to the Dispute. If the Board requires mediation, then the Board shall give written notice to the Owner or Occupant of the Board's desire to commence mediation, and a mediation session must take place within thirty (30) days after the date that such notice is given. The Board and Owner or Occupant further agree to share equally the costs of the mediation, which



costs will not include costs incurred by a party for representation by counsel at the mediation. If the Board and Owner or Occupant are unable to reach a settlement after mediating for not less than two (2) eight (8) hour sessions then the parties agree to submit any unresolved disputes to binding arbitration in accordance with O.C.G.A. § 9-9-1, *et seq.*, and the Commercial Arbitration Rules of the American Arbitration Association, as in effect on the Effective Date. The decision of the arbitrator shall be final, and the arbitrator shall have authority to award reasonable attorneys' fees actually incurred and allocate the costs of arbitration as part of any final award. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

Section 14.6. Standing to Bring a Claim. All Owners hereby acknowledge and agree that the Association shall not be entitled to bring a Claim against any Person that is based on any alleged defect in any Lot, or any damage allegedly sustained by any Owner by reason thereof, but rather, that all such actions shall be instituted by the Person(s) owning such Lots or allegedly sustaining such damage. Furthermore, Each Owner hereby acknowledge and agree that no Owner shall be entitled to bring a Claim against any Person that is based on any alleged defect in the Common Property, but rather, that all such Claims shall be instituted by the Association on behalf of the Owners.

Section 14.7. Claims by an Owner.

(a) General. Prior to filing any Claim relating to alleged physical damage or defects to a Lot, the Owner of such Lot, as the "Claimant" shall comply fully with the pre-action conditions set forth in the Right to Repair Act. In the event that Claimant fails to comply fully with the pre-action conditions set forth in the Right to Repair Act, Claimant shall be responsible for all reasonable attorneys' fees and expenses actually incurred by Declarant or its Contractors in obtaining a stay of the legal proceeding and/or responding to the Claim. Within the earlier of (i) thirty (30) days after Claimant's discovery of any alleged physical damage or defects to the Lot, or (ii) thirty (30) days after Claimant should have known of the alleged physical damage or defects to the Lot (referred to this Section 14.7(a) as an "**Owner Claim Period**"), Claimant shall provide written notice describing in detail the basis for such Claim and the repairs and/or alterations reasonably necessary to remedy the alleged defect or damage. Claimant's failure to provide prompt written notice to Declarant or its Contractors within an Owner Claim Period shall constitute a waiver by Claimant of any potential obligation of Declarant or its Contractors to remedy the alleged physical damage or defects to the Lot and any Claim related thereto.

(b) Limitation Period. The exclusive period of limitation for an Owner to bring any Claim of any nature against Declarant or its Contractors, including, but not limited to, a Claim of construction defect or defective design of a Lot, shall be the earliest of: (i) for Claims alleging construction defect or defective design, one (1) year from the date that the Owner or Occupant discovered or reasonably should have discovered evidence of the Claim; provided, however, in no event shall the limitation period exceed two (2) years from the date Declarant conveyed the Lot to the original Owner unless the basis of the Claim was intentionally concealed or willfully concealed by Declarant or its Contractors, in which case, the state law governing the limitation period shall apply to the Claim; (ii) for Claims other than those alleging construction defect or defective design, two (2) years after the date Declarant conveyed the Lot to the original Owner or such other shorter period specified in any written agreement between Declarant and the Owner to whom Declarant initially conveyed the Lot, unless the basis of the Claim was intentional fraud or willful misconduct, in which case, the applicable Laws governing the limitation period shall apply to the Claim; or (iii) the end of the statutory period provided under applicable Laws governing the limitation period.

Section 14.8. Claims by the Association.

(a) General. Prior to filing any Claim relating to alleged physical damage or defects to the Common Property (which includes the Exclusive Common Property), the Association, as the "Claimant" shall comply fully with the pre-action conditions set forth in the Right to Repair Act. In the event that Claimant fails to comply fully with the pre-action conditions set forth in the Right to Repair Act, Claimant shall be responsible for all reasonable attorneys' fees and expenses actually incurred by Declarant or its



Contractors in obtaining a stay of the legal proceeding and/or responding to the Claim. Within the earlier of (i) thirty (30) days after Claimant's discovery of any alleged physical damage or defects to the Common Property, or (ii) thirty (30) days after Claimant should have known of the alleged physical damage or defects to the Common Property (referred to this Section 14.8 as an "**Association Claim Period**"), Claimant shall provide written notice describing in detail the basis for such Claim and the repairs and/or alterations reasonably necessary to remedy the alleged defect or damage. Claimant's failure to provide prompt written notice to Declarant or its Contractors within an Association Claim Period shall constitute a waiver by Claimant of any potential obligation of Declarant or its Contractors to remedy the alleged physical damage or defects to the Common Property, and any Claim related thereto.

(b) **Limitation Period.** The exclusive period of limitation for the Association to bring any Claim of any nature against Declarant or its Contractors, including, but not limited to, a Claim of construction defect or defective design of the Common Property, shall be the earliest of: (i) for Claims alleging construction defect or defective design, one (1) year from the date that the Association or its agents discovered or reasonably should have discovered evidence of the Claim; provided, however, in no event shall the limitation period exceed two (2) years from the date Declarant or its Contractors substantially completed the Common Property unless the basis of the Claim was intentionally concealed or willfully concealed by Declarant or its Contractors, in which case, the state law governing the limitation period shall apply to the Claim; (ii) for Claims other than those alleging construction defect or defective design of the Common Property, two (2) years from the date Declarant or its Contractors substantially completed the Common Property unless the basis of the Claim was intentional fraud or willful misconduct, in which case, the applicable Laws governing the limitation period shall apply to the Claim; or (iii) the end of the statutory period provided under applicable Laws governing the limitation.

Section 14.9. Consensus for Association Litigation. Except as provided in this Article 14, no judicial or administrative proceeding shall be commenced or prosecuted by the Association, nor shall the Association participate in any land-use or zoning proceedings (unless reasonably necessary to accommodate an Exterior Architectural Modifications on the Community or to comply with applicable Laws), unless approved by a vote of the Owners as hereinafter provided. The Board shall prepare a budget of the total estimated cost of the litigation or proceeding which shall be submitted to the Owners for a vote along with the estimate of the total cost of the litigation or proceeding made by the attorney being retained by the Association for the litigation or proceeding. The Association shall assess each Owner a Special Assessment for the total estimated costs and fees of the proposed litigation or proceeding and no funds from regular periodic Assessments or capital contributions may be used for such purpose. The proposed litigation or proceeding, the budget, and the Special Assessment for litigation, must all be approved by a vote of the Owners representing at least seventy-five percent (75%) of the Total Association Vote; provided, however, votes appurtenant to any Lot or Lots then owned by Declarant shall be excluded if the proposed litigation or proceeding relates to a claim against Declarant. This Section 14.9 shall not apply, however, to (i) actions involving imposition and collection of Assessments as provided herein, (ii) actions brought by the Association to enforce the covenants in this Declaration (including, without limitation, the foreclosure of liens); (iii) proceedings involving challenges to ad valorem taxation, (iv) counterclaims brought by the Association in proceedings instituted against it, (v) any land-use or zoning proceedings, or (vi) actions brought by the Association for damages in magistrate court. This Section 14.9 shall not be amended unless such amendment is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

ARTICLE 15. GENERAL PROVISIONS

Section 15.1. Duration. The covenants, restrictions and easements of this Declaration shall run with and bind the Community and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by the law shall run with and bind the land



so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of twenty (20) years, unless fifty-one percent (51%) of the Persons owning Parcels execute a document to terminate the covenants containing a legal description of the entire area affected by the covenant, a list of all owners affected by the covenant and a description of the covenant to be terminated or such other requirement as provided in O.C.G.A. § 44-5- 60. A written instrument reflecting any termination must be recorded no sooner than, but within two (2) years immediately preceding the beginning of a twenty (20) year renewal period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance, agrees that provisions of this Declaration may be extended and renewed as provided in this Section 15.1.

Section 15.2. Amendment.

(a) Unilateral Amendment by Declarant. The Community Instruments may be amended unilaterally at any time and from time to time by Declarant (i) if an amendment is necessary to bring any provision into compliance with any applicable Laws with which it is in conflict; (ii) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Parcels subject to this Declaration; (iii) if an amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Parcels subject to this Declaration; or (iv) correct any scrivener's error. However, any such amendment shall not adversely affect the title to any Owner's Parcel unless Owner consents to the amendment in writing. Further, until the expiration of the Development Period, Declarant may unilaterally amend the Community Instruments for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner, nor shall it adversely affect title to any Parcel without the consent of the affected Owner.

(b) Amendment by the Association. Except where a different vote is required for action under any other provision of the Community Instruments, in which case such different vote shall be necessary to amend such provision, the Community Instruments may also be amended by the affirmative vote, written consent or any combination of affirmative vote and written consent of the Owners holding two-thirds (2/3) of the Total Association Vote. Moreover, no amendment to the Community Instruments shall modify, alter or delete any: (i) provision of this Declaration that benefits Declarant; (ii) rights, privileges, easements, protections or defenses of Declarant; or (iii) rights of Owners or the Association in relationship to Declarant, without the written consent of Declarant, as applicable, attached to and recorded with such amendment, until ten (10) years after the expiration of the Development Period.

(c) Certification and Recordation of Amendment. No amendment shall be effective until certified by the president and secretary of the Association and recorded in the Official Records.

(d) Amendment by the Association Without a Vote. Notwithstanding the foregoing, the Association, acting through its Board of Directors and without the necessity of a vote from the Association, may amend the Community Instruments: (i) if an amendment is necessary to bring any provision into compliance with any applicable Laws with which it is in conflict; (ii) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (iii) if an amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (iv) correct any scrivener's error. However, any such amendment shall not adversely affect the title to any Lot unless the Owner of the affected Lot consents to the amendment in writing.

(e) Challenge to Amendment. Any action to challenge the validity of an amendment adopted under this Section 15.2 must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.



Section 15.3. Self-Help Rights.

(i) Notwithstanding anything to the contrary herein contained, the Master Board may elect to enforce any provision of this Declaration, the Bylaws or the Rules and Regulations promulgated and adopted by the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages or both with the obligation to comply with the procedures set forth in this Subsection (i) and in Subsection (ii) below. In any such suit at law or in equity, to the maximum extent permissible, if the Association prevails, the violating Owner ("**Violator**") shall pay all costs, including reasonable attorney's fees actually incurred.

(ii) If self-help is going to be undertaken, the Association, or its duly authorized agent, shall send the Violator a written notice that describes the violation and the Violator's obligations under this Declaration in reasonable detail and request that the Violator thereafter diligently commence and continue the actions necessary to cure such violation within thirty (30) days of the date of receipt of the written notice ("**Notice To Cure**"); provided, however, that (A) in the case of an emergency involving either imminent danger of personal injury or imminent danger of material damage to property or the interruption of utility services or other critical services, there shall be no cure period, and (B) except in the case of such an emergency, if the nature of the failure is such that it is not subject to cure or remedy solely by the payment of money and if the Violator has commenced appropriate curative action prior to the expiration of the cure period and thereafter has diligently pursued the completion of such cure and is continuing to do so, then the cure period shall be extended for such additional period of time, but not more than sixty (60) days, as shall be required to cure such failure with appropriate, diligent and continuous action. If the Violator does not comply with such Notice to Cure, the Association, or its duly authorized agent, shall have the right, but not the obligation, to perform such work as is necessary to cure such violation.

(iii) The right of the Association, or its duly authorized agent to perform any work under the foregoing Subsection (ii) shall be subject to the following conditions and requirements:

(A) A Notice to Cure shall be given to the Violator in accordance with Section 15.3(ii) above;

(B) Such work shall be performed in such a manner as not to cause any unnecessary interruption of or undue interference with the business of the Violator and/or its Occupants;

(C) Such work shall comply with the applicable Laws;

(D) Such work shall be diligently pursued to completion and, upon completion, the Association, its duly authorized agent shall, subject to the work described in Section 15.3 (ii) above, restore the relevant portion of the property as closely as is practicable to the condition that existed immediately before the commencement of such work;

(E) The Association shall indemnify, hold harmless, and defend the Violator from and against any and all expenses, liabilities, obligations, damages, penalties, claims, actions, costs and expenses, including reasonable attorneys' fees actually incurred, in connection with loss of life, bodily injury and/or damage to property caused by the Association, its employees or agents in connection with the performance of such work, except to the extent the same was caused by the negligence or misconduct of the Violator, its employees, licensees or invitees; and

(F) If the Association or its duly authorized agent is performing this self-help work, the Association shall pay for all costs and expenses as and when it incurs them in



connection with any such work performed but shall be permitted to collect all such amounts from the Violator as a Specific Assessment.

Section 15.4. SECURITY. THE ASSOCIATION, THE MASTER ASSOCIATION OR DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SAFETY IN THE COMMUNITY. HOWEVER, EACH OWNER AND OCCUPANT, INDIVIDUALLY AND ON BEHALF OF THEIR RESPECTIVE TENANTS, GUESTS, LICENSEES, AND INVITEES ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION, THE MASTER ASSOCIATION AND DECLARANT ARE NOT PROVIDERS OF SECURITY AND SUCH PARTIES SHALL NOT HAVE A DUTY TO PROVIDE SECURITY FOR THE COMMUNITY. FURTHERMORE, DECLARANT, THE MASTER ASSOCIATION AND THE ASSOCIATION DO NOT REPRESENT THAT: (I) NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS; OR (II) CRIMINAL ACTS WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER AND OCCUPANT TO PROTECT THEIR RESPECTIVE PERSON AND PROPERTY, AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER AND OCCUPANT. DECLARANT, THE MASTER ASSOCIATION AND THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN.

Section 15.5. Dispute Resolution. Any Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any director or officer or any agent of the Association. The Owner or Occupant shall in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time, and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing by the person requesting the hearing.

Section 15.6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 15.7. Services During Declarant Control. Each Owner acknowledges that Declarant and its affiliates may provide services utilized by communities such as the Community including, but not limited to, management services. Each Owner consents and agrees that the Association may enter into service contracts with Declarant and its affiliates.

Section 15.8. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end, the provisions of this Declaration are declared to be severable.

Section 15.9. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 15.10. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then



such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 15.11. Sale of Lots. An Owner intending to make a transfer or sale of a Lot or any interest in a Residence shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish to the Board as part of the notice (i) the name and address of the intended grantee; and (ii) such other information as the Board may reasonably require. This Section 15.11 shall not be construed to create a right of first refusal in the Association or in any third party. Within seven (7) days after receiving title to a Lot, the purchaser of the Lot shall give written notice to the Board of Directors of purchaser's ownership of the Lot. Upon failure of an Owner to give the required notice within the seven (7) daytime period provided herein, the Board may levy fines against the Lot and the Owner thereof and assess the Owner for all costs incurred by the Association in determining Owner's identity.

Section 15.12. Agreements. Subject to the prior approval of Declarant (during the Development Period), all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 15.13. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction, or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate the right or privilege.

Section 15.14. Variances. Notwithstanding anything to the contrary contained in this Declaration, Declarant, as long as it owns a Lot for sale within the Community, and the Board of Directors or its designee shall be authorized, but not required, in its sole discretion to grant individual variances from any of the provisions of this Declaration, the Bylaws, and any rule, regulation, or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case would not materially harm other Owners or negatively affect other Owners' quality of life in the Community.

Section 15.15. Transfer of Declarant's Rights. Any or all of the special rights and obligations of Declarant set forth in this Declaration or the Bylaws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or in the Bylaws, as applicable. Furthermore, no such transfer shall be effective unless it is in a written instrument signed by Declarant and duly recorded in the Official Records.

Section 15.16. Successor Declarants. Any successor to Declarant shall not be responsible or subject to liability by operation of law or through the purchase of Declarant's interest in the Community or any portion thereof at foreclosure or otherwise for any act, omission, or matter occurring or arising from any act, omission, or matter occurring prior to the time the successor succeeded to the interest of Declarant.

Section 15.17. Master Declaration. Each Owner, by acceptance of deed to a Lot, acknowledges that, in addition to being subject to and bound by the Community Instruments, he or she is subject to the Master Declaration. In addition to all of the rights and obligations that have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws, or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Master Declaration. The Association and all committees thereof shall also be subject to all superior rights and powers that have been conferred upon the Master Association pursuant to the Master Declaration, and as such, decisions made from time to time by the Master Association may affect the rights and interests of an Owner or Occupant. The Association shall take no action in derogation of the rights of or contrary to the interests of the Master Association. By recording this Declaration, Declarant



hereby declares the property described in Exhibit "A" and any real property subsequently subjected to this Declaration to be a "Townhome Community" as defined in Section 1.71 of the Master Declaration.

Section 15.18. Residential Community Declaration. Each Owner, by acceptance of deed to a Lot, acknowledges that, in addition to being subject to and bound by the Community Instruments, he or she is subject to the Residential Community Declaration. In addition to all of the rights and obligations that have been conferred or imposed upon the Association pursuant to this Declaration, the Bylaws, or the Articles of Incorporation, the Association shall be entitled to exercise any of the rights conferred upon it and shall be subject to all of the obligations imposed upon it pursuant to the Residential Community. The Association and all committees thereof shall also be subject to all superior rights and powers that have been conferred upon the Residential Community Association pursuant to the Residential Community Declaration, and as such, decisions made from time to time by the Residential Community Association may affect the rights and interests of an Owner or Occupant. The Association shall take no action in derogation of the rights of or contrary to the interests of the Residential Community Association.

Section 15.19. Disclosures. Each Owner and Occupant acknowledge the disclosures set forth on Exhibit "C" attached hereto and incorporated herein.

[SIGNATURES ON FOLLOWING PAGE]



IN WITNESS WHEREOF, Declarant has executed this Declaration under seal on this 19th day of January, 2023.

DECLARANT: EA HOMES, LP,
a Delaware limited partnership

By: [Signature] (SEAL)
Name: Todd A. Hager
Title: Executive VP

Signed, sealed, and delivered
in the presence of:

[Signature]
Witness

[Signature]

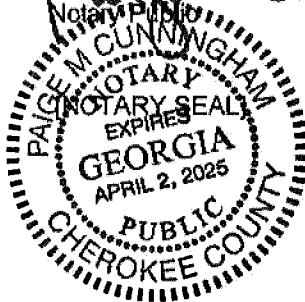




EXHIBIT "A"

LEGAL DESCRIPTION OF THE SUBMITTED PROPERTY

Zephyr Block A, Phase 1 Lot 178

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point; North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 12 Degrees 46 Minutes 33 Seconds East a distance of 559.34 feet to a point, said being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 16.02 feet to a point; thence South 78 Degrees 59 Minutes 04 Seconds West a distance of 53.48 feet to a point; thence North 11 Degrees 00 Minutes 56 Seconds West a distance of 16.02 feet to a point; thence North 78 Degrees 59 Minutes 04 Seconds East a distance of 53.51 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 857 Square Feet.

TOGETHER WITH:

Zephyr Block A, Phase 1 Lot 179

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point, North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 12 Degrees 46 Minutes 33 Seconds East a distance of 559.34 feet to a point; thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 16.02 feet to a point, said being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 16.02 feet to a point; thence South 78 Degrees 59 Minutes 04 Seconds West a distance of 53.45 feet to a point; thence North 11 Degrees 00 Minutes 56 Seconds West a distance of 16.02 feet to a point; thence North 78 Degrees 59 Minutes 04 Seconds East a distance of 53.48 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 856 Square Feet.



EXHIBIT "A"

LEGAL DESCRIPTION OF THE SUBMITTED PROPERTY

TOGETHER WITH:

Zephyr Block A, Phase 1 Lot 180

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point, North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 12 Degrees 46 Minutes 33 Seconds East a distance of 559.34 feet to a point; thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 32.04 feet to a point, said being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 16.02 feet to a point; thence South 78 Degrees 59 Minutes 04 Seconds West a distance of 53.42 feet to a point; thence North 11 Degrees 00 Minutes 56 Seconds West a distance of 16.02 feet to a point; thence North 78 Degrees 59 Minutes 04 Seconds East a distance of 53.45 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 856 Square Feet.

TOGETHER WITH:

Zephyr Block A, Phase 1 Lot 181

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point, North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 12 Degrees 46 Minutes 33 Seconds East a distance of 559.34 feet to a point; thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 48.06 feet to a point, said being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 16.02 feet to a point; thence South 78 Degrees 59 Minutes 04 Seconds West a distance of 53.40 feet to a point; thence North 11 Degrees 00 Minutes 56 Seconds West a distance of 16.02 feet to a point; thence North 78 Degrees 59 Minutes 04 Seconds East a distance of 53.42 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 856 Square Feet.



EXHIBIT "A"

LEGAL DESCRIPTION OF THE SUBMITTED PROPERTY

TOGETHER WITH:

Zephyr Block A, Phase 1 Lot 182

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point, North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 12 Degrees 46 Minutes 33 Seconds East a distance of 559.34 feet to a point; thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 64.07 feet to a point, said being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 16.02 feet to a point; thence South 78 Degrees 59 Minutes 04 Seconds West a distance of 53.37 feet to a point; thence North 11 Degrees 00 Minutes 56 Seconds West a distance of 16.02 feet to a point; thence North 78 Degrees 59 Minutes 04 Seconds East a distance of 53.40 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 855 Square Feet.

TOGETHER WITH:

Zephyr Block A, Phase 1 Lot 185

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point, North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 12 Degrees 31 Minutes 24 Seconds East a distance of 647.39 feet to a point; thence South 10 Degrees 55 Minutes 07 Seconds East a distance of 31.96 feet to a point; Said point being the **TRUE POINT OF BEGINNING**.

From the **TRUE POINT OF BEGINNING** as thus established,
 Thence South 10 Degrees 55 Minutes 06 Seconds East a distance of 15.96 feet to a point;
 Thence South 79 Degrees 08 Minutes 00 Seconds West a distance of 53.39 feet to a point;
 Thence North 10 Degrees 52 Minutes 00 Seconds West a distance of 15.96 feet to a point;
 Thence North 79 Degrees 08 Minutes 00 Seconds East a distance of 53.38 feet to a point,
 said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land containing 852 Square Feet.

**EXHIBIT "A"****LEGAL DESCRIPTION OF THE SUBMITTED PROPERTY****TOGETHER WITH:****Zephyr Block A, Phase 1 Lot 206**

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point; thence North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 17 Degrees 07 Minutes 24 Seconds East a distance of 664.17 feet to a point; thence South 11 Degrees 02 Minutes 15 Seconds East a distance of 64.05 feet to a point, said being the **TRUE POINT OF BEGINNING**.

FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED, thence South 11 Degrees 02 Minutes 15 Seconds East a distance of 16.01 feet to a point; thence South 78 Degrees 57 Minutes 45 Seconds West a distance of 56.16 feet to a point; Thence North 00 Degrees 13 Minutes 26 Seconds East a distance of 2.39 feet to a point; thence along a curve to the left, an arc distance of 13.97 feet, said curve having a radius of 100.00 feet and being subtended by a chord of 13.78 feet, at North 03 Degrees 43 Minutes 33 Seconds West to a point; thence North 78 Degrees 57 Minutes 45 Seconds East a distance of 53.95 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land contains 878 Square Feet.

TOGETHER WITH:**Zephyr Block A, Phase 1 Lot 214**

All that tract or parcel of land lying and being in Land Lot 41 of the 14th District, City of Atlanta, Fulton County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, COMMENCE at a nail found at the intersection of the southerly right-of-way line of Englewood Avenue (60' right-of-way) with the Westerly right-of-way of Boulevard S.E. (60' right-of-way) thence along said southerly right-of-way the following chords and distance: North 89 degrees 21 Minutes 29 Seconds West a distance of 400.33 feet to a point; thence North 89 Degrees 03 Minutes 37 Seconds West a distance of 261.76 feet to a point; thence leaving said right-of-way South 18 Degrees 03 Minutes 34 Seconds East a distance of 576.87 feet to a point; thence South 10 Degrees 55 Minutes 58 Seconds East a distance of 16.02 feet to a point, said point being the **TRUE POINT OF BEGINNING**.

Form the **TRUE POINT OF BEGINNING**, as thus established,
 Thence South 10 Degrees 55 Minutes 58 Seconds East a distance of 16.02 feet to a point;
 Thence South 79 Degrees 04 Minutes 02 Seconds West a distance of 53.59 feet to a point;
 Thence North 10 Degrees 55 Minutes 06 Seconds West a distance of 16.02 feet to a point;
 Thence North 79 Degrees 04 Minutes 02 Seconds East a distance of 53.58 feet to a point,
 said point being the **TRUE POINT OF BEGINNING**.

Said tract or parcel of land containing 858 Square Feet.



EXHIBIT "B"

LEGAL DESCRIPTION OF THE ADDITIONAL PROPERTY

All that real property located within a five (5) mile radius of any portion of the real property described on Exhibit "A" of this Declaration.



EXHIBIT "C"

DISCLOSURES

1. **Adjacent Properties.** Neither Declarant nor any builder of homes within the Community makes any representations or warranties regarding the future development or use of other properties adjacent to or in the vicinity of the Community (collectively "Adjacent Properties"). Any floor plans, renderings, models, drawings, and the like, which purport to depict the Adjacent Properties or any portion thereof, are merely projections, which are subject to change and do not reflect an actual commitment to develop the Adjacent Properties in any particular manner. Owner or Occupant shall not rely on any projected plans for the future development of the Adjacent Properties as an inducement to acquire the Unit. Adjacent Properties shall not necessarily be restricted exclusively to residential use but shall be subject only to uses allowed by applicable zoning ordinances, which may include, without limitation, office, retail, and other commercial uses. No assurances are made that the improvements which may be built on all, or any portion of the Adjacent Properties will be substantially identical to the improvements on the Community in any way whatsoever, including, but not limited to the quality of construction, the principal materials to be used in such construction and architectural style. The development of the Adjacent Properties may alter or block the views available from a Lot.

2. **Asbestos.** Asbestos can be found as accessory minerals in mineral deposits and occurs in its natural state in some rock formations. Declarant or the Association shall not conduct tests to determine the presence or absence of any type of naturally occurring asbestos in the soil of the Community. Declarant and the Association make no representations or warranties concerning the presence or absence of said minerals.

3. **Association Budget.** The Association budget provided to Owner or Occupant is based on estimated expenses only and may increase or decrease significantly when the actual expenses of the Association become known. The budget of the Association may also increase or decrease significantly due to many factors including but not limited to: (a) actual expenses of operating the Community being higher than initially thought; (b) prices increasing or decreasing significantly, (c) increases or decreases in the services being provided by the Association, (d) larger or smaller amounts being set aside for future reserves and operating and capital, and (e) unexpected and emergency expenditures.

4. **Beltline.** The Community is located adjacent to a portion of the Atlanta BeltLine corridor ("Beltline"). As of the Effective Date of this Declaration, the BeltLine is currently owned by the Atlanta Development Authority d/b/a Invest Atlanta ("ADA"), and Atlanta BeltLine, Inc. ("ABI") currently acts as implementation agent for ADA with respect to the BeltLine. In the future the BeltLine may be extended beyond its current limits and may involve light rail or other forms of transit, but there is no assurance of either. Declarant or an affiliate entered into certain easements and other agreements with ADA and ABI relating to the BeltLine. Declarant, the Association, and other parties having an interest in the Community may from time to time enter into, amend or terminate existing or new easements and agreements relating to the BeltLine. Neither Declarant nor the Association make any representations or warranties regarding the current or future location, elevation, use, operation, development, expansion, improvement or closing of the BeltLine or the nature, availability or unavailability of access to and from the BeltLine. In addition, the following may occur in the vicinity of the Community in relation to the Beltline: (a) heavy pedestrian, non-motorized, and vehicular parking and traffic; (b) special events; (c) heavy equipment and other construction related activities; (d) changes in the Beltline corridor, including, zoning, land use, tax and governance changes; and (e) noise, sounds, smells, bright lighting and vibrations. The BeltLine may be crowded from time to time with large numbers of persons for a variety of activities and uses. Neither Declarant nor the Association make any representations or warranties regarding the noise, music, loud sounds, vibrations, smells, lighting, or other disruptive activity that may emanate from the BeltLine.

5. **Building Code.** While the general contractor is obligated to build the Community in accordance with the building code applicable at the time of permit, no representations are made that the Community will exceed the standards set forth in the building code.

6. **Carbon Monoxide.** Carbon monoxide is a dangerous gas that typically cannot be smelled or seen. It is produced as a common by-product of the combustion (burning) of fossil fuels. Most fuel burning equipment (natural gas, gasoline, propane, fuel oil, and wood), if properly installed and maintained, produces little carbon monoxide. The by-products of combustion are usually vented to the outside. However, if there is a shortage of oxygen to the burner, or the venting is not adequate, carbon monoxide production can increase to dangerous levels. Common sources of carbon monoxide include



EXHIBIT "C"

DISCLOSURES

gasoline engines running in closed garages, fuel-burning space heaters or water heaters with improper venting, and blocked chimneys or vent pipes. Each Owner should have a qualified professional routinely maintain and inspect all heating systems and any fuel-burning appliances serving the Owner's Residence annually to ensure they are in good working condition. Each Owner should have a qualified professional routinely inspect appliance vents in the Residence annually for blockages, corrosion, cracks, or leakage. Each Owner should consider installing and maintaining a carbon monoxide detector and alarm that measures the amount of carbon monoxide in the air and sounds an alarm at certain levels. The detector should be considered as a backup and not as a replacement for proper use and maintenance of fuel-burning appliances.

7. Cellular Service. Declarant makes no representations and warranties regarding the availability and quality of cellular and internet service in a Residence and in the Community.

8. Certain Construction Issues. Owner or Occupant acknowledges and agrees that it is not a third-party beneficiary to any agreement for development and/or construction services entered into by Declarant. Owner or Occupant and its insurer waive all rights of subrogation against Declarant, developer and contractor(s) and all others performing or providing development and construction services to any portion of the Community including the Lots.

9. Community Conditions. Since in every community there are conditions which different people may find objectionable, Owner or Occupant acknowledges that there may be conditions outside of the Community that Owner or Occupant may find objectionable. It shall be the sole responsibility of Owner or Occupant to become acquainted with community conditions that may now or in the future affect the Lot and Owner or Occupant's enjoyment of the same.

10. Community Name. Owner or Occupant consents to Declarant changing, in its sole discretion, the Community name and the street names and addresses within the Community including the street address of the Lot.

11. Condensation. Condensation and fogging of windows, doors and glass surfaces may occur, particularly when there are temperature disparities between the interior and exterior portions of the Residence. Humidity contributing to condensation can build up inside of a Residence due to activities such as washing clothes, showering, and bathing, watering plants, boiling water, and owning a fish tank. Unless the buildup of humidity is controlled or removed in such instances, the condensation can result in water on certain surfaces.

12. Construction Activities. Declarant's agents may be constructing portions of the Community and engaging in other construction activities related to the construction of Common Property and finishing of the Lots. Such construction activities may, from time to time, produce certain conditions on the Community, including, without limitation: (a) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (b) smoke; (c) noxious, toxic or corrosive fumes or gases; (d) obnoxious odors; (e) dust, dirt or flying ash; (f) unusual fire or explosion hazards; (g) temporary interruption of utilities; and/or (h) other conditions that may threaten the security or safety of persons on the Community. Notwithstanding the foregoing, Owner or Occupant agrees that such conditions on the Community resulting from construction activities shall not be deemed a nuisance or discomfort to Owner or Occupant and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.

13. Construction Changes. Building code requirements may change during the construction of the Community and may not necessarily be incorporated into the design or construction of the Community. During construction, there may be changes and alterations made to the original stamped and approved design drawings and the construction of the Community as a matter of necessity to achieve cost savings and due to field changes ordered by the architect, engineer, Declarant, and various building inspectors. Such changes and alterations shall not be a basis for a breach of contract provided that the change or variation complies with building code requirements.

14. Construction Products. All buildings contain products that have water, powders, solids, and industrial chemicals, which will be used in construction. The water, powders, solids, and industrial chemicals will and do contain Mold, mildew, fungus, spores, and chemicals that may cause allergic or other bodily reactions in certain individuals. Leaks, wet flooring, and moisture will contribute to the growth of Mold. Declarant is not responsible for any illness or allergic reactions that a person may experience as



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a result of Mold. It is the responsibility of Owner or Occupant to keep the Residence clean, dry, well ventilated, and free of contamination.

15. Construction Scope. During the course of the construction of any building, variations from the original plans and specifications, some of which add scope, some of which reduce scope, and some of which alter scope, are inevitable and can, do, and may occur as a matter of intention and/or as a matter of necessity. Therefore, some code requirements may change during the interim period which may not be incorporated into the design of the buildings.

16. Cracking. Concrete surfaces in portions of the Community are subject to cracking due to (a) water penetration, (b) expansion and contraction of the concrete with temperature changes, (c) building settlement, and (d) other factors. Such cracking is normal, and Declarant shall not be liable for the same.

17. Crime. Crime occurs in every community. Declarant makes no representations that the Community or the Community will be free of crime. Declarant does no criminal background check on Owner or Occupants or Occupants of Units. Owner or Occupant should be alert to and guard against the potential for crime. Crime statistics are maintained by the police in the jurisdiction in which the Community is located. It shall be Owner or Occupant's sole responsibility to keep abreast of trends in criminal activity and to act accordingly.

18. Easements. Easements run through utilities, including, but not limited to water, sewer, electric, gas and cable, serving one or more Units in enclosed chases and soffits. Each Owner or Occupant acknowledges and consents to these lines running through their Units. There may be easements, licenses, and rights for third parties to use certain areas of the Community.

19. Electrical Vehicle Infrastructure. It is anticipated that Declarant will not install any electric vehicle charging stations but that such stations may be installed by third parties in garages at the direction and cost of the Owner of the Lot in which the garage is located and who will bill Owners requesting such a station for the cost of installation and for the ongoing electric costs associated with the charging station. EV owners using any charging stations installed at the Community hereby release, waive, and discharge the Association and Declarant from any and all claims resulting in property damage or personal injury as a result of using any electric vehicle charging station or associated equipment. Neither the Association nor Declarant has any obligation, nor does it guarantee current or future provisions of charging stations or availability thereof. Any Owner or Occupant wanting to install an electric charging station where one does not presently exist shall first obtain approval in accordance with Article 13 of this Declaration. No representation is made that such approval will be given or that there will be sufficient capacity to allow for unlimited charging stations to be installed in all parking spaces.

20. Encroachments. Improvements may have been constructed on adjoining properties that encroach onto the Community. Declarant gives no representations or warranties as to property rights, if any, created by such any such encroachments.

21. Erosion. There may be drainage systems for surface water runoff within the Community and portions of the Community may be subject to erosion and/or flooding during certain types of weather conditions.

22. Exterior Inspections. The exterior of the buildings needs to be inspected on a regular basis to ensure that rainwater does not penetrate into the interior of the buildings where it might cause damage. As the buildings settle or are exposed to the elements exterior caulk and flashings can dry and/or pull away from their original locations creating openings through which water can penetrate. A regular inspection and maintenance program can help identify areas where maintenance work should be performed.

23. Financial Representations. Owner or Occupant is entering into this Agreement without reliance upon any representations from Declarant concerning any potential for future profit, any rental income potential, tax advantages, depreciation, or investment potential and without reliance upon any other monetary or financial advice. Owner or Occupant acknowledges and agrees that no such representations, including representations as to the ability or willingness of Declarant or its affiliates to assist Owner or Occupant in renting or selling the Residence, have been made by Declarant or any of its agents, employees or representatives, including, but not limited to, the brokers.



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24. Fixtures. Certain materials used for fixtures in a Residence (including, but not limited to, brass/chrome plumbing fixtures, brass/chrome bathroom accessories and brass/chrome light fixtures) are subject to discoloration and/or corrosion over time.

25. Flat Roof System. A Residence may be constructed with some low-sloped roof systems. Rainwater and refuse may accumulate on various portions of the roof systems of the Residences and should be anticipated by the Owner and Occupants. Minimizing water intrusion and water penetrations may be possible if the roof systems of the Residences are properly maintained by the parties responsible for providing such maintenance, as more specifically set forth in this Declaration.

26. Floor Plans. Floor plans, advertising materials, brochures, renderings, drawings, and the like, which purport to depict a Residence to be constructed on a Lot in the Community or any portion thereof, are merely approximations and do not necessarily reflect the actual as-built conditions of the same. If Owner or Occupant is concerned about any representations noted on the floor plans, Owner or Occupant should do Owner or Occupant's own investigation as to the dimensions, measurements and square footage shown thereon. In addition, due to the unique nature of the construction process and site conditions, room dimensions, size and elevations may vary from Residence to Residence within the Community.

27. Flooring. Carpets, hardwood floors, and other flooring surfaces are subject to fading and wear over time. Hardwood flooring in a Residence can be damaged or scratched as a result of normal wear and tear including, but not limited to, moving furniture, wearing footwear in a Residence (particularly high-heeled shoes), and dropping items on the floor. In addition, spaces may appear between boards in hardwood floors due to expansion and contraction of the flooring material. Such spacing, damage and scratches are a normal attribute and expected consequence of having hardwood flooring, and such spacing, damage and scratches shall not constitute a construction defect.

28. Grading. The grading of the soil and other elements created by nature, as well as building materials developed by humans, many times create unwanted and undesired gases and other contaminants in a Residences and the Community. Also, since energy conservation has become a concern, there is a need to build homes and residential buildings that are more airtight. As a result, these homes and residential buildings trap unwanted gases in different degrees depending on how each person lives within their home or such residential building. To date measurements of such unwanted gases (such as the radon gas described below and carbon dioxide) are reported as parts of the air they occupy.

29. Humidity. A Residence may trap humidity generated from normal activities occurring within a Residence, including washing and drying clothes, bathing, and showering, washing dishes, cooking, watering plants, maintaining a fish tank, etc. The more these activities occur in a Residence, the more humidity will be generated. As a result, condensation may appear on the interior portion of windows and glass surfaces and fogging of windows and glass surfaces may occur due to temperature disparities between the interior and exterior portions of the windows and glass. Condensation is a naturally occurring phenomenon. While humidity cannot practically be prevented, Owner or Occupant may elect to reduce excess humidity by adding a de-humidifier or running the exhaust fan or fans within a Residence. If humidity is left unattended and not properly maintained by Owner or Occupant, the condensation may increase resulting in staining, damage to surrounding seals, caulk, paint, wood work and sheetrock, and potentially Mold or mildew. Owner or Occupant further agrees not to block or cover any of the heating, ventilation or air-conditioning ducts located in a Residence.

30. HVAC. In constructing the Residences and the Common Property, Declarant shall have the right to do the following, as may be applicable: (a) locate the heating, wiring and electrical system, hot water heater, all plumbing lines, and gas and electric meters at Declarant's discretion; (b) remove trees, plants, shrubbery and rocks from the Community; and (c) substitute construction materials, appliances, equipment and fixtures from those specified in the construction specifications in Declarant's reasonable discretion, provided that the substitutions are of equal or better quality materials, appliances, equipment and fixtures than those originally specified and provided. Owner or Occupant agrees that industry standards, as determined in the reasonable exercise of Declarant's discretion, shall govern the acceptability of any particular substitution. The substitutions and deviations referenced above shall not be the basis of any claim by Owner or Occupant against Declarant nor shall it be a basis for Owner or Occupant not to accept the Residence or otherwise not fulfill Owner or Occupant's obligations under this



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Agreement. The performance and methods and practices of operating heating and cooling systems can be directly affected by the orientation and location of a room or Unit in relation to the sun. Declarant shall, therefore, have no obligation other than to install a heating and cooling system at the Residence which has been sized and designed based on industry standards for the type and size of unit to be constructed and which functions in accordance with industry standards. No representations are made that the systems in a Residence including, by way of example only, heating and air conditioning and electrical systems will operate or perform at a level or standard greater than the minimum specifications of the manufacturer.

31. Ice and/or Snow. Ice and/or snow may accumulate on sidewalks and paved areas during periods of cold weather temperatures. This may result in slippery and dangerous conditions unsuitable for pedestrian traffic. Ice may accumulate and fall from tall objects in the winter, such as trees, buildings, gutters, overhangs, broadcasting structures, overhead utility lines, and other natural and manmade objects. Owner or Occupant acknowledges that trees and other tall objects exist in proximity to the Community. Owner or Occupant shall be deemed to assume the risk of injury and damages arising from all such conditions.

32. Images and Photography. Owner or Occupant consents to Declarant using interior and exterior images, pictures and photography of Owner or Occupant's Unit in marketing other Units in the Community for sale or lease. Owner or Occupant hereby grants Declarant the right to obtain and use images, pictures, and photography of the Community (including the Lot) for publication, advertising, sales, and marketing purposes, provided the foregoing shall not be deemed to provide Declarant with the right to enter the Lot and take photographs inside the Lot after Closing. Photography and film activities (including bright lighting) related to Declarant's sales and marketing of the Community may occur at various times of the day within the Community during the Development Period.

33. Infrastructure. Declarant makes no representation as to the location of mailboxes, utility boxes, streetlights, fire hydrants or storm drain inlets or basins.

34. Insulation. Insulation thickness may vary depending upon local conditions and construction factors, including, but not limited to, such items as wall openings and plumbing of other structures or obstructions within the walls that displace the insulation. Declarant makes no representation or warranty regarding the same and Declarant is not responsible for any errors or omissions made thereby.

35. Landscaping and Trees. No representations or warranties are made regarding any landscaping or trees in or on the Community. Construction activities could disturb the root system of trees and other landscaping on the Property resulting in or contributing to the death of such trees and landscaping. Declarant shall have no responsibility for replacing any trees and landscaping which for any reason die, including, but not limited to, construction activities.

36. Leasing. The Lots in the Community are subject to Leasing restrictions as more particularly described in this Declaration.

37. Light. Light may emit from structures located on Adjacent Properties.

38. Marketing. From time to time, there may be marketing collateral throughout the Community, including, but not limited to, signs, flags, banners, media advertising, etc. Declarant reserves the right to implement any legal marketing program as deemed necessary to market Lots within the Community. This includes, but is not limited to, the use of model units, signs, flags, banners, media advertising, modifications of model and production units, etc. Declarant also reserves the right to price Lots at, above, or below the current market value in an effort to sell Lots. There are other marketing strategies and incentive plans not noted herein that Declarant reserves the right to implement or discontinue.

39. Mold. Owner or Occupant acknowledges that microscopic Mold spores exist inside every unit and are present in soil, air and elsewhere in the environment. Mold is a fungus that thrives in environments where there is moisture and warmth. Some Molds are harmful while others are not. Some persons have a sensitivity to Mold while others do not. Mold growth can be minimized through good housekeeping practices and removing moisture in Residence. Concerns have been expressed about the possible adverse effects on human health from exposure to Mold. Owner or Occupant acknowledges having read about Mold and how to remove it at www.epa.gov/mold/. Owner or Occupant waives and



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releases all claims Owner or Occupant has or may have against Declarant and its affiliates relating to Mold. Owner or Occupant agrees that the presence of Mold in a Residence shall not be a basis for terminating this Agreement, and that Declarant and its affiliates make no representations or warranties, express or implied, concerning the past, current or future presence or absence of Mold in any part of the Community. Declarant recommends that Owner or Occupant conduct Owner or Occupant's own investigation and consult with such experts as Owner or Occupant deems appropriate regarding the occurrence and effects of Mold, and the potential sensitivity risk that Owner or Occupant and Owner or Occupant's occupants, who will occupy or use the Lot, may be subject to. Owners and Occupants agree to maintain their respective Units in such a manner to reduce the potential for Mold formation or growth, and shall, upon taking title to the Lot, waives all rights to damages and subrogation of damages resulting from Mold in the Residence. See Section 8.6 of this Declaration for further information regarding Mold.

40. Natural Wood. Natural wood has considerable variation in its appearance due to its organic nature. There may be shades of white, red, black or green in areas. In addition, mineral streaks may also be visible. Grain pattern or texture will vary from consistent to completely irregular; wood from different areas of the same tree can also have variations in pattern or texture. It is these variations in wood that add to its aesthetic appeal. These variations in grain will in turn accept stain in varying amounts, which will show throughout the wood products from one door to the next, one panel to the next or one piece of wood to the next. Also, cabinet finishes (including gloss and/or matte finishes) will not be entirely consistent and some minor irregularities will be apparent. Additionally, wood and wood products may be subject to warping, splitting, swelling and/or delamination. The foregoing conditions are normal conditions and shall not constitute a construction defect.

41. Odors and Light. In addition to sound and vibration, there may be odors (from restaurants, food being prepared and dumpsters) and light (from signs, billboards, streetlights, other buildings, car headlights, traffic, and other similar items) in urban areas and these things are part of the reality and vibrancy of urban living.

42. Paint. Due to the large quantity of paint used in the project, slight variations in paint shade or sheen may exist from unit to unit. Due to the properties within today's paints, paint may yellow somewhat with time. This is a normal occurrence and is therefore not covered as a warranty issue. Avoid washing or scrubbing painted walls. Lightly soiled areas may be cleaned using a sponge with water and lightly wiping over the soiled areas.

43. Parking. Declarant makes no representations or warranties regarding the availability of guest parking.

44. Personal Property Insurance. The personal property belonging to Owner or Occupants is not normally covered under the Community association's master insurance policy. Owner or Occupants are encouraged to consult with an insurance professional about purchasing an H06 policy to cover the personal property of Owner kept in a Residence.

45. Pricing. Declarant has the right to establish prices for the sale of units in the Community from time to time without regard to the price to be paid by Owner or Occupant or any other Owner or Occupants for any specific unit within the Community. Owner or Occupant acknowledges Declarant's right to offer price reductions, financing incentives, reduced interest rates, optional features, and other similar incentives to other Owner or Occupants of units in the Community without any obligation to offer any comparable incentives to Owner or Occupant.

46. Radon. The United States Environmental Protection Agency ("EPA") has indicated that a number of homes and residential buildings in the United States experience elevated levels of radon gas. Radon is a naturally occurring gas that is caused by radioactive decay of the element radium. Since radium is contained in the earth's crust and dissolves readily in water, radon can be found virtually everywhere and can enter the home or residential buildings through a variety of sources. Owner or Occupants seeking information about radon can contact the EPA or a state environmental office. Neither Declarant nor the Association has any expertise in the measurement or reduction of radon in homes or residential buildings or regarding acceptable levels or possible health hazards associated with radon. Neither Declarant nor the Association makes any warranty or representation of any kind, express or implied, regarding the presence or absence of radon gas or regarding the effectiveness of any architectural activities for reducing the presence of radon.



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47. Rail. The Community is in the vicinity of an active heavy-rail and freight, railroad line. Seller makes no representations or warranties regarding the frequency of train traffic, noise, loud sounds, vibrations, smells, dirt, dust, smoke, horns, lighting, or other disruptive activity that may emanate from such rail and rail related activities in and around the railroad.

48. Recorded Community Instruments. The Community is subject to those instruments recorded now or in the future in the Official Records.

49. Schools and Political Jurisdictions. No representations are made regarding the schools that currently or may in the future serve the Community or whether the political jurisdiction in which the Community is located. Many new cities have been created in the metropolitan Atlanta area over the last decade and this trend may continue.

50. Services. No representations are made that building services such as, by way of example only, concierge, valet or building monitoring will continue at their present level or at all. The type of services and the extent to which they are provided shall be determined by the Board of Directors through the budgeting process. Under the Bylaws, the budget is prepared by the Board of Directors and is subject to a veto right by the Owners.

51. Sound and Vibrations. In a Community where units are located in close proximity to one another Owner and Occupants should have an expectation of hearing sounds inside their Units that originate from outside their Units. No representations are made that the Residences will be soundproof, free of vibrations or that sound and vibrations may not be transmitted from one Unit to another, from the Common Property to a Residence from a Residence to the Common Property and from outside of a Building to a Residence. The Community has not been designed to prevent the transmission of sound and vibration beyond what is required under applicable building codes in effect at the time the building permits were initially issued for the Community. Among other things, sound and vibrations caused by people running, jumping, playing, wearing high heeled shoes or exercising; dogs barking, walking or running; sounds from televisions, alarms going off, garbage disposals, music being played, people talking, arguing, and engaging in other life activities, and toilets, plumbing, HVAC, and other equipment may be heard in other Units. Sound and vibrations from the Common Property may also be heard or felt inside of Units. By way of example only, sounds and vibrations caused by elevator machinery, elevator bells announcing that an elevator has arrived on a floor, heating and air conditioning equipment, trap door covers on air discharge ducts, toilets, plumbing and sewer lines being used, trash being disposed of in a trash chute, trash being picked up, deliveries being made, humming of balcony railings caused by the wind, and other similar sounds and vibrations may be heard or felt inside a Residence. Sound or vibration transmission between Units and Common Property is inherent in multi-family construction and is not a construction defect. HVAC systems, plumbing, tile, and hardwood surfaces within a Residences may transmit noise, and such noise shall not constitute a use of a Residence that interferes with or causes disruption to the use and quiet enjoyment of the Lot by an Owner or any Occupant. The Community is located in an urban environment which contains a diverse mix of land uses and activities. By way of example only, sound and vibrations may be heard and felt from such things as sirens, whistles, bells, horns, the playing of music, equipment being operated, construction activity, building and grounds maintenance being performed, ambulances, airplanes, buses, trucks, automobiles, trains and other generators of sound and vibrations typically found in an urban area. Sound occurs at a variety of frequencies. In urban areas, there is often a broader range of sounds and vibrations that are produced than in other areas. Sounds may also be heard within a Residence from mechanical systems inside or serving a Residence including from HVAC systems cycling on and off, hot water heaters cycling on and off, dishwashers, washing machines, dryers, exhaust fans and ceiling fans.

52. Stone. Veins and colors of any marble, slate, or other stone in a Residence, if any, may vary dramatically in appearance from one piece of stone to another. Each piece is different. Marble, granite, slate, and other stone can also have chips and shattering veins, which look like scratches. The thickness of the joints between marble, granite, slate, and other stone and/or other materials against which they have been laid will vary and there will be irregularities in surface smoothness. Marble, granite, slate, and other stone finishes may be slippery particularly when wet and Declarant assumes no responsibility for injuries sustained as a result of exposure to or use of such materials. Periodic use of professionally approved and applied sealant is needed to ensure proper maintenance of the marble, slate



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and other stone and it is Owner or Occupant's responsibility to properly maintain these materials in a Residence. Marble, granite, slate, and other stone surfaces may scratch, chip or stain easily. Such substances may flex or move slightly in order to absorb impacts. Such movement may in turn cause grout to crack or loosen or cause some cracking in the stone flooring which may need to be repaired as part of normal home maintenance.

53. Terms Herein. All capitalized terms herein shall have the same meaning as set forth in this Declaration and Bylaws.

54. Thoroughfares. The Community is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved or widened in the future.

55. Unwanted Gases. The grading of the soil and other elements created by nature, as well as building materials developed by humans, may at times create unwanted and undesired gases and other contaminants in homes and residential buildings, both new and used. Also, since energy conservation has become a concern, there is a need to build homes and residential buildings that are more airtight. As a result, these homes and residential buildings trap unwanted gases in different degrees depending on how each person lives within their home or such residential building. To date measurements of such unwanted gases (such as the radon gas and carbon dioxide as described above) are reported as parts of the air they occupy. Since the quality of air that a person breathes can affect his or her health, Declarant recommends frequent airing of the Residence to introduce fresh air uncontaminated with such gases.

56. Upgrades. The cost of upgrades, if any, may not necessarily result in a commensurate increase in the value of the Lot.

57. Vehicles. All vehicles must be parked within the striped lines of the parking space and not extend beyond those lines into a drive aisle.

58. Views. The views from and light available to a Residence and a Unit may change over time due to, among other circumstances, additional development, the growth or removal of landscaping and the addition of utility poles. No representations have been made to Owner or Occupant regarding whether Owner or Occupant will have any particular view from a Residence or whether such view will or will not change over time.

59. Volatile Organic Compounds (VOCs). VOCs are organic chemicals that have a high vapor pressure at ordinary room temperature. There are many different types of VOCs. VOCs can be either man-made or naturally occurring. Certain VOCs may be dangerous to human health or have unappealing odors. VOCs can result from paint, the presence of regulated substances in soils and/or underground, construction materials as well as new furnishings and certain types of equipment. Good ventilation and air-conditioning systems may reduce VOCs in the indoor environment. Neither Declarant nor the Association has any expertise in the measurement or reductions of VOCs in homes or residential buildings or regarding acceptable levels or possible health hazards associated with VOCs. Neither Declarant nor the Association makes any warranty or representation of any kind, express or implied, regarding the presence or absence of VOCs or regarding the effectiveness of any design or architectural activities for reducing the presence of VOCs.

60. Water. Water may pond on various portions of the Community having impervious surfaces with minimal slope, such as roadways, parking spaces, terraces, and balconies, as applicable.

61. Window Coverings and Standards. No drilling into window frames for window coverings (shades and blinds) or for any other purposes is allowed as this could produce water leaks and warranties, if any, will be void. Acceptable window treatments for the Residences are interior draperies, fabric roller shades, sheer fabric, shutters, plantation shutters or horizontal blinds. The color of all window treatments visible from outside the Residence, including any tiebacks, must be white or off-white or as approved by the Architectural Review Committee in accordance with this Declaration. Interior vertical blinds and exterior shutters are not acceptable window treatments and are not permitted. In addition, bed sheets, blankets, towels, and other similar type coverings shall not be used as window treatments. Window tinting must be approved by the Architectural Review Committee prior to installation.

62. Zoning. No representations are made regarding the zoning or future uses of adjacent or nearby properties or that the category to which such properties are zoned may not change in the future.



EXHIBIT "D"

BYLAWS

OF

ZEPHYR TOWNHOME UNIT OWNERS' ASSOCIATION, INC.



**One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500**

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BYLAWS
OF
ZEPHYR TOWNHOME UNIT OWNERS' ASSOCIATION, INC.

ARTICLE 1. GENERAL

Section 1.1. Applicability. These Bylaws of Zephyr Townhome Unit Owners' Association, Inc. (the "Bylaws") provide for the self-government of Zephyr Townhome Unit Owners' Association, Inc. in accordance with the Articles of Incorporation for Zephyr Townhome Unit Owners' Association, Inc. filed with the Secretary of State of Georgia ("Articles of Incorporation"), and the Declaration of Covenants, Conditions, Restrictions and Easements for Zephyr Townhomes, recorded in the Fulton County, Georgia land records ("Declaration"), all as may be amended from time to time.

Section 1.2. Name. The name of the corporation is Zephyr Townhome Unit Owners' Association, Inc. ("Association").

Section 1.3. Definitions. The terms used in these Bylaws shall have their generally accepted meanings or such meanings specified in Article 1 of the Declaration.

Section 1.4. Membership. An Owner of a Lot shall automatically become a member of the Association upon taking title to the Lot and shall remain a member for the entire period of ownership. As may be more fully provided below, an Owner's spouse may exercise the powers and privileges of the Owner. If title to a Lot is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) equal vote per Lot. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. Membership shall be appurtenant to the Lot and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title.

Section 1.5. Entity Members. In the event an Owner is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent or representative of such legal entity shall be eligible to represent such legal entity in the affairs of the Association, including, without limitation, serving on the Board of Directors of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the legal entity which are the Owner, and termination of the person's relationship with the Association will create a vacancy in any elected or appointed position within the Association in which such person may have been serving and such vacancy will be filled in accordance with these Bylaws.

Section 1.6. Voting. Each Lot shall be entitled to one (1) equal vote, which vote may be cast by the Owner, the Owner's spouse, or by a lawful proxy as provided below. When more than one (1) Person owns a Lot, the vote for such Lot shall be exercised as they determine between or among themselves, but in no event shall more than one (1) vote be cast with respect to any Lot. If only one (1) co-owner attempts to cast the vote for a Lot, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Lot. In the event of disagreement between or among co-owners and an attempt by two (2) or more of them to cast such vote or votes, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to act as a proxy for any other Owner if that Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Community Instruments. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum.



Section 1.7. Majority. Except as otherwise specifically provided in the Community Instruments, all decisions by the Association and the Board of Directors shall be by Majority vote.

Section 1.8. Purpose. The Association shall have the responsibility of administering the Community, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Community, and performing all of the other acts that may be required to be performed by the Association pursuant to the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Declaration or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

Section 1.9. Electronic Records and Electronic Signatures. All Electronic Records and Electronic Signatures shall be governed by the Uniform Electronic Transactions Act, O.C.G.A. § 10-12-1.

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

(b) Electronic Signatures. Whenever these Bylaws require a signature, an Electronic Signature satisfies that requirement if the Electronic Signature complies with O.C.G.A. § 10-12-9.

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

ARTICLE 2. MEETINGS OF THE ASSOCIATION

Section 2.1. Annual Meetings. The regular annual meeting of the Association shall be held each year with the date, hour, and place to be set by the Board of Directors. No annual meeting of the Association shall be set on a legal holiday.

Section 2.2. Special Meetings. Special meetings of the Association may be called for any purpose at any time by the President or Secretary, by request of any two (2) members of the Board of Directors, or upon written petition of Owners holding at least twenty-five percent (25%) of the Total Association Vote. Any such written petition by the Owners must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of Owners have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition setting the date, time, and location of the meeting (which is not required to be the date, time or location requested in any petition submitted to the Association), and the Secretary shall send notice of the meeting in accordance with these Bylaws. Any special meeting called pursuant to written petition shall be set within thirty (30) days of the date of the petition. If notice is not given within such time period, any person signing the petition may set the time and place of the meeting and give notice of the meeting in accordance with these Bylaws. Only those matters that are within the purpose or purposes described in the meeting notice may be conducted at the special meeting unless objection thereto is waived as set forth below.

Section 2.3. Conduct of Meetings. The Board may authorize that any meeting of the Association be held wholly by means of remote communication (including, but not limited to, Zoom™, Microsoft Teams™ or similar conferencing technology) subject to such guidelines and procedures as the Board may adopt. The Board may also authorize that Owners not physically present at a meeting held at a designated place may by means of remote communication: (a) participate in the meeting; and (b) be deemed present in person and vote



at the meeting provided that: (i) the Board implements reasonable procedures to verify that each person deemed present at the meeting by means of remote communication is an Owner or holder of a proxy; and (ii) when any Owner or holder of a proxy votes at the meeting by means of remote communication, a record of such vote or such other action shall be maintained by the Association.

Section 2.4. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to the record Owner of each Lot or to the Lots a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Owner wishes notice to be given at an address other than Owner's Lot, the Owner shall have designated by notice in writing to the Secretary such other address. The mailing or delivering of a notice of meeting in the manner provided in this Section 2.4 shall be considered proper service of notice.

Section 2.5. Waiver of Notice. Waiver of notice of meeting of the Association shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 2.6. Quorum. Except as may be provided elsewhere, the presence of Owners, in person or by proxy, entitled to cast one-third (1/3) of the Total Association Vote shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the quorum requirement.

Section 2.7. Adjournment. Any meeting of the Association may be adjourned from time to time for periods not exceeding ten (10) days by vote of the Owners holding the Majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business that could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 2.8. Proxy. Any Owner entitled to vote may do so by written proxy duly executed by the Owner setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, first class mail or electronic mail to any Board member or the property manager. Proxies may be revoked only by written notice delivered to the Secretary, except that: (a) the presence in person by the giver of a proxy at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting; and (b) a later dated proxy shall automatically be deemed to invalidate any previously given proxy. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 2.9. Action Taken Without a Meeting. In the Board's discretion, any action that may be taken by the Owners at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every member entitled to vote on the matter.

(a) **Ballot.** A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.



All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and (iii) specify the time by which a ballot must be received by the Board in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) **Written Consent.** Approval by written consent shall be valid only when the number of written consents setting forth the actions taken is received by the Association (or its designee) and equals or exceeds the requisite number of votes required to pass such action at a meeting held on the date that the last consent is executed, which date shall be deemed the record date, and such action is consented to by the Declarant, if required. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the Owners is approved by written consent hereunder, the Board shall issue written notice of such approval to all Owners who did not sign written consents. Approval shall be effective when so announced by the Association; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

Section 2.10. Membership List. After fixing a record date for a meeting, the Association shall prepare an alphabetical list of the names of all the Owners who are entitled to notice of the meeting. The list must show the address of each Owner entitled to vote at the meeting. The list of the Owners must be available for inspection by any Owner for the purpose of communication with other the Owners concerning the meeting, beginning two (2) business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, as provided further in the Georgia Nonprofit Corporation Code. This list shall not be used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held for the Association; nor shall the list be used for commercial purposes, sold to or purchased by any Person.

Section 2.11. Order of Business. The President shall establish the agenda for, and preside at, and the Secretary shall keep the minutes of, all Association meetings. The Board of Directors may establish rules of conduct and the order of business for all Association meetings. When not in conflict with the Declaration, these Bylaws, the Articles of Incorporation, or meeting procedures adopted by the Board of Directors, Robert's Rule of Order (latest editions) shall govern all Association meetings. The Board may order the removal of anyone attending an Association meeting who, in the opinion of the Board disrupts the conduct of business at such meeting.

ARTICLE 3. BOARD OF DIRECTORS

Section 3.1. Composition and Eligibility. The affairs of the Association shall be governed by a Board of Directors. Except for directors appointed by the Declarant hereunder, the directors shall be Owners or spouses of such Owners; provided, however, no Owner and Owner's spouse may serve on the Board at the same time, and no co-owners may serve on the Board at the same time. Notwithstanding anything to the contrary herein, nothing in these Bylaws shall be deemed to prohibit an Owner that is a corporation, limited liability company, partnership, trust, or other legal entity not being a natural person or persons that owns more than one (1) Lot from appointing a different natural person as the designated agent for each of such Owner's Lots as contemplated in Section 1.5 hereof and each such designated person shall be eligible to serve on the Board at the same time. No persons shall be eligible to be elected to or continue to serve on the Board of Directors if they are shown on the books and records of the Association to be more than thirty (30) days delinquent in the payment of any assessment or charge by the Association. Except for directors appointed by the Declarant hereunder, the directors shall not be eligible to serve more than three (3) consecutive two (2) year terms without first resigning from the Board for a time period which shall be the lesser of: (i) one (1) year; or (ii) the period of time from the end of one (1) annual meeting of the Association to the beginning of the next annual meeting of the Association.

Section 3.2. Directors Appointed by the Declarant. Notwithstanding anything to the contrary herein, Declarant shall have exclusive authority to appoint and remove directors and officers until the earlier



of: (i) thirty (30) years after the Effective Date, (ii) unless Declarant has an unexpired right to submit Additional Property to the Declaration, thirty (30) days after the date as of which one hundred percent (100%) of the Lots shall have been conveyed to Person(s) other than the Declarant, or (iii) the surrender in writing by Declarant of the authority to appoint and remove officers and directors of the Association (the "**Development Period**"). Directors appointed by Declarant need not be the Owners or residents of the Community.

Section 3.3. Number of Directors and Term of Office. During the Development Period, the Board shall consist of at least one (1) but not more than three (3) directors, the exact number of which shall be determined by Declarant from time to time. After termination of the Development Period, the Association shall call a meeting to be held at which the Owners shall elect three (3) directors. If such meeting is not the annual meeting, the directors elected shall serve until the next annual meeting. At the first annual meeting after the expiration of the Development Period, the two (2) directors receiving the highest number of votes shall be elected for terms of two (2) years each and the remaining director shall be elected for a term of one (1) year. At each annual meeting thereafter, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 3.4. Removal of Members of the Board of Directors. After expiration of the Development Period, at any annual or special meeting of the Association duly called, any one (1) or more Board members, except for directors appointed by Declarant hereunder, may be removed with or without cause by a Majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. Further, any director who is more than thirty (30) days past due in the payment of any Assessment or charge to the Association shall be automatically removed from the Board of Directors, even if the director subsequently pays the amount owed, and the vacancy shall be filled as provided in Section 3.5 below. Any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings may be removed by the vote of a Majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days' notice of the calling of the meeting to consider such director's removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 3.5. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by a Majority of the Total Association Vote or by Declarant, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. The successor so selected shall hold office until the next annual meeting. Notwithstanding anything to the contrary herein, any director who is an officer, director or other designated agent of an entity member and whose position becomes vacant for any reason, may be replaced by the legal entity who is the Owner unless there has been a transfer of ownership of the Lot, in which case, the vacancy shall be filled by the remaining directors, even if less than a quorum at any meeting of the directors.

Section 3.6. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a Majority of the Total Association Vote. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon approval of such expenses by the Board of Directors. Directors also may be given nominal gifts or tokens of appreciation by the Association for recognition of services performed, not to exceed a value of One Hundred Dollars (\$100) per calendar year. For purposes hereof, reasonable food and beverages purchased for Board meeting shall not be considered compensation.

Section 3.7. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a Majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed but shall not be entitled to discuss the proposed contract during such meeting. Notwithstanding anything herein, the directors, during the Development Period, shall be authorized



on behalf of the Association to enter into contracts with the Declarant and its affiliates as set forth in Section 15.7 (Services During Declarant Control of the Declaration).

Section 3.8. Nomination. Nomination for election to the Board may be made by a Nominating Committee which shall be appointed by the Board of Directors at least thirty (30) days prior to the annual meeting to serve a term of one (1) year and shall consist of at least one (1) Board member and at least two (2) other members of the Association who are not Board members. The members of the Nominating Committee shall be announced at the annual meeting or special meeting, as applicable. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The nominations shall be made at least fourteen (14) days prior to the annual meeting or special meeting, as applicable. Nominations shall also be allowed from the floor at the annual meeting or special meeting, as applicable. Each candidate shall be given a reasonable opportunity to communicate candidate's qualifications to the Association prior to the election. No Owner shall be nominated for election to the Board, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment. Failure to comply with this Section 3.8 shall in no way invalidate the election of directors who were not nominated in accordance with the provisions of this Section 3.8.

Section 3.9. Elections. All members of the Association eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Voting for election of Board members shall be by written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted).

Section 3.10. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by the Board, but such meetings shall be held at least once every six (6) months. The newly elected Board shall meet within ten (10) days after each annual meeting of the Association. Notwithstanding the foregoing, during the Development Period, the Board shall not be required to hold regular meetings.

Section 3.11. Special Meetings. Special meetings of the Board may be called by the President on two (2) days' notice to each director given by regular first class or electronic mail, in person, by telephone, or by facsimile transmission, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 3.12. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required, and any business may be transacted at such meeting.

Section 3.13. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings. A Majority of directors shall constitute a quorum for the transaction of business. One (1) or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided that all persons participating in the meeting can hear each other.

Section 3.14. Open Meetings. Board meetings need not be open to all Owners. However, if the Board permits Owners to attend Board meetings, then Owners other than directors may not participate in any discussion or deliberation unless expressly authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon matters such as, but not limited to, the following: personnel matters, contract negotiations, enforcement actions, matters that are to remain confidential by request of the affected parties and agreement of the Board, litigation in which the



Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session. The Board may order the removal of any meeting guest who, in the Board's opinion, either disrupts the conduct of business at the meeting or fails to leave the meeting upon request after an announcement of reconvening in executive session.

Section 3.15. Action Without a Meeting. Any action by the Board required or permitted to be taken at any meeting may be taken without a meeting if a Majority of the directors consent to such action in writing, sent via hand delivery, regular first class or electronic mail or facsimile. Such consents must describe the action taken and be signed by no fewer than a Majority of the directors and such consents shall be filed with the minutes of the Board of Directors.

Section 3.16. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all of the powers conferred upon nonprofit corporations by common law, the statutes of the State of Georgia in effect from time to time, and all of the powers necessary or desirable to perform the obligations and duties and to exercise the rights and powers set out in the Articles of Incorporation, these Bylaws or the Declaration. In addition to the duties imposed by the Community Instruments, subject to Section 1.7 above, the Board of Directors shall have the power to and shall be responsible for the following, in the way of explanation, but not limitation:

- (i) preparing and adopting an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (ii) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the Annual Assessment;
- (iii) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. § 14-3-302, and using the proceeds to administer the Association;
- (iv) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;
- (v) providing for the operation, management, maintenance, care, upkeep, improvement and replacement of the Common Property and other portions of the Community Property as set forth in the Declaration;
- (vi) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Property and other portions of the Community Property as set forth in the Declaration, 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;
- (vii) making or contracting for the making of repairs, additions, and Improvements to, or alterations of the Common Property in accordance with the Community Instruments, after damage or destruction by fire or other casualty;
- (viii) making, amending, and enforcing reasonable Rules and Regulations of the Association governing the use and enjoyment of the Community Property;
- (ix) taking any and all actions necessary or appropriate on behalf of itself or any Owner to enforce the covenants and restrictions of the Community Instruments and any other agreement to which the Association is a party and which affects the development or maintenance of the Community



Property, including, but not limited to, assessing and collecting reasonable fines, and filing suit against a violating Owner, Occupant or Permittee;

(x) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(xi) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;

(xii) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred;

(xiii) contracting with any Person for the performance of various duties and functions. The Board of Directors shall have the power to enter into common management agreements with trusts, condominium associations, or other associations or corporations. Any and all functions of the Association shall be fully transferable by the Board of Directors, in whole or in part, to any other entity; and

(xiv) acquiring, leasing, holding, and disposing of tangible and intangible personal property and real property.

Section 3.17. Decision Making and Implementation. Except to the extent otherwise specifically and expressly required by the Georgia Nonprofit Corporation Code or the Community Instruments, the powers herein or otherwise granted to the Association may be exercised by the Board of Directors acting through the officers of the Association, without any further consent or action on the part of the Owners, and all agreements and determinations lawfully authorized by the Board of Directors shall be binding on the Association.

Section 3.18. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract by the Association with or without cause and without penalty, upon no more than thirty (30) days written notice. No management contract shall have a term in excess of one (1) year.

Section 3.19. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of maintenance, repair, restoration, or improvement of the Common Property and facilities, and for other purposes, with the approval of a Majority of the Total Association Vote. The Board of Directors may assign as collateral for any such loan (i) the Association's right to future income, including the rights to receive assessments, and (ii) the Association's lien rights.

Section 3.20. Liability and Indemnification of Officers, Directors, and Committee Members. The Association shall indemnify every officer, director, and committee member (including directors, officers, and committee members appointed by Declarant during the Development Period) against any and all expenses, including reasonable attorneys' fees and costs, that are actually incurred by or imposed upon such officer, director or committee member in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer, director or committee member, whether or not such person is an officer, director or committee member at the time such expenses are incurred subject to the limitations below. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director or committee member in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The Association, in determining whether to indemnify a director, officer or committee member, shall not impute knowledge to said director, officer or committee member from any source whatsoever; rather,



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

Section 3.21. Architectural Review Committee. After termination of the Development Period, the Board shall establish an Architectural Review Committee for the purpose of establishing and maintaining architectural standards in the Community as provided in the Declaration.

Section 3.22. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 3.23. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

ARTICLE 4. OFFICERS

Section 4.1. Designation. The principal officers of the Association shall be the President, the Secretary, and the Treasurer, all, or any of which may be the same person. A Vice President may be elected at the discretion of the Board.

Section 4.2. Election of Officers. The Association officers shall be elected annually by the Board at the first Board meeting following each annual meeting of the Association and shall hold office at the pleasure of the Board and until a successor is elected.

Section 4.3. Removal of Officers. Upon the affirmative vote of a Majority of the members of the Board, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4.4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 4.5. President. The "President," as such term is used in the Community Instruments, shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 4.6. Vice President. The "Vice President," as such term is used in the Community Instruments, if any, shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 4.7. Secretary. The "Secretary," as such term is used in the Community Instruments, shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct, and shall, in general, perform all duties incident to the office of the secretary of a corporation organized under Georgia law.



Section 4.8. Treasurer. The "Treasurer," as such term is used in the Community Instruments, shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 4.9. Other Officers. Other offices may be created by the Board, and the Board members that hold such offices shall have such titles and duties as are defined by the Board.

Section 4.10. Agreements, Contracts, Deeds, Leases, Etc. Except during the Development Period, all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors. During the Development Period all agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least one (1) officer or by such other person or persons as may be designated by resolution of the Board of Directors.

ARTICLE 5. RULE MAKING AND ENFORCEMENT

Section 5.1. Authority and Enforcement. The Community shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal, and enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Lots and the Common Property, provided that copies of all such Rules and Regulations shall be furnished to all Owners and Occupants. Any Rules and Regulations may be repealed by the affirmative vote or written consent of a Majority of the Total Association Vote and the consent of Declarant during the Development Period, at an annual or special meeting of the Association. Every Owner and Occupant shall comply with the Community Instruments and the Rules and Regulations, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one (1) or more aggrieved Owners, to take action to enforce the terms of the Community Instruments and the Rules and Regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, and to suspend an Owner's right to vote or to use the Common Property for violation of any duty imposed under the Community Instruments; provided, however, nothing herein shall authorize the Association or the Board to limit ingress and egress to or from a Lot. In the event that any Occupant of a Lot violates the Community Instruments and a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine shall first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the Lot until paid. The failure of the Board to enforce any provision of the Community Instruments shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 5.2. Fining and Suspension Procedure. The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Property (provided, however, if an Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association, suspension of the right to vote and the right to use the Common Property shall be automatic; provided further, however, suspension of common utility services shall require compliance with the provisions of Section 5.10(a)(iv) of the Declaration, where applicable), unless and until the Association has sent or delivered written notice to the violator as provided in Subsection (a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under Subsection (b) below.



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

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

Section 5.3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Community Instruments by self-help (specifically including, but not limited to, towing of vehicles that are in violation of the parking Rules and Regulations or performing maintenance on any Lot upon a failure by the Owner to so do) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 5.2 above. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorneys' fees actually incurred.

The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Community Instruments; provided, however, written notice shall be given to the Owner of the Lot at least two (2) days prior to the time that any items of construction are altered or demolished. All costs of self-help, including reasonable attorneys' fees, shall be assessed against the violating Owner, and shall be collected as provided herein for the collection of assessments.

ARTICLE 6. MISCELLANEOUS

Section 6.1. Notices.

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

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

(vi) A secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

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



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

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

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

Section 6.2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

Section 6.3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 6.4. Gender and Grammar. The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 6.5. Fiscal Year. The fiscal year of the Association may be set by Board resolution, and, in the absence thereof, shall be the calendar year.

Section 6.6. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board and a financial statement prepared. However, after having received the Board's financial statement review at the annual meeting, the Owners, by a Majority of the Total Association Vote, or the Eligible Mortgage Holders, by a vote of a Majority of the Eligible Mortgage Holders, may require that the accounts of the Association be audited as a Common Expense by an independent accountant. Such statement shall be made available to a Mortgage Holder upon submission of a written request and must be available within one hundred twenty (120) days of the Association's fiscal year end or one hundred twenty (120) days after requested by a Majority vote the Eligible Mortgage Holders, whichever occurs later. If an audited financial statement by an independent accountant is not required, any Mortgage Holder may have an audited statement prepared at its own expense.

Section 6.7. Conflicts. The duties and powers of the Association shall be those set forth in the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner of a Lot, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 6.8. Amendment. These Bylaws may be amended as provided in the Declaration.

Section 6.9. Books and Records.

(a) Right to Inspect. All Owners and any holder of a first Mortgage shall be entitled to inspect the following records at a reasonable time and location specified by the Association, upon written request at least five (5) business days before the date on which the Owner or Mortgagee wishes to inspect and copy:



- (i) its Articles or restated Articles of Incorporation and all amendments to the same that are currently in effect;
- (ii) its Bylaws or restated Bylaws and all amendments to the same that are currently in effect;
- (iii) resolutions adopted by either its Owners or Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of Owners or any class or category of Owners;
- (iv) the minutes of all meetings of the Association and records of all actions approved by the Association for the past three (3) years;
- (v) all written communications to Owners generally within the past three (3) years, including the financial statements furnished for the past three (3) years;
- (vi) a list of the names and addresses of its current directors and officers; and
- (vii) its most recent annual report delivered to the Secretary of State of Georgia.

(b) Inspection. An Owner may inspect and copy the following records upon written notice at least five (5) business days before the date on which the Owner wishes to inspect and copy only if the Owner's demand is made in good faith and for a proper purpose that is reasonably relevant to the Owner's legitimate interest as a member of the Association; the Owner describes with reasonable particularity the purpose and the records the Owner desires to inspect; the records are directly connected with this purpose; and the records are to be used only for the stated purpose:

- (i) excerpts from minutes of any Board meeting, records of any action of a committee of the Board while acting in place of the Board on behalf of the Association, minutes of any meeting of the Association, and records of action taken by the Association or the Board without a meeting, to the extent not subject to inspection under Section 6.9(a) above;
- (ii) accounting records of the Association; and
- (iii) the Ownership list only if for a purpose related to the Owner's interest as a member of the Association. Without the consent of the Board, the Ownership list or any part thereof may not be: (A) used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association; or (B) used for any commercial purpose; or sold to or purchased by any person.

The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Owner. Notwithstanding anything to the contrary, the Board may limit or preclude Owner inspection of confidential or privileged documents, including attorney/client privileged communications, executive session meeting minutes, and financial records or accounts of other Owners. Minutes for any Board or Association meetings do not become effective and an official Association record until approved by the Board or Association, as applicable, at a subsequent meeting.