

RETURN TO:

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STATE OF GEORGIA

COUNTY OF COBB

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR BURNT HICKORY REGISTRY SUBDIVISION

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR BURNT HICKORY REGISTRY SUBDIVISION is made this 27th day of February, 1998, by BURNT HICKORY REGISTRY, LLC, a Georgia limited liability company (herein referred to as the "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the fee simple owner of that tract or parcel of land lying and being in Cobb County, Georgia, and being more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof (herein referred to as the "Submitted Property"); and

WHEREAS, Declarant intends to develop on the Submitted Property a subdivision to be known as "Burnt Hickory Registry" (herein referred to as the "Subdivision"); and

WHEREAS, Declarant desires to enhance the value and provide for the uniform development of the Subdivision;

NOW, THEREFORE, Declarant hereby declares that the Submitted Property and such portions of the "Annexation Property" (as herein defined) as Declarant hereby elects from time to time to make subject hereto, shall be held, conveyed, encumbered, used, occupied and improved subject to the following covenants, restrictions and easements, all of which are in furtherance of a plan for subdivision, improvement and sale of real property and are established for the purpose of enhancing the value, desirability and attractiveness of the real property and every part thereof. The covenants, restrictions and easements set forth herein shall run with the land and shall be binding on all parties having or acquiring any right, title or interest therein or thereto, and shall, subject to the limitations herein provided, inure to the benefit of each "Owner" (as herein defined), his heirs, successors and assigns.

NOTE: THIS DECLARATION IS BEING RE-RECORDED TO INCLUDE THE LEGAL DESCRIPTION SET FORTH ON EXHIBIT "A", WHICH WAS INADVERTENTLY OMITTED WHEN THE DECLARATION WAS ORIGINALLY RECORDED.

~~BK 11284 PG 001~~

BK 11312 PG 293

COBB SUPERIOR COURT CLERK

Jay L. Stephens

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Cobb Superior Court

ARTICLE I
DEFINITIONS

The following terms, when used herein, shall have the meaning ascribed thereto below:

1.1 "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-22, et seq. (Michie 1982), as such act may be amended from time to time.

1.2 "Annexation" shall mean the process by which the "Annexation Property" is made subject to this Declaration pursuant to Article X.

1.3 "Annexation Property" shall mean the tract or tracts or parcel or parcels of land made subject to this Declaration by an amendment or amendments of this Declaration pursuant to the terms of Section 9.2.

1.4 "Architectural Control Committee" shall mean the committee established pursuant to Article V to supervise compliance with the "Design Standards."

1.5 "Articles" shall mean and refer to the Articles of Incorporation of the "Association," as amended from time to time.

1.6 "Assessment" shall mean and refer to an "Owner's" share of the charges, fees or other expenses from time to time assessed against an "Owner" by the "Association" in the manner herein provided.

1.7 "Assessment Year" shall mean the calendar year, with the first Assessment Year commencing on January 1 of the year immediately following the "Commencement Date."

1.8 "Association" shall mean Burnt Hickory Registry Homeowners Association, Inc., a Georgia nonprofit corporation, or any successor thereof, charged with the duties and obligations of the Association hereunder, its successors and assigns.

1.9 "Board" shall mean the Board of Directors of the Association, duly elected and acting pursuant to the Articles and "Bylaws."

1.10 "Bylaws" shall mean and refer to the Bylaws of the Association which have been adopted by the Board, as they may from time to time be amended.

1.11 "Commencement Date" shall mean the date designated by Declarant, upon which "Lots" become subject to Assessments.

1.12 "Common Property" shall mean all real and all personal property in which the Association owns an interest for the common use and enjoyment of all the "Owners." Said interest or interests may include, without limitation, estates in fee, estates for a term of years, usufructs or easements.

1.13 "Declarant" shall mean and refer to: (a) Burnt Hickory Registry, LLC, a Georgia limited liability company (herein referred to as the "Original Declarant"); or (b) any successor-in-title to the Original Declarant to all or some portion of the Submitted Property, provided such successor-in-title shall acquire such property for purposes of development or sale, and provided further, that in a written instrument, such successor-in-title is expressly designated as Declarant hereunder by the grantor of such conveyance, which grantor shall be Declarant hereunder at the time of such conveyance.

1.14 "Design Standards" shall mean the standards adopted, promulgated, amended, revoked and enforced by the Architectural Control Committee pursuant to Article V.

1.15 "Governmental Requirements" shall mean all laws, ordinances, rules, and regulations of any governmental authority, presently in effect or hereafter enacted, as amended from time to time.

1.16 "Lot" shall mean a parcel of land designated as a lot on a "Plat."

1.17 "Mortgage" shall mean any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

1.18 "Mortgagee" shall mean the holder of a Mortgage.

1.19 "Occupant" shall mean any Person who is in possession of a Lot.

1.20 "Owner" shall mean the record owner (including Declarant), whether one or more Persons or entities, of the fee simple title to any Lot; provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the Person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.21 "Person" shall mean a natural person, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

1.22 "Plat" or "Plats" means the subdivision plat or plats, with respect to the Submitted Property, to be recorded in the Office of the Clerk of the Superior Court of the county in which the Submitted Property is located and the subdivision plats which shall be recorded with respect to any portion of the Annexation Property which is made subject to this Declaration by Annexation.

1.23 "Property" means that real estate which is submitted to the Act and the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference. The Property is a residential property owners development which shall be subject to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq. (Michie 1982), as may be amended, upon the first to occur of (i) such time designated by Declarant in a written instrument recorded by Declarant in the deed records of the county in which the Submitted Property is located, or (ii) the date upon which every Lot has been conveyed by Declarant Persons who have not purchased such Lots for the purpose of construction of a residence and resale of such Lot and residence (with Declarant retaining no further interest or estate in the Submitted Property). Prior to the occurrence of the first to occur of clauses (i) and (ii), above, the Property shall not be subject to the Act, and any reference to the Act in this Declaration shall be construed to apply only at such time as the Property is subject to the Act.

1.24 "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.25 "Two-Thirds Vote" means a favorable vote by at least two-thirds (2/3) of the Owners who are voting in accordance with the provisions of the Bylaws of the Association, this Declaration and/or applicable law.

1.26 "Structure" means: (a) any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including, by way of illustration and not of limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard; temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot; (b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and (c) any change in the grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.26 applies to such change.

1.27 "Subdivision" means the Submitted Property.

ARTICLE II
COMMON PROPERTY

2.1 Conveyance of Common Property.

2.1.1 Declarant may from time to time convey real and personal property to the Association, or grant easements to the Association, to be held by the Association as Common Property. The Association hereby covenants and agrees to accept from Declarant, and shall be deemed to automatically accept delivery (upon recordation, if required, by Declarant) of, all such conveyances of Common Property. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall maintain all entry features at the main entrance of the Subdivision, similar streetscapes located at other street intersections within the Subdivision, and all medians and cul-de-sac islands located in the Subdivision. The Association shall also maintain all property outside of Lots located within the Subdivision which was originally maintained by Declarant. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Subdivision, where the Board has determined that such maintenance would benefit all Owners.

2.1.2 It is contemplated by Declarant that Declarant may convey to the Association Common Property for scenic and natural area preservation, recreational use and landscape maintenance. Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this Declaration at any time prior to conveyance of such Common Property to the Association.

Declarant intends to assign its rights and delegate its duties and obligations to the Association in any or all agreements required by governmental authorities, or deemed necessary or appropriate by Declarant, in connection with the development of all or any portion of the real property submitted, or to be submitted, to the Declaration from time to time, including without limitation, utility easements, access easements, indemnification agreements, flood plain development agreements, detention pond maintenance agreements, lake maintenance agreements, and dam maintenance agreements. Upon such assignment, the Association shall assume and agree to perform all of the duties and obligations of Declarant thereunder; and the Association shall hold Declarant harmless from and against any liability arising under such instruments from and after the effective date of such assignment. Unless Declarant has

assigned its rights and delegated its duties and obligations to the Association under any such agreement within three (3) years following the execution of such agreement, the assignment, delegation and assumption shall be automatically deemed to have occurred on the third (3rd) anniversary thereof.

2.1.3 In addition to the property described in Section 2.1.2, Declarant may convey to the Association in accordance with this Section 2.1.3 such other real and personal property as Declarant may determine to be necessary or proper for the completion of the Subdivision.

2.1.4 Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Submitted Property owned by Declarant and designated as Common Property, future Common Property or designated for public use shall be reserved to Declarant until such time as the same shall be conveyed to the Association or to any third party, municipality or other governmental body, agency or authority.

2.2 Right of Enjoyment. Every Owner shall have a right and easement to use and enjoy the Common Property, which right and easement shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit Persons who are not Owners to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right of the Association to permit Persons who are not Owners to use and enjoy part or all of the Common Property, includes the right of the Association to establish different categories of rights to use the Common Property, including varying rights for residents of the Subdivision, of adjoining subdivisions, and of others. The right and easement of enjoyment granted or permitted by this Section 2.2 is subject to suspension by the Association as herein provided.

2.3 Rights of the Association. The rights and privileges conveyed in Section 2.2 hereof shall be subject to the right of the Association acting through the Board to: (a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property; (b) borrow money for the purpose of carrying out the activities of the Association, and maintenance of Common Property, and in aid thereof, with the approval of Declarant (so long as Declarant retains any title or estate in the Submitted Property) and a Two-Thirds Vote (excluding Declarant), to encumber by deed to secure debt, mortgage or other security interest any or all of the Association's property including Common Property and revenues from Assessments, user fees and other sources; (c) grant easements or rights-of-way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(d) with the consent of Declarant (so long as Declarant retains any title or estate in the Submitted Property) and a Two-Thirds Vote (excluding Declarant), dedicate or transfer all or any part of the Common Property or interests therein to any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and, subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall, if such dedication or transfer is approved by Declarant and a Two-Thirds Vote, cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority; (e) charge reasonable fees in connection with the admission to and use of its facilities or services; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes; (f) suspend, pursuant to Section 3.5, the voting rights of any Owner and the right of enjoyment granted or permitted by Section 2.2; (g) sell, lease or otherwise convey all or any part of its properties and interests therein; and (h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof.

2.4 Types of Common Property. At the time of the conveyance of any real property or grant of easement by Declarant to the Association to be used as Common Property, Declarant shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may, subject to the applicable Zoning Ordinance of the county in which the Submitted Property is located, designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or portion thereof may be used, and in such event, such real property or portion thereof shall not, without a Two-Thirds Vote and consent of Declarant, be used for any different purpose or purposes.

2.5 Entrance Easements. It is contemplated that certain easements for the erection and maintenance of entrance monuments, subdivision signs, walls, fences and other structures intended to provide an attractive atmosphere or to provide privacy to Owners within the Subdivision will be reserved by Declarant and may be set forth on a Plat or Plats, or on plats of survey of the Subdivision, or portions thereof, recorded in the County Records. Such easements shall be perpetual in duration and shall include the right to erect, maintain, repair, replace and re-erect any such structures within the easement areas, as well as the right to plant grass, plants, flowers, shrubs and trees, to tend and garden the same, and to generally landscape the area within said easements to keep them clean, attractive and uniform in appearance for the benefit of all Owners within the Subdivision. Said easement areas shall be designated as such and all Owners taking title to any Lot

upon which such an easement lies will take title subject to the easement rights set forth herein, as well as such rights as may be set forth in the deed conveying such easements to the Association.

2.6 Encroachment Easements. If any buildings or other improvements initially constructed by Declarant, or by any "Builder" (as herein defined) who constructed the original dwelling, on any of the Lots, including without limitation any eaves, roof overhangs, balconies, siding, porches, or other structures which may be attached to the walls and roof of such buildings, and which may encroach onto or over or extend into the air space of any portion of the Common Property or any other Lot, or, conversely, if any such improvements initially constructed on the Common Property encroach onto or over portions of any Lot, a valid easement for the encroachment, for surface and subsurface support thereof, and for the maintenance, repair and replacement thereof, shall exist so long as the encroachment exists.

2.7 Delegation of Use. Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the Bylaws, his right to use and enjoy the Common Property.

ARTICLE III
THE ASSOCIATION

3.1 Purposes, Powers and Duties of The Association. The Association has been formed as a nonprofit corporation for the sole purpose of performing certain functions for the common good and general welfare of the inhabitants of the Subdivision. To the extent necessary to carry out such purpose, the Association: (a) shall have all of the powers of a corporation organized under the Georgia Nonprofit Corporation Code; and (b) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration.

3.2 Membership in the Association. Every Owner shall automatically be a Member of the Association and such membership shall terminate only as provided in this Declaration.

3.3 Voting Rights. Each Owner shall be entitled to one (1) vote. If an Owner consists of more than one Person and only one of those Persons is present at a meeting of the Association, that Person shall be entitled to cast the vote of such Owner; however, if more than one of those Persons is present, such vote shall be cast in accordance with their unanimous agreement, and such agreement shall be conclusively presumed if any one of them purports to cast the vote of such Owner without protest being made forthwith by any of the others present at such meeting to the Person presiding over the meeting. If such Persons are unable to reach unanimous agreement as to how the vote of such owner shall be cast, no vote may be cast by such Persons. Declarant shall be

the sole Class B Member and shall be entitled to three (3) votes for each Lot owned; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). The Class B Membership shall cease and be converted to Class A Membership at such time as Declarant no longer retains the right to appoint and remove members of the Board and officers of the Association pursuant to Section 3.8 below.

3.4 Board of Directors. The affairs of the Association shall be managed by the Board. The number of Directors and the method of election of Directors shall be as set forth in the Bylaws.

3.5 Suspension of Membership. The Board may suspend the voting rights of any Owner and the right of enjoyment of the Common Property of any Person who: (a) shall be subject to the "Right of Abatement" (pursuant to Section 8.3 hereof) by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards within thirty (30) days after having received notice of the same pursuant to the provisions hereof; (b) shall be delinquent in the payment of any Assessments; or (c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of the Common Property. Such suspension shall be for the balance of the period in which such Owner or Person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.5, the suspension may be for a period not to exceed sixty (60) days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

3.6 Termination of Membership. Membership shall cease only when a Person ceases to be an Owner.

3.7 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the Owners shall be governed by this Declaration, the Georgia Nonprofit Corporation Code, the Articles and the Bylaws.

3.8 Control by Declarant. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles or in the Bylaws, Declarant hereby retains the right to appoint and remove any member or members of the Board and any officer or officers of the Association until such time as the first of the following events shall occur: (a) December 31, 2005; (b) the date on which (i) all Lots shall have been conveyed to Persons who have not purchased such Lots for the purpose of construction of a residence and resale of such Lot and residence, or (ii) if the Veterans Administration ("VA") is guaranteeing any Mortgage in the Subdivision, or the Department of Housing and Urban Development ("HUD") is insuring any Mortgage in the Subdivision, 75% of the

Lots shall have been conveyed to Persons who have not purchased such Lots for the purpose of construction of a residence and resale of such Lot and residence; or (c) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section 3.8, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots. A special meeting of the Association shall be called at such time. At such special meeting the Owners shall elect a new Board which shall undertake the responsibilities of the Board and Declarant shall deliver to the newly elected Board the books, accounts and records, if any, which Declarant has kept on behalf of the Association. Each Owner by acceptance of a deed to or other conveyance of Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as is provided in this Section 3.8.

ARTICLE IV
ASSESSMENTS

4.1 Covenant for Assessments and Creation of Lien and Personal Obligation. The Declarant, to the extent that the Declarant is subject to Assessments, hereby covenants and agrees, and each Owner, jointly and severally, for himself, his heirs, legal representatives, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows: (a) to pay to the Association the annual Assessments which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him; (b) to pay to the Association any special Assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him; (c) that there is hereby created a continuing charge and lien upon all Lots owned by him against which all such Assessments are made to secure payment of such Assessments and any interest thereon as provided herein and costs of collection, including reasonable attorneys' fees; (d) that such continuing charge and lien on such Lots binds such Lots in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt or other instrument, except: (i) such liens for taxes or other public charges as are by applicable law made superior; and (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (A) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) and (B) to finance the construction,

repair or alteration of Structures; (e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot or Lots from liability for any Assessment thereafter assessed; and (f) that all annual and special Assessments (together with interest thereon as provided in this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot or Lots owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot or Lots as provided in this Declaration) a personal obligation which will survive any sale or transfer of the Lot or Lots owned by him; provided, however, that such personal obligation for delinquent Assessments shall not pass to an Owner's successor-in-title unless expressly assumed by such successor. Upon the first sale of each and every Lot to an Owner who will individually or through tenants or assigns occupy a Lot, such sale to be made by the Declarant or by a Builder who has purchased the Lot for the purpose of erecting a dwelling thereon, such Owner shall pay his prorated portion of the then present annual Assessment.

4.2 Purpose of Assessment. The Assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the inhabitants of the Subdivision, including, but not limited to, security services and systems, the acquisition, construction, improvement, maintenance and equipping of Common Property, the performance of all duties and obligations of the Association imposed upon or assumed by the Association (whether relating to the Common Property or other property), the enforcement of the Restrictions, the enforcement of the Design Standards, the payment of operating costs and expenses of the Association and the payment of all principal and interest when due on all debts owed by the Association. The funds necessary to cover any deductible or exclusion under an insurance policy purchased by the Association for losses, damages or claims made or incurred which pertain to the Common Property shall be raised through Assessments.

4.3 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual Assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.4 Maximum Annual Assessment.

4.4.1 Beginning on the date of this Declaration (herein referred to as the "Commencement Date") and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Lot shall be subject to a maximum annual Assessment of

Seven Hundred Fifty and No/100 Dollars (\$750.00) per Lot. In the event that the Commencement Date falls on a day other than January 1, the annual Assessment for such year shall be prorated so that each Owner pays an annual Assessment proportional to the number of days remaining in the calendar year.

4.4.2 Commencing with the first Assessment Year and continuing thereafter, the maximum annual Assessment may be increased at any time and from time to time during each Assessment Year ten percent (10%) or less above the annual Assessment for the previous Assessment Year without a vote of the Owners.

4.4.3 Commencing with the first Assessment Year and continuing thereafter, the maximum annual Assessment for each Assessment Year may, at any time and from time to time, be increased more than ten percent (10%) above the annual Assessment for the previous Assessment Year if such increase is approved by a Two-Thirds Vote.

4.5 Special Assessments for Working Capital Fund and Capital Improvements. In addition to the annual Assessments authorized by this Article IV, the Association may levy:

(a) upon the first sale of each and every Lot to an Owner who will individually or through tenants or assigns occupy a Lot, such sale to be made by Declarant or by a Builder who has purchased the Lot for the purpose of erecting a dwelling thereon, a special Assessment in an amount to be determined by Declarant, but not to exceed \$200.00; which shall be collected at the closing of such sale for the benefit of the Association. This special Assessment shall be a one-time Assessment to be paid by the first (1st) Owner who will individually or through tenants or assigns occupy a Lot; and shall not be refundable by Declarant or the Association to such Owner; and

(b) in any Assessment Year and with such frequency as the Association shall deem necessary, special Assessments for the purpose of paying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common Property, provided that any such special Assessment shall have been approved by a Two-Thirds Vote.

4.6 Assessment Procedure.

4.6.1 The Board shall establish the annual Assessment for each Assessment Year at an amount not in excess of the maximum annual Assessment as determined by the provisions of this Article IV, and shall also establish the date during the Assessment Year on which the annual Assessment shall be due and payable (such date is herein referred to as the "Due Date"). The Board shall cause the Association to send to each Owner at least thirty (30) days in advance of the Due Date written notice setting forth the amount of

the annual Assessment and the Due Date. The annual Assessment shall become due on the thirtieth (30th) day following such written notice or the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual Assessment in installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special Assessments which may be levied in accordance with the provisions of this Article IV.

4.6.2 All Owners shall be given written notice by the Board not less than thirty (30) nor more than sixty (60) days in advance of any meeting of the Owners at which the Board shall propose taking action pursuant to Section 4.4.3 or Section 4.5. Such written notice shall specify under which Section or Sections the Board will propose action. For the purposes of this Section 4.6, the presence of Members or of proxies entitled to cast sixty percent (60%) of all of the votes shall constitute a quorum. If the quorum required by this Section 4.6.2 is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement, and the required quorum at such second meeting shall be fifty percent (50%) of the quorum required by the Bylaws for the first meeting. No such second meeting shall be held more than sixty (60) days following the first meeting.

4.7 Uniform Rate of Assessment. Both annual and special Assessments must be fixed at a uniform rate for all Lots, except as set forth below in Section 4.12.

4.8 Effect of Nonpayment of Assessments. Any annual Assessment which is not paid on or before the Due Date and any special Assessment which is not paid on or before the date set by the Board shall bear interest after the Due Date with respect to annual Assessments, or the date set by the Board with respect to special Assessments, at the lower of the highest legal rate of interest which can be charged or the rate of eighteen percent (18%) per annum or at such rate as the Board may from time to time establish; provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. In the event of default in the payment of any one or more installments of an Assessment, the Board may declare any remaining balance of the Assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any Assessment prior to the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorneys' fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot enforceable in accordance with the provisions of this Declaration.

4.9 Statement of Account. Any Owner, Mortgagee or 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) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding Ten Dollars (\$10.00), 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.

4.10 Approval by Declarant. Notwithstanding anything to the contrary contained herein, no Assessment shall be made without the approval of Declarant for so long as Declarant has the right to appoint officers and directors of the Association.

4.11 Responsibility of Declarant. Notwithstanding any provisions of this Declaration (other than this Section 4.11), unless required as a matter of law, neither Declarant, nor any Person who has purchased land from Declarant for the purpose of constructing improvements for later sale to consumers ("Builder"), shall at any time be subject to the Assessments described in this Article IV (unless a Lot owned by Declarant or a Builder contains a residence occupied by an Occupant as such Occupant's residence [excluding, however, model homes]); however, Declarant hereby agrees that until such time as Declarant no longer has the right to appoint members to the Board of the Association, Declarant will lend to, or guarantee the loan to, the Association any deficit amounts not covered by the income of the Association (including income derived from Assessments) which are reasonably necessary to maintain the Common Property in a neat, attractive, and in addition, where such property is intended for recreational use, usable condition (excluding, however, in making such calculations any amounts to establish or fund capital reserve accounts). In determining whether such a deficit exists, paper expenses, such as depreciation shall not be taken into consideration. In addition and notwithstanding anything to the contrary herein, Declarant may contribute services or materials or a combination of services and materials, rather than lending money. If Declarant and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and Declarant cannot agree as to the value of any contribution, Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors approved by Declarant who are in the business of providing such services and materials. If the Association and Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors. All such loans shall be on terms and conditions satisfactory to Declarant,

with the interest rate payable thereon not to exceed two (2) percentage points in excess of the "prime rate" publicly announced by Trust Company Bank, Atlanta, Georgia, from time to time. All such loans may be repaid by the Association out of its working capital reserves, including without limitation the special Assessments made under Section 4.5 hereof.

4.12 Allocation of Liability for Common Expenses. The Board may specifically assess Lots for the following Association expenses:

(a) Expenses of the Association which benefit less than all of the Lots may be specifically assess equitably among all of the Lots which are benefitted according to the benefit received.

(b) Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

(c) Expenses of the Association 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 specially assessed against such Lot or Lots.

ARTICLE V
ARCHITECTURAL CONTROL

5.1 Architectural Control Committee - Creation and Composition.

5.1.1 The Architectural Control Committee shall consist of not less than three (3) nor more than five (5) individuals; provided, however, that the Architectural Control Committee shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, all members of the Architectural Control Committee shall be appointed by Declarant until the first to occur of: (a) December 31, 2005, or (b) the date upon which every Lot has been conveyed by Declarant to a third party or parties (with Declarant retaining no further interest or estate in the Submitted Property). Upon the expiration of Declarant's right to appoint members of the Architectural Control Committee, all members of the Architectural Control Committee shall be appointed by the Board. All costs of operating the Architectural Control Committee shall be borne by the Association.

5.1.2 Each initial member of the Architectural Control Committee shall be appointed for a term expiring on December 31, 1998. Thereafter each member of the Architectural Control Committee shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the Architectural Control Committee by reason of death, incapacity, resignation, removal or

otherwise, the remaining members of the Architectural Control Committee shall continue to act and such vacancy shall, subject to the provisions of Section 5.1.1, be filled by the Board or Declarant, as the case may be, at the earliest possible time. Any Architectural Control Committee member may resign at any time by giving written notice of such resignation to the Chairman of the Architectural Control Committee and such resignation shall take effect on receipt thereof by the Chairman. Any member of the Architectural Control Committee may be removed at any time with or without cause by Declarant (or the Board if at such time the Board has the right to appoint members of the Architectural Control Committee).

5.2 Purpose, Powers and Duties of the Architectural Control Committee. The purpose of the Architectural Control Committee is to assure that any installation, construction or alteration of any Structure on any Lot shall be submitted to the Architectural Control Committee for approval: (a) as to whether the proposed installation, construction or alteration complies with the Design Standards and is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Subdivision; and (b) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

5.3 Officers, Subcommittees and Compensation. The members of the Architectural Control Committee shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the Architectural Control Committee as they shall from time to time determine necessary. The members of the Architectural Control Committee shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the Architectural Control Committee.

5.4 Operations of the Architectural Control Committee.

5.4.1 Meetings. The Architectural Control Committee shall hold regular meetings at least once every three (3) months or more often as may be established by the Architectural Control Committee. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the Architectural Control Committee then in office. Regular and special meetings of the Architectural Control Committee shall be held at such time and at such place as

the Architectural Control Committee shall specify. Notice of each regular or special meeting of the Architectural Control Committee shall be mailed to each member thereof (if such member has requested in writing that such notice be given to him) at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the Architectural Control Committee who signs a waiver of notice either before or after the meeting. Attendance of a member of the Architectural Control Committee at a meeting shall constitute a waiver of notice of such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objection or objections to the transaction of business. At each meeting of the Architectural Control Committee, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the Architectural Control Committee present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the Architectural Control Committee. In the absence of a quorum, any member of the Architectural Control Committee present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The Architectural Control Committee shall maintain both a record of votes and minutes for each of its meetings. The Architectural Control Committee shall make such records and minutes available at reasonable places and times for inspection by Owners. Any action required to be taken at a meeting of the Architectural Control Committee, or any action which may be taken at a meeting of the Architectural Control Committee, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the Architectural Control Committee and be filed within the minutes of the proceedings of the Architectural Control Committee. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the Architectural Control Committee.

5.4.2 Activities. (a) The Architectural Control Committee shall adopt and promulgate the Design Standards and shall, as required, make findings, determinations, rules, and orders with respect to the conformity with the Design Standards of plans and specifications submitted to the Architectural Control Committee for approval pursuant to the provisions of this Declaration. The Architectural Control Committee shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions, pursuant to the

provisions of this Declaration; and (b) any two (2) or more members of the Architectural Control Committee may be authorized by the Architectural Control Committee to exercise the full authority of the Architectural Control Committee with respect to all matters over which the Architectural Control Committee has authority as may be specified by resolution of the Architectural Control Committee, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect to the matters specified shall be final and binding upon the Architectural Control Committee and upon any applicant for an approval, permit or authorization; subject, however, to review and modification by the Architectural Control Committee on its own motion or appeal by application to the Architectural Control Committee as provided in this Section 5.4.2. Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the Architectural Control Committee. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the Architectural Control Committee, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the Architectural Control Committee with respect to such matter shall be final and binding. The Architectural Control Committee shall have the right, within any Design Standards adopted from time to time, to alter the time periods from those otherwise set forth in this Section 5.4.2.

5.5 Submission of Plans and Specifications. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which changes the exterior appearance of the Structure or Lot, unless two (2) sets of plans and specifications therefor shall have been submitted to and approved in writing by the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architectural Control Committee in the Design Standards, including, but not limited to: (a) a site plan showing the location of all proposed and existing Structures on the Lot, including building setbacks, open space, driveways, walkways and parking spaces, including the number thereof; (b) a foundation plan; (c) a floor plan; (d) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all backfilling and landscaping are completed; (e) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and (f) plans for landscaping and grading.

5.8 Failure to Act. In the event that the Committee or its designated representative fails to approve or to disapprove such application within thirty (30) days after the application and such information as the Committee may reasonably require shall have been submitted, its approval will not be required and Section 5.5 will be deemed complied with; provided, however, even if the requirements of that Section are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the Bylaws, or the rules and regulations.

5.9 Inspection Rights. Any employee or agent of the Association or the Architectural Control Committee may, after reasonable notice, at any reasonable time or times enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the Architectural Control Committee, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section 5.9.

5.10 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the Architectural Control Committee such violation shall have occurred, the Architectural Control Committee shall notify the Association. If the Board shall agree with the determination of the Architectural Control Committee with respect to the violation, then the Association shall have the rights set forth in Article VIII.

5.11 Certification of Compliance.

5.11.1 Upon completion of the installation, construction or alteration of any Structure in accordance with plans and specifications approved by the Architectural Control Committee, the Architectural Control Committee shall, upon written request of the Owner thereof or upon the Architectural Control Committee's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications have been approved and that such Structure complies with such plans and specifications. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the Architectural Control Committee.

5.6 Approval of Plans and Specifications. The Architectural Control Committee will make the final approval decision in writing based on siting, exterior elevations, materials and details. Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, one copy of such plans and specifications, as approved, will remain for permanent record with the Architectural Control Committee, and one approved set of plans and specifications bearing such approval, in writing, together with any conditions imposed, will be returned to the applicant submitting the same to be retained as the "Applicant's Approved Set." Any changes or modifications made to the Applicant's Approved Set must be first submitted for the Architectural Control Committee's approval prior to construction of those changes. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter; provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

5.7 Disapproval of Plans and Specifications. The Architectural Control Committee shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration because of any of the following: (a) the failure to include such information in such plans and specifications as may have been reasonably requested; (b) the failure of such plans or specifications to comply with this Declaration or the Design Standards; or (c) any other matter which, in the judgment of the Architectural Control Committee, would be likely to cause the proposed installation, construction or alteration of a Structure: (i) to fail to be in conformity and harmony of external design and general quality with the standards as set forth in the Design Standards; or (ii) to be in an incompatible location considering the topography, finished ground elevation and surrounding Structures. In any case in which the Architectural Control Committee shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the Architectural Control Committee shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.11.2 Any Certificate of Compliance issued in accordance with the provisions of this Section 5.11 shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article; provided, however, that the Certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the Architectural Control Committee of the actual construction of the Structures or the workmanship, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment.

5.11.3 The issuance of a Certificate of Compliance with respect to any Structure shall in no way be construed to certify to any party that such Structure has been built in accordance with any Governmental Requirements.

5.12 Fees. The Architectural Control Committee may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to this Declaration. The fee shall be established from time to time by the Architectural Control Committee and published in the Design Standards.

5.13 Nondiscrimination by Architectural Control Committee. The Architectural Control Committee shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the Architectural Control Committee in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against Persons of a particular race, color, sex, religion, age or national origin.

5.14 Liability for Defects. Neither Declarant, the Association, members of the Board, officers of the Association, the Architectural Control Committee, any subcommittee thereof, nor any members or subcommittee members thereof, shall be liable in damages to anyone submitting plans and specifications for approval under the architectural control provisions, or to any Owner affected by these Restrictions, by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans and specifications. Every Person who submits plans or specifications for approval agrees by the submission of same, and every Owner agrees, that he will not bring any action or suit against Declarant nor any of the above-described parties responsible for operating the Association and enforcing the Restrictions to recover for any such alleged damages.

5.15 Declarant and Builders. The provisions contained in this Article shall not apply to Declarant. In addition, said provisions shall not apply to any Builder; provided, however, any such Builder must submit to and have its plans and specifications approved by Declarant. This Section 5.15 may only be amended with the prior written consent of Declarant.

ARTICLE VI
GENERAL COVENANTS AND RESTRICTIONS

6.1 Residential Use. 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 Property, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within the dwelling so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the dwelling; (b) the business activity does not involve visitation of the Lot by employees, clients, customers, suppliers or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary parcel delivery services (U.P.S., Federal Express, etc.); (c) the business activity conforms to all zoning requirements for the Property; (d) the business activity does not increase traffic in the Property; (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (f) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the Board's sole discretion.

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

6.2 Single-Family Dwelling. Not more than one single-family dwelling shall be erected on any Lot. Dwellings shall contain a minimum of 2,400 square feet of living and/or heated area.

6.3 Walls and Fences. No fence or wall shall be erected, placed, or altered on any Lot, unless approved in writing by the Architectural Control Committee. No chain link fences shall be permitted at any time, unless approved or constructed by Declarant or the Association. Any such chain link fence shall be painted black or green. The exposed part of retaining walls and foundations shall be made of brick, natural stone, landscaping timbers, railroad ties, stucco (parged or painted), painted concrete, Dryvit, or veneered with brick or natural stone.

6.4 Subdivision of Lots. One or more Lots or parts thereof may be subdivided or combined to form one single building Lot when approved, in writing, by the Architectural Control Committee. Otherwise, subdivision or combination of Lots is prohibited.

6.5 Terraces, Eaves, Etc. For the purpose of determining compliance or non-compliance with the building line and natural, undisturbed buffer requirements set forth on the Plat, terraces, cantilevers, patios, drainage facilities, detention ponds, lawn furniture and recreational equipment shall not be considered as a part of the Structure.

6.6 Garages. Garages may be attached or detached, but must be large enough to accommodate at least two automobiles, and garage interiors shall be sheetrocked and painted. All garages shall have doors. The Architectural Review Committee shall have the right, in its sole discretion, to grant waivers from the requirements of this Section.

6.7 Detached Buildings of Permanent Nature. Detached garages and other buildings of a permanent nature shall conform in exterior design and quality to the residence on each Lot. Permanent detached buildings placed on any Lot shall be located only behind the residence as such residence fronts on a street. For the purposes of determining compliance or non-compliance with these building line requirements, the provisions of Section 6.5 shall apply. Any such detached building shall be constructed concurrently with or subsequent to the construction of the residence on any Lot. Prior to commencing construction of any such detached building, the Owner shall obtain approval of the plans and specifications therefor from the Architectural Control Committee, as provided herein.

6.8 Delivery Receptacles and Property Identification Markers. The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

6.9 Use of Outbuildings and Similar Structures. Except as otherwise provided in this Section 6.9, no Structure of a temporary nature shall be erected or allowed to remain on any Lot, unless approved in writing by the Architectural Control Committee, and no trailer, camper, shack, tent, garage, barn or other structure of a similar nature shall be situated on any Lot, either temporarily or permanently, unless approved in writing by the Architectural Control Committee. Provided, however, that Declarant and others engaged in construction on the Lots may use sheds or other temporary structures during construction for purposes of construction without the approval of the Architectural Control Committee, and may maintain temporary real estate offices for the sale of Lots or homes in the Subdivision, without the approval of the Architectural Control Committee. No fuel tanks shall be located on any Lot.

6.10 Completion of Construction. The Architectural Control Committee shall have the right to take appropriate court action, whether at law or in equity, to compel the immediate completion, including landscaping, of any Structures not completed within one (1) year from the date of commencement of construction. Construction shall be deemed to commence on the date of issuance of the building permit.

6.11 Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Property, as determined in the Board's discretion.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property without prior written Board approval. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Feces left upon the Common Property by dogs must be removed by the owner of the dog or the person responsible for the dog. No potbellied pigs may be brought onto or kept at the Property at any time.

6.12 Offensive Activities. No noxious, offensive or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to other Owners.

6.13 Signs. Except as may be required by legal proceedings, no signs advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Architectural Control Committee, except that one professional security sign not to exceed four (4") inches by four (4") inches in size may be displayed from within a dwelling on a Lot and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in

size may be displayed from within a dwelling on a Lot being offered for sale or for lease. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association.

6.14 Aesthetics and Screening. No window air conditioning units shall be visible from any street.

6.15 Antennae. Without the prior written consent of the Architectural Control Committee, no radio or television transmission or reception antennae shall be erected on any Lot, whether mounted on a residence or free standing, and no satellite dish antennae shall be permitted on any Lot.

6.16 Parking. No Owner or Occupant may keep or bring onto the Property more than a reasonable number of vehicles per Lot at any time, as determined by the Board; provided, however, the Board may adopt reasonable rules limiting the number of vehicles which may be parked at the Property. Vehicles may only be parked in designated parking spaces or other areas authorized in writing by the Board, and Occupants' vehicles may not be parked on the streets within the Subdivision without the prior written consent of the Board.

Disabled and stored vehicles are prohibited from being parked on the Property. Boats, boat trailers, trucks with a load capacity of one (1) ton or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (RV's and motor homes), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Property, except in garages or other areas 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 on the Common Property during normal business hours for the purpose of serving any Lot or the Common Property; provided, that, without the written consent of the Board, no such vehicle shall be authorized to remain on the Common Property overnight or for any purpose except serving a Lot or the Common Property.

For purposes of this Section, 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 Property for fourteen (14) days or longer without prior written consent of the Board.

If any vehicle is parked on any portion of the Property in violation of this Section or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact

regarding the alleged violation. A notice also shall be conspicuously placed at the Property stating the name and telephone number of the person or entity which will do the towing. 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 vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, is parked in any grassy area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this Section, 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. The Association's right to tow is in addition to, and not in limitation of, all other rights of the Association, including the right to assess fines. 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.

6.17 Garbage and Refuse Disposal.

6.17.1 No Person shall dump rubbish, garbage, or any other form of waste on any Lot or on the Common Property.

6.17.2 Except during approved construction, no Person shall burn rubbish, garbage, or any other form of waste on any Lot or on the Common Property.

6.17.3 Except for building materials employed during the course of construction of any Structure approved by the Architectural Control Committee, no lumber, metals, bulk materials or waste of any kind shall be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in the manner set forth in the Design Standards. If such waste or other material is found on any Lot, the same will be removed by the Owner of such Lot, at the Owner's expense, upon written request of the Architectural Control Committee.

6.17.4 If rubbish, garbage, or any other form of waste is being disposed of by being collected on a regular and recurring basis, sanitary containers may be placed in the open on any day that a pick-up is to be made, in order to provide access to Persons making such a pick-up. At all other times such containers shall be installed underground or screened or enclosed in the manner set forth in the Design Standards.

6.18 Changing Elevations. Except during the construction of permanent improvements thereon, no Owner shall excavate or extract

earth from any Lot for any business or commercial purpose or otherwise. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots, unless approved in writing by the Architectural Control Committee.

6.19 Utility Facilities. Declarant reserves the right to approve the necessary construction, installation and maintenance of underground utility facilities, including but not limited to water, storm water, telephone, gas, electricity, cable television and sewerage systems, which may be at variance with these Restrictions.

6.20 Abandoned Personal Property. Personal property, other than an automobile as provided for in Section 6.16, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written consent of the Board.

If the Board, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Property in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine.

If the Board, in its sole discretion, determines that property is being abandoned or stored in violation of this Section, the Board may place a notice on the personal property and/or on the front door of the Lot of the Owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored by the Board in a location which the Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

If two (2) days after such notice is placed on the personal property and/or the front door of the Lot, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the notice without further notice to the owner or user of the personal property.

In addition to the provisions above, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this Section, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board at a location which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

If personal property is removed in accordance with this Section, neither the Association nor any officer or agent to the Association shall be liable to any person for any claim of damage resulting from the removal 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 remove abandoned or improperly stored personal property, as set forth herein.

6.21 Buffers. Areas designated on the Plat as "Buffers" shall not contain Structures, except for: (a) uses permitted under Section 6.5; (b) any Structure of a type which may be developed under applicable building codes without the necessity for continuous footings (not to include pier pads for decks, solarium type structures or patios), which require inspections; and (c) development Structures required by engineering considerations for the Subdivision, such as detention ponds, underground utilities and the streets and driveways as shown on the Plat. Swimming pools shall not be constructed in the "Buffers."

6.22 Maintenance of Lots. Each Lot shall be maintained in a slightly and sanitary condition and grass and landscaping shall be properly maintained. Such maintenance shall include without limitation the care and maintenance of any portions of the Lot labeled or used as drainage easements; provided, however, the Association shall be responsible for the cleaning, maintenance and repair of any detention ponds (labeled as such on any subdivision plats recorded with respect to all or any portion of the Submitted Property). Should any Owner fail or refuse to maintain his Lot in such condition, the Association shall be entitled to provide written notice to such Owner of the deficiencies in maintenance, as determined by the Association. If such deficiencies in maintenance are not corrected within thirty (30) days after receipt of such written notice by such Owner, the Association may, at the expense of the Owner, enter the Lot and perform such maintenance. The cost of such maintenance may be specially assessed against the Owner of such Lot, and the Association shall have lien rights therefor as in the case of other Assessments. The provisions of this Section permitting the Association to perform maintenance and assess the cost thereof shall not apply to any Lots owned by Declarant.

6.23 Entrance Monuments. Declarant shall have the right to construct an entrance monument at the entrance to the Subdivision, without the prior approval of the Architectural Control Committee.

6.24 Clotheslines. No outside clotheslines placed on any Lot shall be visible from any adjacent Lot, Common Property or street.

6.25 Recreational Equipment. Recreational and playground equipment placed or installed on any Lot shall be located only

behind the residence as such residence fronts on a street, unless otherwise approved in writing by the Architectural Control Committee. For Lots which are adjacent to two or more streets, recreational and playground equipment shall be screened so that the same is not visible from either street.

6.26 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Architectural Control Committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural Control Committee may, as a condition or 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 of controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape, and required landscaping as provided for in Section 6.27. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the Architectural Control Committee.

6.27 Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the Architectural Control Committee of plans and specifications for the landscaping to accompany such construction or alteration. Guidelines for the landscaping to accompany the construction or alteration of any Structure may be included in the Design Standards of the Architectural Control Committee.

6.28 Prohibition of Damage, Nuisance and Noise. Without prior written Board consent, nothing shall be done or kept on the Property or any part thereof which would increase the rate of insurance on the Property or any Lot or part thereof, which would be in violation of any Governmental Requirement, or which would increase the Common Expenses.

Noxious, destructive or offensive activity shall not be carried on upon the Property. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, nuisance or annoyance to other Owners or Occupants. No Owner or Occupant of a Lot may use or allow the use of a Lot or any portion of the Property in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or Occupants of a portion of the Property, or in such a way as to constitute, in the Board's sole opinion, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. No Owner or Occupant of a Lot may use or allow the use of the Lot or the Common Property in any manner which creates disturbing noises between the hours of 11:00 p.m. and 7:30 a.m. that will, in the

Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of the Owners or Occupants.

No Owner shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Property or any structure created thereon, would reduce the value thereof, or would impair any easement or hereditament thereto, without the prior written consent of all Association Members and their Mortgagees. No damage to or waste of the Common Property, or any part thereof, or of the exterior of any building constructed upon any Lot shall be permitted by any Owner or Member of his or her family or any invitee of any Owner. 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, members of his or her family, guests, invitees, or Occupants of his or her Lot.

6.29 Leasing. The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and Bylaws, in order to enforce the provisions of this Section.

(a) Definition. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Leasing Provisions. Leasing of Lots shall be governed by the following provisions:

(i) General. Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files, and upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than six (6) months; provided, however, that the Board shall have the power to allow leases for an initial term of less than six (6) months, on such terms and conditions as the Board may establish, upon a showing by the Owner that such a lease is required to avoid undue hardship to the Owner. Within seven (7) days after executing a lease agreement for the lease of a Lot, the Lot Owner shall provide the board with a copy of the lease and the name of the lessee and the names of all other people to occupy the Lot. The Lot Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations.

(ii) Compliance With Declaration, Bylaws, and Rules and Regulations, Use of Common Property, and Liability for

Assessments. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Lot, covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Lot:

(A) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of such violation shall be given to the Owner and the lessee, and such fine may be first be assessed against the lessee in accordance with Article VIII, Sections 1 and 2 hereof. If the fine is assessed against the lessee and is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specifically assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

(B) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common

Property, including, but not limited to, the use of any and all recreational facilities.

(C) Liability for Assessments: When an Owner who is leasing his or her Lot fails to pay any annual or special Assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, the lessee shall pay to the Association all unpaid annual and special Assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by the lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by the lessee shall reduce, by the same amount, the lessee's obligation to make monthly rental payments to the lessor. If the lessee fails to comply with the Board's request to pay Assessments or other charges, the lessee shall pay to the Association all amounts authorized under Article IV, Section 1 hereof as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(c) Applicability of this Section. This Section shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

ARTICLE VII
EASEMENTS, ZONING AND OTHER RESTRICTIONS

7.1 Easements.

7.1 Declarant hereby expressly reserves to Declarant, and its successors and assigns as Declarant, forever, the right to create perpetual easements in, on, over and under any part of the Submitted Property for any purpose which Declarant deems necessary, including, by way of example, and not of limitation, the following: (a) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities; (b) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function; (c) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or

sliding problems or which might change, obstruct or retard drainage flow; (d) the planting or replanting of hedges, shrubbery, bushes, trees, flowers and plants of any nature; and (e) maintenance of entrance monuments.

7.1.2 Each Owner and Declarant (so long as Declarant owns an interest or estate in the Submitted Property) shall have a nonexclusive and perpetual easement for access, ingress and egress of vehicular and pedestrian traffic over and across such roads and sidewalks located on the Submitted Property, as the same may exist from time to time. The rights granted herein are subject to relocation, reconstruction, repair and maintenance, to such an extent as Declarant deems necessary or desirable, and are further subject to such nondiscriminatory and reasonable traffic regulations as Declarant deems necessary or desirable for the safe and efficient flow of such traffic. In the event such roads are dedicated to the public use, the easement rights with respect thereto shall automatically terminate.

7.1.3 No Owner shall have any right to use any easement created by Declarant in, on or over any portion of the Submitted Property unless such easement has been assigned by Declarant to the Association.

7.1.4 There shall be and is hereby reserved to Declarant for so long as it retains its rights as Declarant, a nonexclusive easement over all Lots and Common Property for a distance of ten (10) feet behind any Lot line which parallels a street (whether public or private) for the purpose of erecting and maintaining street intersection signs, directional signs, temporary promotional signs, plantings, street lights, entrance features and/or "theme areas," lighting, stone, wood, or masonry wall features and/or related landscaping.

7.1.5 There is hereby reserved to Declarant and the Association an easement for ingress, egress, installation, construction, landscaping, and maintenance of entry features and similar streetscapes for the Subdivision, over and upon each Lot which is bounded by the right-of-way providing primary access to the Subdivision and every other Lot located at the corner of a street intersection. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and streetscapes and the right to grade the land under and around the entry features and streetscapes.

7.1.6 If any portion of an exterior wall of a residence is situated within three (3) feet of any adjoining Lot line, a valid easement shall and does exist, three (3) feet in width along the adjoining Lot and adjacent to the said Lot line, which easement may be used for the purpose of construction, reconstruction and maintenance of said exterior wall of a residence that is situated

within three (e) feet from the nearest point of said easement. The Owner of any Lot subject to this easement shall not erect or build any structure upon or over said easement which will unreasonably interfere with the purposes of said easement.

7.1.7 For a period of three (3) years from the date of conveyance of each Lot, Declarant reserves an easement and right on, over and under the ground within that Lot to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any grading of the land, or to take any other similar action reasonably necessary, following which Declarant shall restore the affected property to its original condition as near as practicable. Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of Declarant an emergency exists which precludes such notice.

7.1.8 A right of entry on any Lot or Common Property is hereby granted to law enforcement officers, and fire and rescue personnel as needed to carry out their duties, including enforcement of cleared emergency vehicle access.

7.1.9 The Association by and through its employees, agents and contractors, is hereby granted an easement and right-of-entry through, over and upon each Lot for the purpose of discharging and performing any duty imposed, or exercising any right granted, by this Declaration, including but not limited to the duty or right of maintenance or replacement imposed upon either the Association or upon any Owner.

7.2 Entry. Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each "Easement Area" (as defined in this Section 7.2) for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section 7.2. Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 7.1. The words "Easement Area" as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or the Plat relating thereto.

7.3 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements

created or imposed by this Declaration, the most restrictive provision shall govern and control.

ARTICLE VIII
RULE MAKING AND ENFORCEMENT

8.1 Authority and Enforcement. The Property 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, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of the Owners of a Two-Thirds Vote at an annual or special meeting of the membership.

Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, Bylaws or 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 Declaration, the Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. In the event that any Occupant of a Lot violates the Declaration, Bylaws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine may 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 Lot 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 Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

8.2 Fining and Suspension Periods. The Board shall not impose a fine or suspend the right to vote or to use the Common Property (unless 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, in which case such suspensions shall be automatic) unless and until notice of the violation is given 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 Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall serve the violator with written notice sent certified mail, return receipt requested, which shall state: (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a statement that the violator may challenge the fact of the occurrence of a violation, the proposed sanction, or both, by written challenge and written request for a hearing before the Board, which request must be received by the Board within ten (10) days of the date of the notice; and (iv) the name, address, and telephone number of a person to contact to challenge the proposed action. If a timely challenge is made and the violation is cured within ten (10) days of the date of the notice, the Board, in its discretion, may, but is not obligated to, waive any sanction or portion thereof. 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 the alleged violator timely challenges the proposed action, a hearing before the Board shall be held in executive session affording the violator a reasonable opportunity to be heard. The hearing shall be set at a reasonable time and date by the Board, and notice of the time, date (which shall be not less than ten (10) days from the giving of notice without the consent of the violator), and place of the hearing and an invitation to attend the hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator. The minutes of the meeting shall contain a written statement of the results of the hearing. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirement contained herein are not technically followed.

8.3 Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) 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 8.2 of this Article. 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 attorney's fees actually incurred. The rights set forth in this Section 8.3 are herein referred to collectively and singly as the "Right of Abatement."

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 Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Lot Owner.

8.4 Collection of Assessments and Enforcement of Lien.

(a) Any Assessments which are not paid when due shall be delinquent. Any Assessment due for a period of thirty (30) days shall incur a late charge equal to the greater of (i) ten percent (10%) of the overdue Assessment, or (ii) Ten Dollars (\$10.00). In the event that the Assessment remains due and unpaid for a period of sixty (60) days, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such Assessment, late charge, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

(b) As an additional remedy, but in no way as a limitation on the other remedies contained herein, if any Assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Lot or Lots subject to the lien at auction, at the usual place for conducting sales at the Court House in the County in which the Lot against which the lien sought to be foreclosed is located ("County"), to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for the County are published, all other notice being hereby waived by each Owner, and the Association or any Person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and that the conveyance to be made by the Association or assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Lot or Lots, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of the Assessment, interest, cost or other charge due, together with all costs and

expenses of sale and fifteen per centum of the aggregate amount due for attorneys' fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are hereby coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, WAIVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION AND OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

8.5 No Waiver. The failure of the Declarant, the Association, the Owner of any Lot, or his legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE IX
DURATION AND AMENDMENT

9.1 Duration. This Declaration and the Restrictions contained herein shall run with and bind the Submitted Property for a period of twenty (20) years from and after the date when this Declaration is filed for record in the Office of the Clerk of the Superior Court of the county in which the Submitted Property is located, after which time this Declaration and the Restrictions shall be automatically renewed for successive periods of ten (10) years; provided, however, that after the end of the said twenty (20) year period and during any ten (10) year renewal period (but only during such renewal period), this Declaration and the Restrictions contained herein may be terminated by an instrument executed by the proper Association officers and recorded in the Office of the Clerk of the Superior Court of the county in which the Submitted Property is located, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution approving such termination which is approved by a Two-Thirds Vote.

9.2 Amendments by Declarant.

9.2.1 During any period in which the Declarant retains the right to appoint and remove any directors and officers of the Association, the Declarant may amend this Declaration by an instrument in writing filed and recorded in the Office of the Clerk of the Superior Court of the county in which the Submitted Property is located, without the approval of any Owner or Mortgagee; provided, however, that: (a) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Property as set forth in this Declaration or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by the Owners affected thereby; or (b) in the event that such amendment would materially and adversely affect the security title and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected. Any amendment made pursuant to this Section 9.2.1 shall be certified by the Declarant as having been duly approved by the Declarant, and such Owners and Mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself.

9.2.2. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 9.2.2 and further agrees that, if requested to do so by the Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Subdivision: (a) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration; (c) if such 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 such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration; (d) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; or (e) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

9.3 Amendments by Association. Amendments to this Declaration, other than those authorized by Section 9.2 hereof, shall be proposed and adopted in the following manner: (a) notice of the subject matter of the proposed amendment shall be delivered to each Owner; (b) a resolution adopting a proposed amendment may be proposed by either the Board or by Owners. If the subject

matter of the proposed amendment is to be voted on at a regular or special meeting of the Members, notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered; however, a meeting is not required to be held provided that the provisions of this Declaration and/or applicable law pertaining to action to be taken by written consent is followed. Such amendment must be approved by a Two-Thirds Vote; provided, however: (i) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee; and (ii) during any period in which the Declarant has the right to appoint and remove officers and directors of the Association, every amendment must be approved by the Declarant; and (c) the agreement of the required percentage of the Owners and, where required, the Declarant and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that the Declarant does not then have the right to approve such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the Agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

9.4 Challenges to Amendments. Any action to challenge the validity of an amendment adopted under this Section 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.

ARTICLE X
ANNEXATION

10.1 Unilateral Annexation by Declarant.

10.1.1 As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time at any time until ten (10) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "B", attached hereto and by this reference made a part hereof, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the office of the Clerk of the Superior Court of the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless otherwise provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of then Owners are not adversely

affected, Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property.

10.1.2 The rights reserved unto Declarant to subject additional land to the Declaration shall not impose, and shall not be implied or construed to impose, any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not obligate Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

10.2 Other Annexation. Subject to the consent of the owner thereof and the consent of Declarant, so long as Declarant has an option to subject additional property to this Declaration as provided above, upon the affirmative vote of the Owners of a Two-Thirds Vote, the Association may annex other real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the office of the Clerk of the Superior Court of the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided therein.

ARTICLE XI
MISCELLANEOUS

11.1 Rights of First Mortgagees.

(a) First Mortgagees of Lots in the Subdivision may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Association's Common Property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Property and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Despite any other provision of this Declaration which may be interpreted otherwise, it is expressly intended that no Owner or any other party have priority over any rights of the first Mortgagee of a Lot pursuant to its mortgage or security deed in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Association Common Property.

(b) In addition to the rights of Mortgagees elsewhere provided, each first Mortgagee of a Lot, upon request, shall (i)

be entitled to written notice from the Association of any default of an Owner in the performance of his obligations under this Declaration which is not cured within sixty (60) days; (ii) be entitled to attend and observe all meetings of Owners, but not meetings of the Board; (iii) be furnished copies of annual financial reports made to the Owners; and (iv) be entitled to inspect the financial books and records of the Association during reasonable business hours.

11.2 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

11.3 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

11.4 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

11.5 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

11.6 Notices. All notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consents of any kind made pursuant to this Declaration, whether made by Declarant, the Association, the Architectural Control Committee, an Owner, or any other Person, shall be in writing. All such notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consents shall be deemed to have been duly given or made if either delivered personally or mailed by Certified Mail, Return Receipt Requested, addressed to the parties, at the addresses set forth below:

Declarant: 2700 Delk Road, Suite 150
Marietta, Cobb County, Georgia 30067

Owners: Each Owner's Address as registered with
the Association in accordance with the
Bylaws or, if no address has been
registered, at the Owner's Lot

Any such notice, request, objection, waiver, rejection, agreement, approval, disclosure or consent shall be deemed received by the party to whom addressed on the date appearing on the return receipt therefor. Rejection or other refusal to accept or inability to deliver because of a changed address of which no notice has been received by the other party shall constitute receipt of the notice, demand or request sent. Any item delivered by personal delivery shall be deemed received on the date of personal delivery.

11.7 No Liability. Declarant has, using reasonable efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other Person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability. Neither the Board, the directors, the officers of the Association, nor Declarant shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever of such Board, directors, officers or Declarant, except for any acts or omissions found by a court to constitute gross negligence or fraud. The Owners shall indemnify, defend and hold harmless each of the Board, directors, officers and Declarant, and their respective devisees, legatees, heirs, executors, administrators, legal representatives, successors and assigns, in accordance with the provisions of the Bylaws. Nothing herein contained shall make responsible or subject to liability any successor to Declarant by operation of law or through purchase of Declarant's interest in the Submitted Property (or any part thereof) at foreclosure, sale under power, or by deed in lieu of foreclosure, for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the time such successor succeeded to the interest of Declarant.

11.8 Indemnification. In accordance with Section 14-3-110 of the Georgia Nonprofit Corporation Code, and to the full extent allowed in Section 14-2-851 of the Georgia Business Corporation Code, and in accordance with the provisions contained therein, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or contemplated action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized (as provided in Section 14-3-110 of the Georgia Nonprofit Corporation Code) in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

11.9 Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Subdivision and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within the Subdivision.

11.10 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.

11.11 Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

11.12 Agreements. Subject to the prior approval of Declarant, so long as Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article X above, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Subdivision or the privilege of possession and enjoyment of any part of the Subdivision.

11.13 Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles, 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 therein or reasonably necessary to effectuate any such right or privilege.

11.14 Variances. Notwithstanding anything to the contrary contained herein, the Board or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Subdivision.

11.15 VA/HUD Approval. So long as Declarant has an option unilaterally to subject property to this Declaration as provided in Article X, and so long as Declarant has the power to elect and remove officers and directors of the Association, the following

actions shall require the prior approval of the Veterans Administration ("VA") so long as the VA is guaranteeing any Mortgage in the Subdivision, and the Department of Housing and Urban Development ("HUD") so long as HUD is insuring any Mortgage in the Subdivision: annexation of additional property to the Subdivision, except for annexation by Declarant in accordance with Article X, Section 10.1 hereof pursuant to a plan of annexation previously approved by the VA and HUD; dedication of Common Property to any public entity; and material amendment of the Declaration, Bylaws or Articles.

11.16 Constructive Notice. Each Owner, by his acceptance of a deed or other conveyance of a Lot, acknowledges for himself, his heirs, legal representatives, successors and assigns, that he is bound by the provisions of this Declaration.

11.17 Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Property; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Property. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner. 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.

11.18 Dispute Resolution. Any Lot 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 officer or director, or the property manager 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 not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing.

11.19 Right of Annexation Held by Adjacent Property Owner.

(a) The following terms, as used in this Section 11.19, shall have the meanings ascribed thereto:

(i) "Option Agreement" shall mean and refer to that certain Option to Purchase Real Property, dated October 20, 1997, between Macauley Properties, Limited, a Georgia corporation, as Purchaser, and H.C. Aldredge, as Trustee, as Seller, as amended and/or assigned from time to time, as evidenced by that certain Memorandum of Option, dated February 27, 1998, between Macauley Properties, Limited, a Georgia corporation, as Seller, and H.C. Aldredge, as Trustee, as Purchaser, recorded in the Cobb County, Georgia Records.

(ii) "Option Property" shall mean and refer to the real property which is the subject of the Option Agreement.

(iii) "Purchaser" shall mean Macauley Properties, Limited, a Georgia corporation, its successors and assigns.

(iv) "Seller" shall mean H.C. Aldredge, as Trustee, as Seller under the Option Agreement, and his successors-in-title to the Option Property.

(b) In the event Purchaser does not elect to purchase the Option Property under the Option Agreement, Seller shall have the right, but not the obligation, to annex the Option Property into this Declaration. The annexation shall be accomplished through an amendment to this Declaration signed by Seller, referring to this Section, and recorded in the Cobb County, Georgia Records. Upon annexation (but without limiting the generality of the obligations imposed upon such Lot Owners by the annexation), all Lot Owners shall be obligated to pay to the Association the assessments required under Section 4.5(a) hereof, and, thereafter, all other Assessments which are assessed in accordance with the requirements of this Declaration. The annexation shall not become effective until a copy of the recorded annexation document is delivered to the Association, together with a list of the names and addresses of all Lot Owners within the Option Property.

ARTICLE XII INSURANCE

12.1 Requirements.

(a) The Association's Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

(b) The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least Two Million and No/100 Dollars (\$2,000,000.00).

(c) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the respective benefitted parties, as further identified in subparagraph (ii) below. Such insurance shall be governed by the provisions herein set forth:

(i) All policies shall be written with a company licensed to do business in Georgia.

(ii) All policies on the Common Property shall be for the benefit of the Association and its Members.

(iii) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; 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 Board hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and insurance carried by the Association shall be primary.

(v) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of who must be in the real estate industry and familiar with construction in the county where the Property is located.

(vi) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(A) a waiver of subrogation by the insurer as to any claims against the Board, the Association's manager, the Owners and their respective tenants, servants, agents, and guests;

(B) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(C) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners;

(D) a provision that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(E) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(F) that no policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days' prior written notice to the Association.

(d) In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds or dishonesty insurance shall be determined in the directors' best business judgment, but if reasonably available, shall not be 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 financial controls which take one or more of the following forms: (a) 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; (b) 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 (c) two (2) Board members must sign any checks written on the reserve account. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of The Mortgage Corporation or Fannie Mae.

12.2 Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If any Owner or Owners fail to pay the deductible when required under this Section, then the Association can pay the deductible and assess the cost to the Owner or Owners, provided, however, no Owner shall be assigned more than one thousand (\$1,000.00) dollars as the cost of the deductible for any one occurrence.

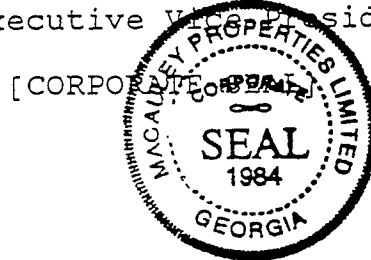
IN WITNESS WHEREOF, Declarant has hereunto set its hand and seal as of the day and year first above written.

DECLARANT:

BURNT HICKORY REGISTRY, LLC, a Georgia limited liability company

By: Macauley Properties, Limited, a Georgia corporation, Its Sole Member

By: Carl R. Huddleston
Carl R. Huddleston
Its: Executive Vice President



Signed, sealed and delivered in the presence of:

[Signature]
Unofficial Witness
[Signature]
Notary Public

My Commission Expires:



[NOTARIAL SEAL]

My Commission Expires
April 26, 1999

Exhibit "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 261 and 272 of the 20th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

COMMENCE at a 3/4" crimp top pipe found at the corner common to Land Lots 261, 262, 271 and 272, said District, Section and County; running thence in a northern direction, along the land lot line common to Land Lots 261 and 262, North 03 degrees 52 minutes 08 seconds East, a distance of 969.18 feet to a rebar found; thence continuing in a northern direction, along said common land lot line, North 03 degrees 14 minutes 39 seconds East, a distance of 621.92 feet to a point on the centerline of a branch (hereinafter referred to as "Point A"); thence leaving said land lot line and running in a northeastern and southeastern direction, along the centerline of said branch, and following the meanderings thereof, a distance of 720.00 feet, more or less, to a point at the intersection of the centerline of said branch and the centerline of a creek (hereinafter referred to as "Point B"), the aforesaid Point A and Point B being connected by traverse lines commencing at Point A and terminating at Point B as follows: North 78 degrees 18 minutes 42 seconds East, a distance of 100.70 feet to a point; South 70 degrees 51 minutes 35 seconds East, a distance of 281.19 feet to a point; and South 67 degrees 19 minutes 55 seconds East, a distance of 265.49 feet to a point, being Point B; running thence along the centerline of said creek and following the meanderings thereof, a distance of 629.00 feet, more or less, to a point (hereinafter referred to as "Point C"), the aforesaid Point B and Point C being connected by traverse lines commencing at Point B and terminating at Point C as follows: South 21 degrees 54 minutes 34 seconds East, a distance of 79.54 feet to a point; South 30 degrees 44 minutes 18 seconds East, a distance of 70.58 feet to a point; South 07 degrees 12 minutes 16 seconds West, a distance of 160.47 feet to a point; South 21 degrees 06 minutes 58 seconds East, a distance of 184.33 feet to a point; South 52 degrees 48 minutes 21 seconds East, a distance of 64.02 feet to a point; and South 15 degrees 28 minutes 31 seconds East, a distance of 68.02 feet to a point, being Point C; thence leaving the centerline of said creek and running South 81 degrees 31 minutes 42 seconds East, a distance of 497.06 feet to a point; thence running South 04 degrees 08 minutes 37 seconds West, a distance of 476.12 feet to a point; running thence South 63 degrees 42 minutes East, a distance of 458.81 feet to a point on the northwestern right-of-way line of Burnt Hickory Road (25 feet from centerline at said point); thence continuing in a southwestern direction, along said northwestern right-of-way line the following courses and distances: following the arc of a curve to the right, a distance of 45.76 feet to a point (said arc having a radius of 655.50 feet and being subtended by a chord bearing South 20 degrees 38 minutes 56 seconds West and having a length of 45.75 feet); South 22 degrees 38 minutes 56 seconds West, a distance of 166.76 feet to a point; and following the arc of a curve to the right, a distance of 43.23 feet to a point on the common land lot line of Land Lots 261 and 272, said

District, Section and County, said point also being the point where Burnt Hickory Road ends and Old Mountain Road begins-said point being 25 feet from the centerline of Old Mountain Road (said arc having a radius of 1,881.25 feet and being subtended by a chord bearing South 23 degrees 18 minutes 26 seconds West and having a length of 43.23 feet); thence running in a southwestern direction, along the northwestern right-of-way line of Old Mountain Road the following courses and distances: following the arc of a curve to the right, a distance of 57.16 feet to a point (said arc having a radius of 1,881.25 feet and being subtended by a chord bearing South 24 degrees 50 minutes 09 seconds West and having a length of 57.16 feet); and South 25 degrees 42 minutes 23 seconds West, a distance of 435.81 feet to a point; thence leaving said northwestern right-of-way line and running North 64 degrees 17 minutes 37 seconds West, a distance of 273.67 feet to a point; running thence North 01 degree 06 minutes East, a distance of 29.82 feet to a point; running thence South 87 degrees 55 minutes 19 seconds West, a distance of 137.23 feet to a point; running thence South 51 degrees 33 minutes 04 seconds West, a distance of 62.12 feet to a point; running thence South 88 degrees 05 minutes 44 seconds West, a distance of 202.12 feet to a point; running thence South 10 degrees 30 minutes West, a distance of 211.04 feet to a point on the centerline of a creek (hereinafter referred to as "Point D"); running thence in a southwestern direction, along said centerline, and following the meanderings thereof, a distance of 873.00 feet, more or less, to a point (hereinafter referred to as "Point E"), which Point E is located a distance of 627.49 feet along a bearing of North 86 degrees 08 minutes 27 seconds West from the northwestern right-of-way line of Old Mountain Road (25 feet from centerline at said point), the aforesaid Point D and Point E being connected by traverse lines commencing at Point D and terminating at Point E as follows: South 39 degrees 10 minutes 16 seconds West, a distance of 60.17 feet to a point; South 65 degrees 37 minutes 32 seconds West, a distance of 104.78 feet to a point; South 25 degrees 40 minutes 38 seconds West, a distance of 165.29 feet to a point; South 17 degrees 14 minutes 27 seconds West, a distance of 239.52 feet to a point; South 26 degrees 04 minutes 42 seconds West, a distance of 177.80 feet to a point; South 08 degrees 18 minutes 47 seconds West, a distance of 77.88 feet to a point; and South 30 degrees 32 minutes 29 seconds West, a distance of 39.96 feet to a point, being Point E; thence leaving the centerline of said creek and running North 86 degrees 08 minutes 27 seconds West, a distance of 489.66 feet to a 3/4" crimp top pipe found on the land lot line common to Land Lots 271 and 272, said District, Section and County; running thence in a northern direction, along said common land lot line, North 04 degrees 02 minutes 37 seconds East, a distance of 1,338.67 feet to a point; continuing thence along said common land lot line, North 02 degrees 37 minutes 45 seconds East, a distance of 68.22 feet to a point, which marks the TRUE POINT OF BEGINNING.

. The tract of land herein described is shown as Tracts 2, 3, 4, 5, 6, 7, and 8 on, and described according to, that certain Survey for Burnt Hickory Registry, LLC, Primary Capital Advisors, L.C., and Chicago Title Insurance Company, dated February 6, 1998, last revised February 24, 1998, prepared by Gaskins Surveying Co., John C. Gaskins, G.R.L.S. #2060, and Darrell D. Raines, G.R.L.S. #2403 (the "Survey"), which Survey is incorporated herein by reference.

EXHIBIT "B"

Any real property lying and being within one (1) mile of the Submitted Property.

BK11284PG051

BK11312PG345

STATE OF GEORGIA

COUNTY OF COBB

JOINDER OF MORTGAGEE IN DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR BURNT HICKORY REGISTRY SUBDIVISION

WHEREAS, the undersigned is the owner and holder of that certain Construction Deed to Secure Debt and Security Agreement, executed by Burnt Hickory Registry, LLC, a Georgia limited liability company, in favor of Primary Capital Advisors, L.C., dated February 27, 1998, recorded in Deed Book 11050, Page 205, Cobb County, Georgia Records, as assigned to Bank United by Assignment, dated February 27, 1998, recorded in Deed Book 11105, Page 134, Cobb County, Georgia Records (herein, together with all other loan documents, collectively referred to as the "Security Deed"); and

WHEREAS, the Security Deed conveys the "Submitted Property," as defined in the within and foregoing Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision (herein referred to as the "Declaration"); and

WHEREAS, the Declaration submits the Submitted Property to the terms and conditions of the Declaration;

NOW, THEREFORE, the undersigned hereby consents to the execution, delivery and recording of the Declaration and hereby agrees that, as to said Submitted Property originally submitted to the Declaration, the lien and encumbrance of the Security Deed shall be, and is hereby, made subject and subordinate to the terms, conditions and provisions set forth in the Declaration; and, to the extent necessary to effectuate the purposes hereof, the undersigned hereby joins in the execution of the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this instrument under seal by and through its duly authorized officers, on the 1 day of May, 1998.

BANK UNITED

By: *Carlynn B. Alexander*
Name: CAROLYNN B. ALEXANDER
Its: REGIONAL DIRECTOR

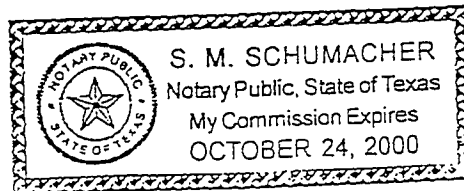
Signed, sealed and delivered
in the presence of:

S.M. Schumacher
Unofficial Witness

S.M. Schumacher
Notary Public

My Commission Expires:
10-24-2000

[NOTARIAL SEAL]



~~BK 11284 PG 052~~

BK 11312 PG 346

STATE OF GEORGIA

COUNTY OF COBB

JOINDER OF MORTGAGEE IN DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR BURNT HICKORY REGISTRY SUBDIVISION

WHEREAS, the undersigned is the owner and holder of that certain Construction Deed to Secure Debt and Security Agreement, executed by Burnt Hickory Registry, LLC, a Georgia limited liability company, in favor of Primary Capital Advisors, L.C., dated February 27, 1998, recorded in Deed Book 11050, Page 220, Cobb County, Georgia Records (herein, together with all other loan documents, collectively referred to as the "Security Deed"); and

WHEREAS, the Security Deed conveys the "Submitted Property," as defined in the within and foregoing Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision (herein referred to as the "Declaration"); and

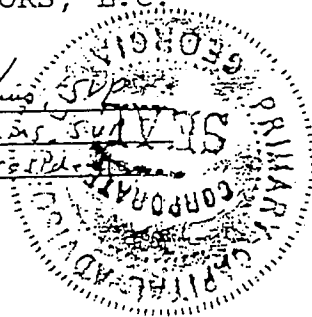
WHEREAS, the Declaration submits the Submitted Property to the terms and conditions of the Declaration;

NOW, THEREFORE, the undersigned hereby consents to the execution, delivery and recording of the Declaration and hereby agrees that, as to said Submitted Property originally submitted to the Declaration, the lien and encumbrance of the Security Deed shall be, and is hereby, made subject and subordinate to the terms, conditions and provisions set forth in the Declaration; and, to the extent necessary to effectuate the purposes hereof, the undersigned hereby joins in the execution of the Declaration.

IN WITNESS WHEREOF, the undersigned has executed this instrument under seal by and through its duly authorized officers, on the 15th day of April, 1998.

PRIMARY CAPITAL ADVISORS, L.C.

By: K. Tucker Perkins
Name: K. Tucker Perkins
Its: Senior Vice President



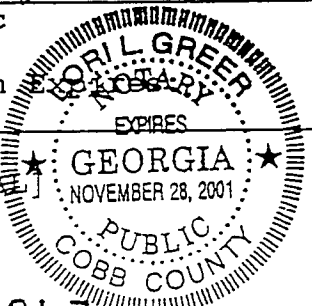
Signed, sealed and delivered in the presence of:

Mara D. [Signature]
Unofficial Witness

Earl L. Greer
Notary Public

My Commission Expires

[NOTARIAL SEAL]



BK 11312 PG 347

BK 11284 PG 053

STATE OF GEORGIA

COUNTY OF COBB

JOINDER OF PROPERTY OWNER IN DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR BURNT HICKORY REGISTRY SUBDIVISION

WHEREAS, the undersigned is the owner of a portion (herein referred to as the "Undersigned's Property") of that certain real property being more particularly described on Exhibit "A" attached to the "Declaration" (as herein defined); and

WHEREAS, the undersigned desires to submit the Undersigned's Property to the lien and encumbrance of the within and foregoing Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision (hereinafter referred to as the "Declaration"); and

NOW, THEREFORE, the undersigned hereby submits the Undersigned's Property to the lien and encumbrance of the Declaration, and joins in the execution of the Declaration for the purpose of submitting the Undersigned's Property to the lien and encumbrance thereof.

IN WITNESS WHEREOF, the undersigned have executed this instrument under seal, on the 27th day of February, 1998.

Alvin D. Moore [SEAL]
ALVIN D. MOORE

Linda P. Moore [SEAL]
LINDA P. MOORE

Signed, sealed and delivered
in the presence of:

[Signature]
Unofficial Witness

[Signature]
Notary Public

My Commission Expires:

[NOTARIAL SEAL]

My Commission Expires
April 28, 1999

BK 11284 PG 054

BK 11312 PG 348

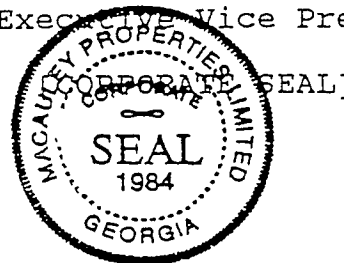
COLLATERAL ASSIGNMENT OF DECLARANT'S INTEREST

In consideration of the execution by Bank United (hereinafter referred to as "Lender") of the within and foregoing Joinder of Mortgagee in Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision, and in order to further secure the indebtedness secured by the "Security Deed" (as defined in said Joinder of Mortgagee), the undersigned hereby grants, bargains, conveys and assigns to Lender all of its right, title and interest as "Declarant" in and to the within and foregoing Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision ("Declaration"). Upon foreclosure of the Security Deed, or conveyance of any portion of the property encumbered thereby in lieu of foreclosure, Lender shall succeed to the interest of the undersigned, as "Declarant," under the Declaration, and shall thereafter exercise all of the rights, powers and privileges appertaining thereto and contained in the Declaration and the undersigned hereby appoints Lender as its attorney-in-fact to so provide in the deed under power of sale (in case of foreclosure) or deed in lieu of foreclosure (in case of conveyance in lieu of foreclosure). The undersigned agrees that it shall not (i) modify the Declaration, nor (ii) surrender or give up any rights, privileges, powers or authorities contained in the Declaration, without Lender's prior written consent. Upon payment in full of the indebtedness secured by the Security Deed, this Collateral Assignment shall automatically terminate.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of the day and year set forth below.

BURNT HICKORY REGISTRY, LLC, a Georgia limited liability company
By: Macauley Properties, Limited, a Georgia corporation, Its Sole Member

By: Carl R. Huddleston
Carl R. Huddleston
Its: Executive Vice President



Signed, sealed and delivered in the presence of:

Janet A. Baker
Unofficial Witness

Sally A. Bates
Notary Public

My Commission Expires: _____ Notary Public, Cherokee County, Georgia
My Commission Expires January 15, 2002

[NOTARIAL SEAL]

~~BK11284PG055~~

BK11312PG349

COLLATERAL ASSIGNMENT OF DECLARANT'S INTEREST

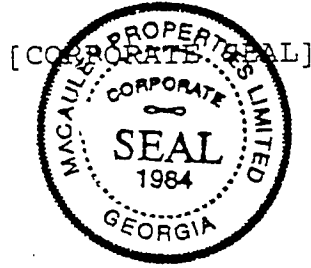
In consideration of the execution by Primary Capital Advisors, L.C. (hereinafter referred to as "Lender") of the within and foregoing Joinder of Mortgagee in Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision, and in order to further secure the indebtedness secured by the "Security Deed" (as defined in said Joinder of Mortgagee), the undersigned hereby grants, bargains, conveys and assigns to Lender all of its right, title and interest as "Declarant" in and to the within and foregoing Declaration of Covenants, Restrictions and Easements for Burnt Hickory Registry Subdivision ("Declaration"). Upon foreclosure of the Security Deed, or conveyance of any portion of the property encumbered thereby in lieu of foreclosure, Lender shall succeed to the interest of the undersigned, as "Declarant," under the Declaration, and shall thereafter exercise all of the rights, powers and privileges appertaining thereto and contained in the Declaration and the undersigned hereby appoints Lender as its attorney-in-fact to so provide in the deed under power of sale (in case of foreclosure) or deed in lieu of foreclosure (in case of conveyance in lieu of foreclosure). The undersigned agrees that it shall not (i) modify the Declaration, nor (ii) surrender or give up any rights, privileges, powers or authorities contained in the Declaration, without Lender's prior written consent. Upon payment in full of the indebtedness secured by the Security Deed, this Collateral Assignment shall automatically terminate. This Collateral Assignment is subject and subordinate to the Collateral Assignment of Declarant's Interest, bearing even date herewith, executed by the undersigned in favor of Bank United.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of the day and year set forth below.

BURNT HICKORY REGISTRY, LLC, a Georgia limited liability company

By: Macauley Properties, Limited, a Georgia corporation, Its Sole Member

BY: Carl R. Huddleston
Carl R. Huddleston
Its: Executive Vice President



Signed, sealed and delivered in the presence of:

Jessie A. Warner
Unofficial Witness
Shelly A. Bates

Notary Public
My Commission Expires: _____ Notary Public, Cherokee County, Georgia
My Commission Expires January 15, 2002

[NOTARIAL SEAL]

BK 11284 PG 056

BK 11312 PG 350