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**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR
MARSHALL'S POND**

After Recording Return To:

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MARSHALL'S POND

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS is made by S. P. CASEY CONSTRUCTION, INC., a Georgia corporation (the "Declarant") as of the date set forth on the signature page hereof.

Declarant is the owner of the real property described in Exhibit "A," which is attached and incorporated by reference. By this Declaration, Declarant imposes upon the Property (as defined in Article I below) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Property. In furtherance of such plan, Declarant has caused or intends to cause the Marshall's Pond Community Association, Inc., to be formed as a Georgia non-profit corporation to own, operate and maintain the Common Area, as defined below, and to administer and enforce the provisions of this Declaration, the By-Laws, and the Use Restrictions and Rules (as further described in Article I) promulgated pursuant to this Declaration.

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

This document does not and is not intended to create a condominium within the meaning of the O.C.G.A. § 44-3-70, et seq. This document does not and is not intended to submit the Property to the terms of the Georgia Property Owners' Association Act, O.C.G.A. Sect 44-3-220, et. seq.

Article I
DEFINITIONS

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

1.1. "Area of Common Responsibility". The Common Area, together with those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement. The dam confining the pond on the Property and the spillway associated with the pond are hereby declared to be Areas of Common Responsibility.

1.2. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Marshall's Pond Community Association, Inc., as filed with the Secretary of State of the State of Georgia.

1.3. "Association": Marshall's Pond Community Association, Inc., a Georgia non-profit corporation, its successors or assigns.

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

1.5. "Builder": Any Person who purchases one or more Lots for the purpose of constructing improvements for later sale to consumers in the ordinary course of such Person's business.

1.6. "By-Laws": The By-Laws of Marshall's Pond Community Association, Inc., attached as Exhibit "E," as they may be amended.

1.7. "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board of Directors as provided in Section 3.3 of the By-Laws.

1.8. "Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

1.9. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.

1.10. "Declarant": S. P. Casey Construction, Inc., a Georgia corporation, or any successor, successor-in-title, or assign who takes title to any portion of the Property for the purpose of development and/or resale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, there shall be only one Declarant at any time.

1.11. "Design Guidelines": Not applicable.

1.12. "General Assessment": Assessments levied on all Lots subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 8.1 and 8.2.

1.13. Governing Documents: The Declaration, the By-Laws, Articles of Incorporation and the Use Restrictions and Rules, or any of the above, as each may be amended from time to time.

1.14. "Lot": A portion of the Property, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as a residence for a single family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on a subdivision plat filed in the Public Records with respect to any portion of the Property, together with the structures, if any, constructed thereon, but shall not include Common Areas or property dedicated to the public.

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

1.16. "Mortgage" A mortgage, a deed of trust, a deed to secure debt, or any other form of security

instrument affecting title to any Lot.

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

1.18. "Mortgagor": Any Person who gives a Mortgage.

1.19. "Neighborhood-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Property. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the Architectural Review Committee.

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

1.21. "Person": A human being, a corporation, a partnership, a trustee, or any other legal entity.

1.22. "Property": The real property described in Exhibit "A". After a Supplemental Declaration is filed, the property described in that Supplemental Declaration shall be included in the definition of "Property".

1.23. "Public Records": The Office of Clerk of the Superior Court of Fulton County, Georgia, or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

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

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

1.26. "Supplemental Declaration". An instrument filed in the Public Records pursuant to Article 7 which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions or obligations on land described in such instrument.

1.27. "Use Restrictions and Rules": Those use restrictions and rules affecting the Property, which may be adopted, modified and repealed as set forth in Article X. The initial use Restrictions and Rules are set forth on Exhibit "C".

Article II PROPERTY RIGHTS

2.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

(a) this Declaration and any other applicable covenants;

(b) any restrictions or limitations contained in any deed conveying such property to the Association;

©) the right of the Board and the membership to adopt, amend and repeal rules pursuant to Article X regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who

may use the Common Area;

(d) the right of the Board to impose reasonable membership requirements, and adopt a code of rules governing use of any structure or improvement on the Common Area;

(e) the right of the Board to permit use of any recreational or social facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of such use fees as the Board may establish;

(f) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration; and

(g) the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

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

2.2 Joint Use Agreement. The Declarant or its assigns has or may construct detention ponds and other amenities on the Common Area. Such facilities shall be designed for the use and enjoyment of all owners of single-family residential lots within the property described in Exhibit "A", or such other property made subject to this Declaration pursuant to Article VII and each such owner is hereby granted a perpetual, non-exclusive easement for access, use, and enjoyment of the Common Areas subject to the Governing Documents.

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

2.4. Condemnation. If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain, or conveyed in lieu of and under threat of condemnation, each Owner shall be entitled to written notice prior to disbursement of the condemnation award or proceeds of conveyance. The award made for such taking or proceeds of such conveyance shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Declarant, so long as the Declarant has the right to vote as a Class "B" Member, and Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 6.1(c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board

shall determine.

Article III MEMBERSHIP AND VOTING RIGHTS

3.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board or the membership may adopt pursuant to Article X. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia.

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 3.3 and in the By-Laws. All co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is a corporation, partnership, trust or other entity may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

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

(a) Class "A" Members shall be all Owners except the Class "B" Member, if any.

Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 3.2; provided, there shall be only one vote per Lot. In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under the Governing Documents, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint members of the Board of Directors during the Class "B" Control Period, as specified in Sections 3.3 and 3.5 of the By-Laws. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.19 of the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

(i) two years after termination of the Class B Control Period; or

(ii) April 1, 2009; or

(iii) when, in its discretion, the Declarant so determines and declares in a recorded instrument. Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns.

Article IV
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, landscaping, furnishings, equipment, and other personal property of the Association used in connection with the Common Area), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration and the By-Laws and consistent with the Neighborhood-Wide Standard. The Association shall be specifically responsible for compliance with any Fulton County or other governmental regulation or requirement regarding the maintenance, upkeep, silt removal, clean out, and proper functioning of all silt ponds on the Property. The Board is specifically authorized, but not be obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

4.2. Personal Property and Real Property for Common Use.

The Association, through the action of its Board, may acquire, hold and dispose of tangibles and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the Property or which is reasonably related to the development or administration of the Property, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to the Declarant, at no cost to the Declarant, any unimproved portions of such property, to the extent such property was originally conveyed by the Declarant, to the Association in error, or if such reconveyance is necessary for the Declarant to make minor adjustments in property lines.

4.3. Enforcement. The Association may impose sanctions for violations of the Governing Documents in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational or social facilities within the Common Area. In addition, in accordance with Section 3.24 of the By-Laws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Lot of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, if the Association prevails it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to take enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or stop the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and permit local governments to enforce their ordinances within the Property for the benefit of the Association and its Members.

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

4.5. Governmental Interests. For so long as the Declarant has the right unilaterally to annex property in accordance with Section VII, the Declarant may designate easements within the Property for public or quasi-public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents.

4.6. Indemnification. The Association shall indemnify every officer, director, and committee member, including members of the committees established under Article IX, against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7. Dedication of Common Area. The Association may dedicate portions of the Common Area to the local municipality having jurisdiction over the Property, to Fulton County, or to any other local, state or federal governmental or quasi-governmental entity.

4.8. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measures cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

4.9. Utility Lines. Each Owner, occupant, guest, and invitee acknowledges that neither the Association, the Board nor Declarant shall in any way be considered insurers or guarantors of health within the Property and neither the Association, the Board, nor Declarant shall be held liable for personal injury, illness, or other loss or damage caused by presence or malfunction of utility lines adjacent to, near, over, under or on the Property, or detention ponds located on the Common Areas. Each Owner, occupant, guest, and invitee assumes all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines or utility sub-stations and further acknowledges that neither Declarant nor the Association have made any representations or warranties, nor has any Owner, occupant, guest or invitee relied upon any representations or warranties, express or implied, relative to the condition or impact of utility lines or detention ponds.

Article V MAINTENANCE

5.1. Association's Responsibility.

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

- (i) all Common Area;
- (ii) all landscaping, entry features and signage within the Area of Common Responsibility;..
- (iii) the dam confining the pond on the Common Area, and all spillways associated with the pond within the Area of Common Responsibility.

The Association may maintain other property which it does not own, including, without limitation, storm drainage facilities, and other property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Neighborhood-Wide Standard.

(b) There are hereby reserved to the Association perpetual, non-exclusive easements over the Property as necessary to enable the Association to fulfill such responsibilities.

©) Except as otherwise specifically provided herein, all costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the General Assessment. Notwithstanding the foregoing, the Board may, within its sole discretion, allocate the expense of maintenance, repair, and replacement which benefits one or more, but less than all Lots, as a Specific Assessment in accordance with the benefit so received by such Lots, pursuant to Section 8.6.

5.2. Owner Responsibility. Each Owner shall maintain his or her Lot and all structures, parking areas, and other improvements comprising the Lot in a manner consistent with the Neighborhood-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association pursuant to this Declaration, or other covenants applicable to such Lot.

Owners shall not permit any structures, equipment or other items on the exterior portions of a Lot, visible from any street or adjoining home, to become rusty, dilapidated or otherwise fall into disrepair. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by

the Association against the Lot and the Owner in accordance with Section 8.6. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Standard of Performance. All maintenance shall be performed in a manner consistent with the Neighborhood-Wide Standard and all applicable covenants. Maintenance shall include the responsibility for repair and replacement as necessary. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Article VI INSURANCE AND CASUALTY LOSSES

6.1. Association Insurance.

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

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility, regardless of ownership. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, if additional coverage and higher limits are available at a reasonable cost such that a reasonably prudent person would obtain it, the Association shall obtain such additional coverage or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's best business judgment but not less than an amount equal to one-sixth of the annual General Assessments on all Lots plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based on exclusion of persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable, which may include, without limitation, flood insurance and building ordinance coverage.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of

insurance coverage by one or more qualified Persons, at least one of whom must be familiar with the insurable replacement costs in the metropolitan Atlanta, Georgia area.

All Association policies shall provide for a certificate of insurance to be furnished to each Member insured and to the Association.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a). In the event of an insured loss, the deductible shall be treated as a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.24 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 8.6.

All insurance coverage obtained by the Board shall:

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

(ii) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

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

(iv) contain an inflation guard endorsement; and

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

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

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

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

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

(iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

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

(vi) a cross liability provision; and

(vii) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

©) **Damage and Destruction.** Immediately after damage or destruction to all or any part of the Property, covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Neighborhood-Wide Standard.

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

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

6.2. Owners' Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Neighborhood-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

Article VII
ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1. Annexation Without Approval of Membership. Declarant may, from time to time until the earlier of the expiration of the Class "B" Control Period or April 1, 2009, unilaterally subject to the provisions of this Declaration additional real property so long as such annexation is not unequivocally contrary to the overall, uniform scheme of development for the Property. The Declarant may transfer or assign its right to annex property, provided that the transferee or assignee is the developer of at least a portion of the Property and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any property not subject to this Declaration in any manner whatsoever.

7.2. Annexation With Approval of Membership. After termination of the Class "B" Control Period, the Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of a majority of the Class "A" Members represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns any of the Property.

Such annexation shall be accomplished by filing in the Public Records a Supplemental Declaration describing the property being annexed. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right unilaterally to annex additional property in accordance with Section 7.1, for the purpose of removing any portion of the Property from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Property. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant.

7.4. Additional Covenants and Easements. The Declarant may subject any portion of the Property to additional covenants and easements by filing a Supplemental Declaration in the Public Records, setting forth such additional covenants and easements. Any such Supplemental Declaration shall require the written consent of the owner(s) of the subject property, if other than the Declarant. Any Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant has the right unilaterally to annex property in accordance with Section 7.1.

Article VIII
ASSESSMENTS

8.1. Creation of and Obligation for Assessments.

(a) Purposes and Types. There are hereby created, and the Association is hereby authorized to levy, assessments for the Common Expenses of the Association. There shall be three types of assessments: (a) General Assessments as described in Section 8.2; (b) Special Assessments as described in Section 8.5; and (c)

Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Property, is deemed to covenant and agree to pay these assessments.

(b) Personal Obligation and Lien. All assessments, together with interest (computed from the due date of such assessment at a rate of 12% per annum, or the maximum rate permitted by Georgia law if less than 12% per annum), late charges in such amount as the Board may establish by resolution reasonable in amount (subject to the limitations of Georgia law), costs, and reasonable attorney's fees, shall be a charge and continuing lien upon each Lot against which the assessment is made until paid, as more particularly provided in Section 8.1. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the power of sale remedy provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. The General Assessment shall be an annual assessment due and payable in advance on the first day of each fiscal year; provided, the Board may by resolution permit payment in two or more installments. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

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

8.2. Computation of General Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.4.

Except as otherwise provided in Section 8.8, General Assessments shall be fixed at a uniform rate for all Lots. Such assessment rate shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider

other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to partial or full assessment during the fiscal year.

Beginning with the first calendar year after the year in which the 100% of the Lots have been conveyed to Persons who are not Builders, or such earlier time as the Class B Member shall elect, the Board shall send a copy of the budget and notice of the amount of the General Assessment for the upcoming year to each Owner at least 30 days prior to the effective date of such budget. Such budget and assessment shall become effective unless disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if any. If the budget proves inadequate for any reason, the Board may prepare a revised budget for the remainder of the fiscal year, which revised budget shall become effective unless disapproved at a meeting by Members in the same manner as prescribed for the initial budget. There shall be no obligation to call a meeting for the purpose of considering the budget or any revised budget except on petition of the Members as required for special meetings in the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

If a budget is not adopted for any year, then until such time as a budget is adopted, the budget in effect for the immediately preceding year shall continue for the current year.

8.3. Declarant's Subsidy Option. So long as the Declarant has the right unilaterally to annex additional property pursuant to Section 7.1, the Declarant may, but shall not be obligated to, reduce the General Assessment or fund any budget deficit for any fiscal year by payment of a subsidy which may be treated as either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. At the sole election of Declarant, Declarant may recoup from the Association all such payments, which amounts may be paid from the operating account of the Association, or from the Working Capital Contributions collected at the sale of Lot, but not from capital reserves. Whether or not the Declarant recoups any other deficit amounts, it is not the intention of Declarant to pay for expenses which are not otherwise covered in the annual budget of the Association, but which, due to the requirement of an advance payment, create temporary or seasonal deficits. Accordingly, Declarant shall be reimbursed for all amounts paid by Declarant in the funding of deficits caused by the nonpayment of assessments by an Owner or Owners which, if not sooner paid, shall be paid to Declarant at the time the unpaid assessment is collected. In addition, if not sooner paid, Declarant shall be reimbursed for any refundable deposit upon the Association's receipt of same.

8.4. Reserve Budget and Capital Contribution. The Board shall annually prepare a reserve budget which takes into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual General Assessments over the budget period.

8.5. Special Assessments. The Association may also levy Special Assessments from time to time to cover unbudgeted, extraordinary or other expenses which the Board determines, in its sole discretion, to more appropriately be handled outside of the regular operating budget. Except as provided in Section 6.1(c), any Special Assessment which would cause the amount of Special Assessments allocable to any Lot to exceed \$250.00 per Lot in any year may be disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if any. There shall be no obligation to call a meeting for the purpose of considering such a Special Assessment except on petition of the Members as required for special meetings in the By-Laws, which petition must be presented to the Board within 10 days

after delivery of the notice of Special Assessment.

Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Special Assessments shall be levied equally on all Lots. Nothing in this Section 8.5 shall be construed as a limitation on the Board's power to revise the operating budget pursuant to Section 8.2 above.

8.6. Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

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

(b) to cover costs incurred in bringing the Lot into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.24 of the By-Laws, before levying any Specific Assessment under this subsection (b).

Upon acquisition of record title to a Lot by the first Owner thereof other than the Declarant or a Builder or upon occupancy of a Lot by a Person other than a Builder or Declarant, the Board of Directors shall have the right to require that a contribution be made by the purchaser or occupant to the working capital account of the Association in an amount to be determined by the Board of Directors, but in no event less than one-third (1/3rd) of the annual General Assessment per Lot for that year, and no more than the full annual General Assessment per Lot for that year. Referred to as the "Working Capital Contribution", this amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot by the first Owner, or if the obligation to make a capital contribution arises by virtue of occupancy of a Lot by a Person other than a Builder or Declarant, the Working Capital Contribution shall be paid immediately upon demand by the Association. Working Capital Contributions shall be used by the Association in covering operating expenses and other expenses incurred by the Association pursuant to the Governing Documents.

8.7. Lien for Assessments. The Association shall have a lien against each Lot to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Georgia law), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Georgia law.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in

addition to its usual assessments, its pro rata share of the assessment that would have been charged such Lot has it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

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

8.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the first day of the month following the month in which the home constructed on the Lot is first occupied for residential purposes, by a Person other than a Builder; provided, however, no assessments shall be due prior to the month in which the Board first determines a budget and levies assessments pursuant to this Article. The first annual General Assessment levied on each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

8.9. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls.

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

- (a) All Common Area property; and
- (b) Any property dedicated to and accepted by any governmental authority or public utility.

Article IX ARCHITECTURAL STANDARDS

9.1. General. Until all homes have been completed and occupied by Owners, Declarant shall have the sole and exclusive right to approve all building design, landscape design, and all other aspects of architectural planning and construction within the community. Prior to the time that all homes have been occupied by Owners, no Owner shall make any no additions to the exterior of any existing building, or construction of a new building, to change any original paint or color scheme, to change any aspect of landscaping, or to other wise change the original construction and design of any building or landscape plan without the prior written consent of Declarant.

After all homes have been occupied by Owners, any Owner may renovate, paint or redecorate the interior or exterior of structures on his Lot without approval. However, modifications to an existing building to add additional space, or to enclose with exterior walls any screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval by a committee known as an

Architectural Control Committee to be appointed by the Declarant or, after the end of the Declarant Control Period, by the Association.. No approval shall be required to repaint, renovate or refurbish the exterior of a structure to the original color scheme and construction specifications, to repair or replace the roof, to rebuild in accordance with originally approved plans and specifications, or to re-landscape.

This Article shall not apply to the activities of the Declarant, nor to any Builder nor to improvements to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any of the Property.

The Board may adopt design guidelines ("Design Guidelines") for the renovation and addition to all buildings and landscape schemes, and shall appoint an Architectural Control Committee ("ACC") to review and approve any requests by Owners required under this Declaration. In absence of Design Guidelines, any addition to an existing building, enclosure of any porch or patio, or construction of an additional building shall conform to existing building codes, but shall not otherwise be regulated by these covenants.

9.2. No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.3. Variance. The ACC may authorize variances from compliance of any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ACC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, the ACC Body may not authorize variances without the written consent of the Declarant during the time that Declarant owns of the Property..

9.4. Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property only, and shall not create any duty to any Person. Neither the Declarant, the Association, the Board, or the ACC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or the adequacy of soil or drainage, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, or the ACC, or any member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved modifications to any Lot. In all matters, the ACC and their members shall be defended and indemnified by the Association.

9.5. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the Declarant of plans and specifications for the prevention and control of such erosion or siltation. As a condition of approval of such plans and specifications, certain means of preventing and controlling such erosion or siltation may be required. Guidelines for the prevention and control of erosion and siltation may be included in the Design Guidelines.

9.7. Enforcement. Any structure or improvement placed or made in violation of this Article or the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Declarant, the ARC or the Board, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant, the Association or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Specific Assessment.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Declarant or the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with Section 3.24 of the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Property, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Declarant, the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ACC.

Article X USE RESTRICTIONS AND RULES

10.1. Plan of Development; Applicability; Effect.

Declarant has established a general plan of development for the Property in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Property, and the vitality of and sense of community within the Property, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the community and to regulate and control the Area of Common Responsibility. The Property is subject to the other provisions of this Declaration governing individual conduct and uses of and actions upon the Property, and the Use Restrictions and Rules, all of which establish affirmative and negative covenants, easements, and restrictions on the land subject to this Declaration.

All provisions of this Declaration and any Association rules shall apply to all Owners, occupants, tenants, guests and invitees of any Lot. Any lease on any Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of the Governing Documents.

10.2. Authority to Promulgate Use Restrictions and Rules. Initial Use Restrictions and Rules applicable to all of the Property are attached as Exhibit "C" to this Declaration. Subject to the terms of this

Article, the initial Use Restrictions and Rules may be modified in whole or in part, repealed or expanded as follows:

(a) Subject to the Board's duty to exercise business judgment and to act reasonably on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial Use Restrictions and Rules. The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective unless, at a meeting of the Association, it is challenged and overturned by a vote of at least 50% of the total Class "A" votes in the Association and by the Class "B" Member, if any. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon petition of the Members as required for special meetings in the By-Laws.

(b) Alternatively, the Members, at a meeting duly called for such purpose as provided in the By-Laws, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules by a vote of more than 50% of the Class "A" votes in the Association and the approval of the Class "B" Member, if any.

(c) At least 30 days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner. The Association shall provide, without cost, a copy of the use restrictions and rules then in effect (the "Use Restrictions and Rules") to any requesting Member or Mortgagee.

(d) Notwithstanding the above, after termination of the Class "B" Membership, no amendment to or modification of any Use Restrictions and Rules shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns any portion of the Property.

(e) In the event that Design Guidelines have been adopted, nothing in this Article shall authorize the Board or the Members to modify, repeal or expand the Design Guidelines. In the event of any inconsistency between the Design Guidelines and the Use Restrictions and Rules, the Design Guidelines shall control.

10.3. Owners' Acknowledgment. All Owners and occupants of Lots are given notice that use of their Lot is limited by the Use Restrictions and Rules as they may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into and recording a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected and that the Use Restrictions and Rules may change from time to time.

10.4. Rights of Owners. Except as may be specifically set forth in this Declaration (either initially or by amendment) or in Exhibit "C," neither the Board nor the Members may adopt any rule in violation of the following provisions:

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

(b) Speech The right of Owners and occupants to display political signs or engage in political speech shall not be abridged, except that the Association may adopt time, place, and manner restrictions (including

design criteria).

©) Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations on their Lot of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions and restrictions on the extent of such displays.

(d) Household Composition. No rule shall interfere with the freedom of occupants of Lots to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping Lot and to limit the total number of occupants permitted in each Lot on the basis of the size and facilities of the Lot and its fair use of the Common Area.

(e) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Lots or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(g) Alienation. No rule shall prohibit leasing or transfer of any Lot, or require consent of the Association or Board for leasing or transfer of any Lot; provided, the Association or the Board may require a minimum lease term of up to 12 months.

(h) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede the Declarant's right to develop the Property and construct the homes thereon.

(i) Abridging Existing Rights. If any rule would otherwise require Owners or occupants of Lots to dispose of personal property which they maintained in or on the Lot prior to the effective date of such rule, or to vacate a Lot in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with this Declaration and all rules previously in force, such rule shall not apply to any such Owners without their written consent unless the rule was in effect at the time such Owners or occupants acquired their interest in the Lot.

The limitations in this Section 10.4 shall apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with Section 17.2.

Article XI EASEMENTS

11.1. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment,

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

11.2. Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant, so long as the Declarant owns any of the Property, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Property (but not through a structure) to the extent reasonably necessary for the purpose of monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; wetlands and drainage systems; irrigation systems, street lights and signage; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which the Declarant or the Association owns or within easements designated for such purposes on recorded plats of the Property.

Declarant specifically grants to the local water supplier, electric company, and natural gas supplier easements across the Property for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) There is hereby reserved to the Declarant, so long as the Declarant has the unilateral right to annex property in accordance with Section 7.1, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of the Property.

©) Any damage to a Lot resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

(d) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Property, or at any other time, (i) to release all or any portion of the Property from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section 11.2, or (ii) to define the limits of any such easements; provided, however, Declarant shall relocate, at its own expense, any utility lines or facilities located on or under that portion of the Property being released.

11.3. Easement for Maintenance and Flood Waters. The Declarant reserves for itself, the Association, their successors, assigns and designees, the nonexclusive right and easement over the Property for access, ingress and egress to the pond, dam and spillway and all detention ponds, creeks, streams, and wetlands

located within the Area of Common Responsibility, or as to the pond, dam, spillway, detention ponds, on any portion of the Property, whether inside or outside the Area of Common Responsibility, for (a) installing, keeping, maintaining, repairing and replacing silt monitoring devices and detention ponds; (b) constructing, maintaining, and repairing any bulkhead, retaining wall, levee, or other structure retaining water; and (c) removing silt, trash and other debris therefrom. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant, the Association, or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

11.4 Easements for Entrance Monument and Fences. Easements are hereby declared and established in favor of the Association, to allow for the continuing existence and placement of fences along public right of ways constructed by Declarant, monument sign(s) erected by Declarant in connection with development of the Community, and the landscaping of the monument sign area. Declarant, and after the end of the Declarant Control Period, the Association, shall have an easement for access and maintenance across the Property to allow for maintenance, repair and replacement of such fences, monument signs and landscaping.

11.5. Easements to Serve Declarant's Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of any property owned by Declarant, or by any Owned or Non-Owned Builder. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of the exercise of this easement.

11.6. Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with the Governing Documents. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, members of the ARC pursuant to Article IX, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board, but shall not authorize entry into any single family detached dwelling without permission of the Owner, except by emergency personnel acting in their official capacities.

Article XII COMMON AREA USE AND LIABILITY

12.1 Grant of Easements and Use. Each Owner, by virtue of this Declaration, shall have the use and enjoyment of the Common Area, subject to such reasonable rules as the Declarant and the Board shall adopt from time to time.

12.2. Assumption of Risk and Indemnification. Owners are advised that neither Declarant, the Association, the Board of Directors, or any stockholder, officer or director, makes any warranty or representation as to the standard of construction or condition of the Common areas, including detention ponds.

Each such Owner agrees that neither Declarant, the Association nor any of Declarant's affiliates or agents shall be liable to Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the use of the Common Areas, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, the Association or any other entity owning or managing the Property. The Owner hereby agrees to indemnify and hold harmless Declarant, Association and any other entity owning or managing the Property against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

Article XIII MORTGAGE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Property.

13.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Occupant which is not cured within 60 days; or

©) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

13.2. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

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

Article XIV DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred or assigned in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the

Declarant and duly recorded in the Public Records.

The Declarant and Builders authorized by Declarant may maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model homes, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities.

The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

No Person shall record any declaration of covenants, conditions and restrictions or similar instrument affecting any portion of the Property without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Use Restrictions and Rules or Design Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns any portion of the Property primarily for development and sale.

Each Owner acknowledges that no representations, warranties or guarantees are made or relied upon as to: (a) the design, construction, completion, development, use, benefits, or value of the Property; or (b) the number, types, sizes, prices or designs of any structures to be built in any part of the Property. Notwithstanding anything to the contrary in this Article, the provisions of this Article shall be enforceable only to the extent not in violation of any applicable provision of law.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 20 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article XV LIMITATIONS ON LIABILITY

15.1. **Builder Performance.** Declarant shall not be responsible for, or guarantors of, performance by any Builder of all or any of its obligations to any Owner pursuant to any contracts for the sale of a Lot or the construction of a structure on a Lot or otherwise. Declarant has not made any warranty or representation with respect to performance by any Builder under any contract or otherwise.

Such Owner acknowledges and agrees that neither Declarant nor any Affiliate of Declarant share any liability or obligation to Owner, related to or arising out of any contract with a Builder or otherwise, by reason of any failure by a Builder fully and adequately to perform its obligations to Owner. Owner further acknowledges and agrees that Owner has not, in entering into any contract with a Builder, relied upon any representations, oral or written, of Declarant or any Affiliate of Declarant or any salesperson. "Affiliate", for purposes of this Article means a partner, director, subsidiary, shareholder, officer, employee, agent, co-venturer, executor, personal representative, trustee, attorney, or person of entity which (either directly or

indirectly through one or more intermediaries), controls, is in common control with or is controlled by, another person or entity, and any person or entity that is a director, trustee, officer, employee, agent, partner, shareholder, subsidiary or attorney of any of the foregoing.

15.2. Excavation. All Owners are hereby placed on notice that Declarant, any Builder, and/or their agents, contractors, subcontractors, licensees and other designees, successors or assignees, may be, from time to time, conducting excavation, construction and other activities within or in proximity to the Property. By the acceptance of a deed or other conveyance or Mortgage, leasehold, license, easement or other interest, and by using any portion of the Property, each Owner automatically acknowledges, stipulates and agrees (a) that none of the aforesaid activities shall be deemed nuisances or noxious or offensive activities, under any applicable covenants or at law generally, (b) not to enter upon, or allow their children or other persons under their control or direction to enter upon (regardless of whether such entry is trespass or otherwise) any property within or in proximity to any portion of the Property where such activities are being conducted (even if not being actively conducted at the time of entry, such as at night or otherwise during non-working hours), (c) Declarant, any Affiliate of Declarant and all of their agents, contractors, subcontractors, licensees and other designees, successors and assignees, shall not be liable but, rather, shall be held harmless, for any and all losses, damages (compensatory, consequential, punitive or otherwise), injuries or deaths arising from or relating to the aforesaid activities, (d) any purchase or use of any portion of the Property has been and will be made with full knowledge of the foregoing.

15.3. Health, Safety and Welfare. No provision of the Declaration, the By-Laws or the Articles of Incorporation shall be interpreted as a representation or duty of the Declarant or the Association to provide for, protect or further the health, safety and welfare of the Owners.

Article XVI

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

16.1. Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, any Builder, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Property, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Sections 16.2 ("Claims") shall be resolved using the procedures set forth in Section 16.3 in lieu of filing suit in any court.

16.2. Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Property shall be subject to the provisions of Section 16.3. Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 16.3:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments);

(b) any suit by the Association to obtain a temporary restraining order, or other mandatory or

prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Article IX (Architectural Standards) or Article X (Use Restrictions and Rules);

(c) any suit by an Owner to challenge the actions of the Declarant, the Association, the ARC, or any other committee with respect to the approval or disapproval of plans and specifications in accordance with Article IX (Architectural Standards);

(d) any suit by an Owner to challenge the enforcement or application of specific use restrictions promulgated in accordance with the procedures set forth in Article X (Use Restrictions);

(e) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

(f) any suit in which any indispensable party is not a Bound Party;

(g) any suit which otherwise would be barred by any applicable statute of limitations;

(h) any suit to enforce a contract for the purchase of, or the construction of, any home within the Property.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 16.3.

16.3. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing the "Notice", stating plainly and concisely:

1. the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed remedy; and
4. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

2. If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of an independent dispute resolution center, the Neighborhood Justice Center of Atlanta, or such other independent agency providing dispute

resolution services in the Fulton County or Metropolitan Atlanta, Georgia area upon which the Parties may mutually agree.

3. If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

©) Final and Binding Arbitration.

1. If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "D" or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

2. This subsection ©) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of Georgia. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Georgia.

16.4. Allocation of Costs of Resolving Claims.

(a) Subject to Section 16.4(b), each Party shall bear its own costs, including any attorneys fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

16.5. Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 16.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

Article XVII GENERAL PROVISIONS

17.1. Duration.

(a) Unless terminated as provided in Section 17.1(b) or unless otherwise limited by Georgia law, this Declaration shall have perpetual duration. If Georgia law hereafter limits the period during which covenants may run with the land, then, unless terminated as provided herein or, if such termination method is not consistent with Georgia law, in such other manner as required by Georgia law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth 11, Queen of England.

(b) Unless otherwise provided by Georgia law, in which case such law shall control, this Declaration may be terminated within the first 20 years after the date of recording by an instrument signed by Owners of at least 75% of the total Lots within the Property, which instrument is recorded in the Public Records; provided, regardless of the provisions of Georgia law, this Declaration may not be terminated without the prior consent of the Declarant if the Declarant owns any portion of the Property. After twenty years from the date of recording, this Declaration may be terminated only by an instrument signed by Owners owning at least 51% of the Lots and constituting at least 51% of the total number of Owners, and by the Declarant, if the Declarant owns any portion of the Property, which instrument complies with the requirements of O.C.G.A. § 44-5-60(d) and is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

17.2 . Amendment. Until conveyance of the first Lot to a Person other than a Builder, the Declarant may unilaterally amend this Declaration. Thereafter, the Class "B" Member may amend this Declaration if such amendment is specifically required to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the U.S. Department of Veterans Affairs, the U.S. Department of Housing and Urban Development, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Lots. In addition, so long as the Class "B" membership exists, the Class "B" Member may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of not less than 75% of the total number of Lots within the Property and the consent of the Declarant, so long as the

Declarant owns any of the Property.

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

After the effective date of any statute regulating property owners associations in the State of Georgia ("POA Act"), the Board shall be authorized, but not required, to amend this Declaration, without the consent of the Members, for the purpose of submitting the Property to such POA Act and conforming this Declaration to any mandatory provisions thereof. Any such amendment shall require the consent of the Class "B" Member, if any.

No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

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

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

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

17.4. Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Members holding at least 75% of the total Class "A" votes in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article VIII; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article XVI, if applicable.

17.5. Cumulative Effect: Conflict. The provisions of this Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Property from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

17.6. Compliance. Every Owner and occupant of any Lot shall comply with this Declaration, any

applicable Supplemental Declaration, the By-Laws, and the Use Restrictions and Rules promulgated pursuant to Article X. Subject to the terms of Article XVI, failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Lot Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

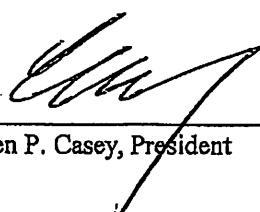
17.7. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

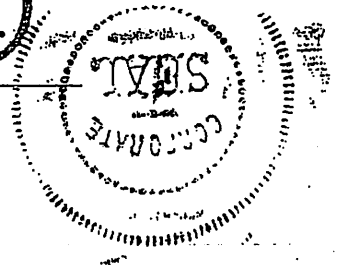
17.8. Exhibits. , Exhibits "A", "B", "C", and "D" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Section 17.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration this 28th day of November, 2005.

DECLARANT:

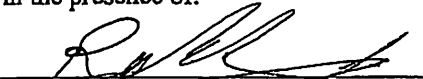
S. P. CASEY CONSTRUCTION, INC.
a Georgia corporation

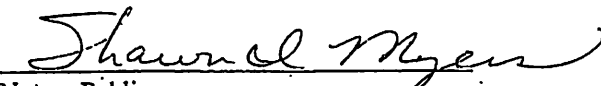
By: 
Stephen P. Casey, President



Signed, sealed and delivered
in the presence of:

[Corporate Seal]


Witness


Notary Public

SHAWN L. MYERS
Notary Public, Cherokee County, Georgia
My Commission Expires July 2, 2008



Exhibit "A"

Legal Description

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND LOT 633 OF THE 2ND DISTRICT, 2ND SECTION OF FULTON COUNTY, GEORGIA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN IN THE SOUTHWEST CORNER OF LAND LOT 633 AND RUNNING THENCE NORTH 0 DEGREES 42 MINUTES EAST ALONG SAID LAND LOT LINE A DISTANCE OF 606.1 FEET TO AN IRON PIN ON THE SOUTHEAST SIDE OF TAYLOR ROAD, HAVING A 60 FOOT RIGHT-OF-WAY; THENCE NORTH 24 DEGREES 47 MINUTES EAST ALONG THE SOUTHEAST SIDE OF TAYLOR ROAD, A DISTANCE OF 343 FEET TO AN IRON PIN; THENCE SOUTH 76 DEGREES 54 MINUTES EAST A DISTANCE OF 561 FEET TO AN IRON PIN; THENCE SOUTH 16 DEGREES 44 MINUTES EAST A DISTANCE OF 822.9 FEET TO AN IRON PIN ON THE SOUTH LINE OF LAND LOT 633; THENCE NORTH 90 DEGREES 00 MINUTES WEST ALONG SAID SOUTH LINE OF LAND LOT 633 A DISTANCE OF 932 FEET TO THE IRON PIN AT THE SOUTHWEST CORNER OF LAND LOT 633 AT THE POINT OF BEGINNING, ACCORDING TO PLAT OF SURVEY BY J. PAUL BATES & ASSOCIATES, DATED AUGUST 3, 1964.

EXHIBIT "B"

ADDITIONAL PROPERTY WHICH DECLARANT MAY ADD BY SUPPLEMENTAL DECLARATION

DECLARANT MAY ADD ANY PROPERTY LYING CONTIGUOUS TO THE
PROPERTY DESCRIBED IN EXHIBIT "A".

EXHIBIT "C"**Use Restrictions and Rules**

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants of Lots. These use restrictions may only be amended in the manner provided in this Declaration.

Section 2. 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 the residence on a Lot may conduct such ancillary business activities within the residence 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 residence; (b) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property (other than deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services); (c) the business activity conforms to all zoning requirements for the Property; (d) 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; (e) 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; and (f) the business activity does not result in a materially greater use of common area facilities or Association services.

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) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this Section.

Section 3. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Property without the prior written consent of the ARC except (a) when offering a Lot or residence for sale or for lease, not more than one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard and having a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, (b) professional security signs consistent with the Community-Wide Standard, (c) any signs required by legal proceedings, and (d) signs erected by Declarant. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs. This Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first mortgage. No advertising, directional or vendor signs shall be permitted within the Community except as authorized by the Declarant.

Section 4. Vehicles. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. Vehicles shall not be parked on any street within the Property or on any portion of a Lot other than in the garage or on the driveway. The doors of garages shall be kept closed at all times, except during times of entry and exit from the garage, or when someone is working in or around the garage.

No towed vehicle, boat, boat trailer, horse trailer, recreational vehicle, motor home, mobile home, bus, camper, trailer, truck or commercial vehicle over one (1) ton capacity, or similar recreational vehicles shall be permitted on any Lot, except if kept in an enclosed garage, for periods longer than twenty-four (24) consecutive hours (the intent of this provision is that the aforementioned recreational vehicles may not be stored on a Lot except if in a garage and the temporary removal of such vehicle from a Lot to break the continuity of the twenty-four (24) consecutive hours shall not be sufficient to establish compliance with this restriction). Any such vehicle shall be considered a nuisance and may be removed from the Property.

Section 5. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though, Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants, if a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 6. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, except that dogs, cats, or other usual and common household pets in reasonable number, may be kept on a Lot, provided, however, those pets which roam free, or, in the sole discretion of the Board endanger the health, make objectionable noise, or constitute a nuisance to the Owners or Occupants of other Lots or the owner of any property located adjacent to the Community may be removed by the Board or required to be kept indoors. No dog houses, dog runs or other enclosures shall be permitted on a Lot unless first approved by the Board, except that an Owner may install an invisible "Radio Fence" or other similar type offence designed to restrain a pet. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash unless restrained by an invisible fence referenced to above. Without prejudice to the Board's right to remove any such household pets, the Board may prohibit a household pet that has caused damage or injury from being walked in the Community.

Section 7. Nuisance It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner's Lot. No property within the Property shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Property, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to a reasonable person. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence is dangerous or excessively noisy. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

Section 8. Unsightly or Unkempt Conditions . The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Property unless such activities are kept indoors.

Section 9. Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Community, whether attached to

a home or structure or otherwise. The following shall apply to all Lots:

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

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

©) DBS and MMDS satellite dishes or antenna one (1) meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association authorized by the FCC, both as they may be amended from time to time.

In the event of a transfer of the Lot which includes the satellite dish or antenna, the grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements to maintenance and removal of satellite dish or antenna.

Section 10. Tree Removal. No trees that are more than sixteen (16) inches in diameter at a point four (4) feet above the ground shall be removed without the prior written consent of the ARC except for (a) trees, regardless of their diameter, that are located within five (5) feet of a drainage area, a sidewalk, a residence, or a driveway, (b) diseased or dead trees, and ©) trees removed by Declarant.

Section 11. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for the benefit of Declarant and the Association and their respective successors and assigns a perpetual easement across the Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 12. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 13. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, air conditioner compressors and similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Property except by Declarant during construction, or by approved burning permit.

Section 14. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the ARC. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 15. Firearms and Fireworks. The display or discharge of firearms or fireworks in the Property is prohibited; provided, however, that the display of lawful firearms on the Property is permitted for the limited purpose of transporting the firearms across the Property to or from the residence on the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. §25-10-1.

Section 16. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, unless the type and location thereof shall have received the prior written consent of the ARC. Any fence facing a street, including, without limitation, any fence erected on a corner Lot, may be constructed of wood, metal or decorative aluminum. Other fences may be split rail with welded wire. In no event will a chain link, barbed wire, or any other wire type fence be approved by the ARC. Any fence shall be placed no closer to the street than the rear corner of the dwelling or in the case of a corner Lot no closer to the street than the building set-back-line for the side of the dwelling and the rear corner of the dwelling for the front. With approval of the ARC, the fence may extend past the rear corner on one (1) side of the dwelling in order to include the entry into the side of a garage.

Section 17. Air-Conditioning Units. Except as may be permitted by the ARC, no window air conditioning units may be installed.

Section 18. Lighting. Except as may be permitted by the ARC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one (1) decorative post light; (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights, which must be removed within thirty (30) days after the date of the holiday; (e) front house illumination of model homes; (f) decorative landscape lighting as approved by the ARC; or (g) security lights affixed to a dwelling (but excluding high pressure sodium and mercury vapor lighting or fluorescent strip lighting.).

Section 19. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARC.

Section 20. Mailbox. Only one (1) mailbox shall be located on each Lot. All mailboxes and mailbox posts located on Lots shall be provided by the Builder and shall be in conformity with an established mailbox program for the Community as determined by Declarant. Replacement mailboxes and mailbox posts may be installed on a Lot only after the type of replacement mailbox and mailbox post has been approved in writing by the ARC.

Section 21. Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

Section 22. Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. No bedsheets covering any windows, visible from the outside of any dwelling, shall be allowed.

Section 23. Outbuildings and Similar Structures. No structure of a temporary nature, unless approved in writing by the ARC, shall be erected or allowed to remain on any Lot and no trailer, camper, shack, tent, garage, barn or other structure may be used as a residence, either temporarily or permanently. However, this

Section shall not be construed to prevent Declarant and those engaged in development, construction, marketing, property management or sales from using sheds, trailers or other temporary structures for any of the foregoing purposes. In addition, nothing in this Declaration shall be construed to prevent Declarant from developing, constructing, marketing, or maintaining model homes or speculative housing within the Community.

Section 24. Entry Features . Owners shall not alter, remove or add improvements to any entry features constructed by the Declarant on any lot, or any part of any easement area associated therewith without the prior written consent of the ARC.

Section 25. Retaining Walls. No retaining wall of any kind shall be placed, erected, allowed or maintained upon any portion of the Community, including any Lot, unless the type and location thereof shall have received the prior written consent of the ARC. Any retaining wall visible from the street shall be made of wood, brick, stone, or of patterned or stamped and painted concrete, or of any other material approved by the ARC. Walls made of plain concrete or concrete block shall be prohibited.

Section 26. Power Boats. No gasoline or electric powered boats shall be allowed on the pond. Canoes and rowboats shall be powered by oars or sails only.

EXHIBIT "D"
Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").

2. The Parties shall select arbitrators ("Party Appointed Arbitrators") as follows: all the Claimants shall agree upon one (1) Party Appointed Arbitrator, and all the Respondents shall agree upon one (1) Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("Neutral") so that the total arbitration panel ("Panel") has three (3) arbitrators.

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the American Arbitration Association, or such other independent body providing arbitration services, for any dispute relating to the design or construction of improvements on the Property, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral's Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.

5. The Appointed Neutral or Neutral, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Property unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice

to the rights of the Parties or the final determination of the dispute.

10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

12. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

13. There will be no posthearing briefs.

14. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

EXHIBIT "E"

BYLAWS OF MARSHALL'S POND COMMUNITY ASSOCIATION, INC.

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BYLAWS
OF
MARSHALL'S POND COMMUNITY ASSOCIATION, INC.

Article I
Name, Principal Office, and Definitions

1.1. Name. The name of the corporation is Marshall's Pond Community Association, Inc. (the "Association").

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

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Marshall's Pond filed in Fulton County, Georgia, Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

Article II
Association: Membership, Meetings, Quorum, Voting, Proxies

2.1. Membership. The Association shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board, either within the Property or as convenient as is possible and practical.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one year from the date of incorporation of the Association. Subsequent regular annual meetings shall be set by the Board so as to occur during the third quarter of the Association's fiscal year on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least 50% of the total Class "A" votes in the Association.

2.5. Notice of Meeting. Written or printed notice stating the place, day, and hour of any meeting of the Members shall be delivered, either personally or by mail, to each Member entitled to vote at such meeting, not less than 10 nor more than 30 days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or

purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at its address as it appears on the records of the Association, with postage prepaid.

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

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

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

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

2.9. Proxies. At all meetings of Members, each Member may vote in person (if a corporation, partnership or trust, through any officer, director, partner or trustee duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Georgia law. All proxies shall be in writing specifying the Lot(s) for which it is given, signed by the Member or its duly authorized attorney-in-fact, dated and filed with the Secretary of the Association prior to any meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Lot for which it was given, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

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

2.11. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence, in person or by proxy, of Members representing 50% of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote, if written consent specifically authorizing the proposed action is signed by all Members entitled to vote thereon. Such consent shall be filed with the minutes of the Association, and shall have the same force and effect as a vote of the Members at a meeting. Within 10 days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members entitled to vote who did not give their written consent, fairly summarizing the material features of the authorized action.

Article III

Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one equal vote. Except with respect to directors appointed by the Class "B" Member, the directors shall be Members or Residents; provided, no Owner and Resident representing the same Lot may serve on the Board at the same time. A "Resident" shall be any natural person 18 years of age or older whose principal place of residence is a Lot within the Property. In the case of a Member which is not a natural person, any officer, director, partner, employee or trust officer of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member; provided, no Member may have more than one such representative on the Board at a time, except in the case of directors appointed by the Class "B" Member.

3.2. Number of Directors. The Board shall consist three to eight directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall consist of three directors.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the later of: (a) when 100% of the maximum number of Lots within the Property have been conveyed to Persons other than Builders; or (b) April 1, 2009.

Notwithstanding the above, the Class "B" Member may, in its discretion assign or relinquish by written instrument its rights under this Section.

3.4. Nomination and Election of Directors. Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

Each Owner may cast the entire vote assigned to his or her Lot for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) Not later than the first annual meeting after the termination of the Class "B" Control Period, the Board shall be increased to eight directors, each of whom shall be an Owner of a separate Lot. The purpose of this provision is to allow one Owner of each Lot to be represented on the Board. The President shall call for an election by which the Class "A" Members shall be entitled to elect eight directors. Until termination of the Class "B" membership, the Class "B", Member shall be entitled to appoint, remove or replace one additional director. Upon termination of the Class "B" membership, the director elected by the Class "B" Member shall resign and no director shall be appointed in place of that resigning director. Such director shall be elected for a term to expire at such time as said Owner shall no longer own title to an ownership interest in a Lot. Upon the transfer of the ownership interest in title to a Lot, the purchaser of the ownership interest in said Lot shall become the succeeding director in place of the selling (and resigning) director.

3.6. Removal of Directors and Vacancies. Any director who is more than 90 days delinquent (or is the representative of a Member who is so delinquent) in the payment of any assessment or other charge due the Association, shall not be allowed to vote as a director until his or her delinquent payment(s) is brought current.

B. Meetings.

3.7. Organizational Meeting. The Board organizational meeting shall be held within ten days following each annual meeting of the membership at a time and place fixed by the Board.

3.8. Regular Meetings. Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or Vice President or by any two directors.

3.10. Notice: Waiver of Notice.

(a) Notice of the time and place of a regular meeting shall be communicated to directors not less than four calendar days prior to the meeting. Notice of the time and place of a special meeting shall be communicated to directors not less than 72 hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be, expected to communicate such notice promptly to the director; (iv) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; or (v) telegram, charges prepaid. All such notices shall be given at the director's telephone or telecopier number of sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal delivery, telephone,

telecopier or telegraph shall be deemed communicated when delivered, telephoned, telecopied or given to the telegraph company.

(b) The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

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

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

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

3.14. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings recording all Board resolutions and all transactions and proceedings occurring at such meetings.

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

3.16. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any

action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

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

3.18. Duties. The duties of the Board shall include, without limitation:

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

(b) levying and collecting such assessments from the Owners;

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

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

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

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

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

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

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules of the Association and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, the Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action;

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

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

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

(m) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Lot, current copies of the Declaration, the Articles of incorporation, the By-Laws, rules and all other books, records, and financial statements of the Association, as provided in Section 6.4;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Property; and

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

3.19. Right of Class "B" Member to Disapprove Actions. So long the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, or interfere with development of or construction on any portion of the Property, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.8, 3.9, 3.10, and 3.11 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

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

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

The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.20. Management. The Board of Directors may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the

Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policymaking authority or those duties set forth in Sections 3.18(a), 3.18(b), 3.18(f), 3.18(g) and 3.18(i). The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

The Board may delegate to one of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.21. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles; and

(c) beginning with the first calendar year following termination of the Class "B" Control Period, an annual report consisting of at least the following shall be made available to all Members within 120 days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines, by an independent public accountant; provided, upon written request of any holder, guarantor or insurer of any first Mortgage on a Lot, the Association shall provide an audited financial statement.

3.22. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided, the Board shall obtain Member approval in the same manner provided for Special Assessments in Section 8.5 of the Declaration if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year.

3.23. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other owners or residents associations, within and outside the Property; provided, any common management agreement shall require the consent of a majority of the total number of directors of the Association.

3.24. Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Lot of the violator, and to suspend an Owner's right to vote or to use the Common Area (for purposes other than ingress and egress to and from such Owner's Lot) for violation of any duty imposed under the Declaration, these By-Laws, or any Association rules. In addition, the Board may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, tenant, employee, guest or invitee of a Lot violates the Declaration, By-Laws, or a rule and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the

fine shall be assessed against the Lot and the Owner thereof upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article V; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided, the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted 10 day period, the hearing shall be held before the Covenants Committee, if one, or if none, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Appeal. Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To exercise this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within 10 days after the hearing date.

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

Article IV Officers

4.1. Officers. The officers of the Association shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each annual meeting of the Members, to serve until their successors are elected.

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

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

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

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.13.

Article V Committees

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenant Committee. In addition to any other committees which the Board may establish pursuant to the Declaration, these By-Laws and, specifically, Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these By-Laws.

Article VI Miscellaneous

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

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Roberts Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, or these By-Laws.

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

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Declaration, By-Laws, and Articles of Incorporation, any amendments to the foregoing, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Property as the Board shall designate.

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

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

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

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

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the principal office of the Association or the managing agent, or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

6.6. Amendment.

(a) By Class "B" Member. Until conveyance of the first Lot to a Person other than a Builder, the Class "B" Member may unilaterally amend these By-Laws. Thereafter, the Class "B" Member may amend these By-

Laws if such amendment is specifically required to enable the U. S. Department of Veterans Affairs, the U. S. Department of Housing and Urban Development, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation to make, purchase, insure or guarantee mortgage loans on the Lots; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. So long as the Class "B" membership exists, the Class "B" Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By Members Generally . Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent , or any combination thereof, of Members representing at least 51% of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) By the Board. After the effective date of any statute regulating property owners associations in the State of Georgia ("POA Act"), the Board shall be authorized to amend these By-Laws without the consent of the Members for the purpose of submitting the Property to such POA Act and conforming these By-Laws to any mandatory provisions thereof. Any such amendment shall require the consent of the Class "B" Member, if any.

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

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

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