

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR KINGSWOOD SUBDIVISION**

THIS DECLARATION, made this 1st day of December, 1995, by **KENSTONE HOMES, INC.**, a Georgia corporation (hereinafter referred to as "Developer").

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property known as **KINGSWOOD** Subdivision, lying and being in Land Lots 461 and 462, 2nd District, 2nd Section, Fulton County, Georgia, which real property is more particularly described in EXHIBIT "A" attached hereto and by reference made a part hereof; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values in KINGSWOOD Subdivision and for the maintenance of the property and improvements thereon, and to this end desires to subject the real property described in EXHIBIT "A" to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer has deemed it desirable for the efficient preservation of the values in KINGSWOOD Subdivision to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the Common Area and improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

NOW, THEREFORE, Developer hereby declares that all of the real property described in Exhibit "A" and any additional property as may by subsequent amendment hereto be added to and subjected to this Declaration shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. "Architectural Control Committee" shall mean and refer to J. Howard Chatham, Timothy R. Chatham and Harry L. Hammond, Jr., or such individuals as Developer may appoint, until all Lots have been sold in KINGSWOOD Subdivision

Section 2. "Association" shall mean and refer to KINGSWOOD Homeowners Association, Inc., its successors and assigns.

Section 3. "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners, including but not limited to any easements benefiting the Owners and/or the Association.

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JUANITA HICKS
Clerk, Superior Ct

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Section 5. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration and the Bylaws and Articles of Incorporation of the Association.

Section 6. "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 7. "Developer" shall mean and refer to:

- (i). KENSTONE HOMES, INC., a Georgia corporation, or
- {ii}. Any successor-in-title or any successor-in-interest to KENSTONE HOMES, INC., a Georgia corporation, to all or any portion of the Property (hereinafter defined), provided in the instrument of conveyance to any such successor-in-title or interest, such successor-in-title is expressly designated as the "Developer" hereunder by the grantor of such conveyance, which grantor shall be the Developer hereunder at the time of such conveyance.

Section 8. "Lot" shall mean and refer to any parcel of land shown upon any recorded subdivision plat of the Property upon which a single-family attached residence may be constructed.

Section 9. "Dwelling" shall mean the single-family attached house, including garage, driveway and patio which is located upon a Lot.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot which is a part of the Property, but excluding those having such "interest merely as security for the performance of an obligation.

Section 11. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 12. "Plat" shall mean and refer to that certain Final Subdivision Plat for KINGSWOOD prepared by Watts and Browning, Engineers, dated _____, and recorded in Plat Book_, Page _____ in the office of the Clerk of Superior Court of Fulton County, Georgia, as may now or hereafter be amended and rerecorded.

Section 13. "Property" shall mean and refer to that certain real property described in EXHIBIT "A" attached hereto and by reference made a part hereof, together with such additional real property as may by subsequent amendment be added to and subject to this Declaration.

Section 14. "Structure" shall mean and refer to:

- (i). Any thing or object, the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;
- (ii). Any excavation, grading, fill ditch, diversion dam or other thing, object or, device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which

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affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

- {iii). Of this Section 14 applies to such change.

ARTICLE 11 ARCHITECTURAL CONTROL COMMITTEE

Section 1. "Purpose, Powers and Duties of the Architectural Control Committee". The purpose of the Architectural Control Committee is to assure that the installation, construction or alteration of any Structure on any Lot is submitted to the Architectural Control Committee for approval;

(i). As to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the development of the Property; and

(ii). As to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

Section 2. "Meetings". Meetings of the Architectural Control Committee shall be held at such time and at such place as the Architectural Control Committee shall specify. At each meeting of the Architectural Control Committee, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of majority of the members of the Architectural Control Committee present at any regular or special meeting thereof, at which a quorum is present shall constitute the act of the Architectural Control Committee. Any action required to be taken at a meeting of the Architectural Control Committee, or any action which may be taken at a meeting of the Architectural Control Committee, may be taken without a meeting if written consent is obtained from all members of the Architectural Control Committee, setting forth the action so taken. Such consent shall have the same force and effect as an unanimous vote.

Section 3. "Action of Members of Architectural Control Committee". Any member of the Architectural Control Committee may be authorized by the Architectural Control Committee to exercise the full authority of the Architectural Control Committee with respect to all matters over which the Architectural Control Committee has authority as may be specified by resolution of the Architectural Control Committee. The action of such member with respect to the matters specified shall be final and binding upon the Architectural Control Committee and upon any applicant for an approval permit or authorization, subject, however, to review and modification by the Architectural Control Committee on its own motion or appeal by the applicant to the Architectural Control Committee as provided herein. The applicant may, within twenty-four (24) hours after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the Architectural Control Committee. Upon the filing of any such request, the matter with respect to which such request was filed, shall be submitted to, and reviewed promptly by, the Architectural Control Committee, but in no event later than fifteen (15) days after the filing of such request. The decision of a majority of the members of the Architectural Control Committee with respect to such matter shall be final and binding.

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Section 4. "Submission of Plans and Specifications". No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, less plans and specifications therefor shall have been first submitted to and approved by the Architectural Control Committee, such approval to be designated in writing directly on said plans and specifications by a member of the Architectural Control Committee. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the Architectural Control Committee.

Section 5. "Approval and Disapproval of Plans and Specifications".

(i). The Architectural Control Committee shall have the right to approve or disapprove any plans and specifications submitted to it in its sole and uncontrolled discretion, which approval or disapproval may be based upon any grounds, including purely aesthetic considerations.

(ii). Approval of any such plans and specifications relating to any Lot or Structure shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(iii). Neither Developer nor any member of the Architectural Control Committee shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. Further, approval of plans and specifications by the Architectural Control Committee shall not be deemed to represent or warrant to any Person the quality, function or operation of the Structure or of any construction, workmanship, engineering, materials or equipment. Neither Developer nor any member of the Architectural Control Committee shall be liable in damages or in any other respect to anyone submitting plans or specifications for approval under this Article, or to any Owner, or to any other Person having an interest in any of the Property by reason of mistake in judgment, negligence, misfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. By submission of such plans and specifications to the Architectural Control Committee, every Owner of any Lot releases and agrees to hold harmless and to defend Developer and any member of the Architectural Control Committee from any such alleged liability, claim and/or damage.

Section 6. "Obligation to Act". The Architectural Control Committee shall take action on any plans and specifications submitted as herein provided within seven (7) days after receipt thereof. Approval by the Architectural Control Committee, if granted, together with any conditions imposed by the Architectural Control Committee, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by the Architectural Control Committee to take action within seven (7) days of the receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

Section 7. "Violations".

(i). If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the Architectural Control Committee pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the Architectural Control Committee such violation shall have occurred, the Architectural Control Committee shall be entitled and empowered to enjoin or remove any such Structure. Any costs and expenses incurred by the Architectural Control Committee in enjoining and/or removing any structure shall be added to and become a part of the assessment of which the owner and his Lot are subject.

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(ii). The Architectural Control Committee shall provide written notice to the Owner by certified mail, return receipt requested, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within fourteen (14) days after the receipt of the aforesaid notice of violation, or if such notice is rejected, the date fourteen (14) days after the mailing of the aforesaid notice, then the Architectural Control Committee shall have the right of abatement as provided in Section 1 (ii) of Article XI hereof. In addition to the right of abatement, the Board, upon being informed of such violation by the Architectural Control Committee, shall be entitled to seek equitable relief to enjoin such construction.

ARTICLE 1V
MEMBERSHIP AND VOTING RIGHTS

Section 1. "Membership". Every Owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

Section 2. "Voting Rights". The members shall be the Owners and the Developer and each shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. The membership of the Owners shall be a non-voting membership except on such matters and in such events as hereinafter specified. The Owners shall be entitled to full voting privileges at such time as the Developer, in its sole discretion, determines but no later

than such time as ninety percent (90%) of said Lots have been sold, the Developer shall be entitled to one vote for each Lot owned by it.

ARTICLE V
PROPERTY RIGHTS

Section 1. "Member's Easement of Enjoyment". Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area (including, without limitation, the right of pedestrian (but not vehicular) access, ingress and egress to and from his Lot over those portions of the Common Area from time to time designated for such purposes and the right of use of such recreational facilities as may be erected and maintained by the Association for such purposes from time to time), which right and easement shall be appurtenant to and shall pass with the title to every Lot. The easements reserved in Article VIII of this Declaration shall also be appurtenant to and pass with the title to every Lot.

Section 2. "Delegation of Use". Any Owner may delegate, in accordance with the By-Laws, his right of use and enjoyment in and to the Common Area and the improvements thereon, if any, to the members of his family, his tenants, guest and invitees, subject to such regulations as may be established from time to time by the Association.

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Section 3. "Title to Common Area". Developer may from time to time convey to the Association, at no expense to the Association, real and personal property for the common use and enjoyment of the Owners. The Association hereby covenants and agrees to accept from Developer all such conveyances real and personal property.

ARTICLE VI
COVENANT FOR MAINTENANCE AND CAPITAL
IMPROVEMENT ASSESSMENTS

Section 1. "Creation of the Lien and Personal Obligation of Assessments". Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (i). Annual assessments which may or shall be levied by the Association, and
- (ii). Special assessments, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made.

Section 2. "Purpose of Assessments". The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the Owners of the Lots and the costs and expenses incident to the operation of the Association, including, without limitation, the maintenance and repair of the Common Area and improvements thereon, if any, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and placement of improvements on the Common Area, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3. "Computation of Annual Assessments". If the Association incurs ongoing Common Expenses, it shall be the duty of the Board at least thirty (30) days prior to the Association's annual meeting to prepare a budget

covering the estimated Common Expenses of operating the Association for the coming year, such budget to include a capital contribution or reserve account in accordance with the capital needs of the Association. The budget and the proposed annual assessments to be levied against each Lot shall be delivered to each Owner no later than ten (10) days prior to such annual meeting. The annual assessments shall be equally divided among the Lots so that the annual assessments shall be the same for each Lot. The budget and the annual assessments shall become effective unless disapproved at the annual meeting by either:

- (i). Developer, so long as it continues to own more than ten percent (10%) of the Lots'
- or
- (ii). A vote of a majority of the Owners voting in person or by proxy at such meeting.

In the event the proposed budget is not approved or the Board fails for any reason to determine the budget for the succeeding year, then until a budget has been determined as provided herein, the budget and annual assessments in effect for the then current year shall continue for the succeeding year. If any budget at any time proves inadequate for any reason, the Board may call a meeting of the Association for the approval of a special assessment.

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Section 4. "Special Assessments". In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of capital improvements upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of at least two-thirds (2/3) of the Owners and the Developer, if any, voting in person or by proxy at a meeting duly called for such purpose. Special assessments may also be levied by the Association if for any reason the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the members as set forth above.

Section 5. "Notice and Quorum for Any Action Authorized Under Sections 3 and 4". Written notice of any meeting called for the purposes of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. "Rate of Assessment". Annual and special assessments must be fixed at a uniform rate for all Lots and may be collected semi-annually or on any basis deemed appropriate by the Association.

Section 7. "Date of Commencement of Annual Assessments; Due Dates". The annual assessments provided for herein shall be paid in such manner and on such dates as may be fixed by the Board. Anything contained herein to the contrary notwithstanding, Developer, on behalf of itself and its successors and assigns, covenants and agrees to pay the annual assessment for each Lot owned by Developer which has constructed thereon a residence; provided, however, Developer shall not be responsible for assessments on Lots which do not have a residence constructed thereon.

Section 8. "Effect of Nonpayment of Assessments; Remedies of the Association". Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum legal rate per annum. In such case, the Association may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure

by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property, and such Owner hereby expressly grants to the Association a power for sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance hereof by the Association, a deed in lieu of foreclosure.

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Section 9. "Subordination of the Lien to First Mortgage". The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed, or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure of any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. "Exempt Property". The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein:

- (i). All properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- (ii). All Common Area; and
- (iii). All properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

ARTICLE V11 MAINTENANCE

Section 1. "Association's Responsibility". Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area and improvements there, if any. The Association's responsibility with respect to the Common Areas shall be deemed to include the maintenance, repair and replacement of

- (i). All roads, driveways, walks, parking areas and buildings and other improvements, if any, situated within the Common Area;
- (ii). Such utility lines, pipes, plumbing, wires, conduits, storm water drainage facilities, retention ponds and systems which are a part of the Common Area; and
- (iii). All lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area.

Section 2. "Owner's Responsibilities". Each Owner of a Lot, whether vacant or occupied, shall keep and maintain his Lot and the exterior of any and all improvements located thereon in a neat, attractive and safe condition. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and care for roofs, gutters, downspouts, building surfaces, sprinkler systems, walks and other exterior improvements. Should any Owner of a Lot fail to maintain his Lot or the improvements thereon as set forth hereinabove, the Architectural Control Committee, its agents and representatives shall have the right of abatement as provided in Section 1 (b) of Article XI hereof. Such Owner shall be personally liable to the Architectural Control Committee for the direct and indirect cost of such abatement, which costs shall be added to and become part of the assessment to which such Owner and his Lot are subject. The provisions hereof shall not be construed, however, as an obligation on the part of the Architectural Control Committee to mow, clear, cut, or prune any Lot, or provide garbage" or trash removal service, or to perform such exterior maintenance.

ARTICLE V111
EASEMENTS

Section 1. "Utility Easements". There is hereby created in favor of the Association a perpetual easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to, water, sewers, gas, telephone, electricity, television, cable or communication lines and systems. An easement is further granted to the Association, its officers, agents employees, and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided for herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement be a separate recordable document, Developer or the Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 2. "Easements for Developer". Developer hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Developer and the Common Area for so long as Developer owns any Lot primarily for the purpose of sale:

- (i). For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, telephone, community, antenna, television cables and other utilities;
- (ii). For the construction of improvements on the Lots;
- (iii). For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (iv). For the use of the Common Area and any sales offices, model units and parking spaces in connection with its efforts to market Lots; and
- (v). For the maintenance of such other facilities and equipment as in the sole discretion of Developer may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 3. "Easements for Association". There is hereby created a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association to enter upon the Common Area and the Lots to perform their inspection duties.

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon:

Section 1. "Residential Use". All Lots shall be restricted exclusively to single-family residential use. No Lot, or any portion thereof, shall at any time be used for any commercial business or professional purpose; provided, however, that herein shall be construed to prohibit or prevent Developer or any builder of residences in KINGSWOOD subdivision from using any Lot owned by Developer or such builder for the purpose of carrying on business related to the development, improvement and sale of Lots in KINGSWOOD subdivision.

Section 2. "Common Area". The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from their respective Lots and for such other purposes as may be authorized by the Association.

Section 3. "Nuisances".

(i). No unlawful, noxious or offensive activities shall be carried on in any Lot, or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others of unreasonably interferes with other Owners' use of their Lots, Dwelling, and/or the Common Area.

(ii). No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality ...f any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used of placed on the Property or any portion thereof.

Section 4. "Resubdivision of Property". No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the Architectural Control Committee of plans and specifications for such split, division or subdivision and the approval of the Fulton County Department of Planning and Community Development.

Section 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 Architectural Control Committee of plans and specifications for the prevention and control of such erosion or siltation. The Architectural control Committee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion of siltation.

Section 6. "Landscaping". No construction or alteration of any Structure shall take place without the prior written approval by the Architectural Control Committee of plans and specifications for the landscaping to accompany such construction or alteration.

Section 7. "Temporary Buildings". No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary

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sleeping or living quarters required or desirable for security purposes in accordance with plans and specifications therefor approved by the Architectural Control Committee. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot without the prior written consent of the Architectural Control Committee.

Section 8. "Improvements of Lots". All construction of dwellings, accessory structures and all other improvements in KINGSWOOD Subdivision, shall be undertaken and completed in accordance with the following conditions:

- A. All construction shall be carried out in compliance with the laws, code, rules, regulations, and orders of all applicable governmental agencies and authorities.
- B. The portion of each lot located in front of the residence constructed thereon shall be sodded with grass as approved on landscape plan by Architectural Control Committee.
- C. Concrete or concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot. Exterior exposed surfaces on all dwellings shall be three (3) side (front and sides) brick or stucco as approved by Architectural Control Committee. There shall be no chain link fence or fences or walls of any other material which the Architectural Control Committee determines to be incompatible with dwellings or other structures in KINGSWOOD Subdivision.
- D. No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a dwelling or accessory structure on such Lot, nor shall any such building materials or devices be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.
- E. No exposed, above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee.
- F. Adequate off-street parking shall be provided for each Lot.
- G. Containers for garbage and other refuse shall be in screened sanitary enclosures; no incinerators for garbage, trash, or other refuse shall be used.
- H. No plumbing vent or heating vent shall be placed on the front side of any roof of any dwelling or accessory structure, unless required in order to meet the requirements of the building code of Fulton County, Georgia, and any regulations applicable thereto. Any such vent shall be painted the same color as the roof on which it is placed.
- I. Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.

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- J. The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk- storage and basement) of one-story single family detached dwellings shall contain not less than twenty four hundred (2,400) square feet. The enclosed, heated living area (exclusive of garages, carports, porches, terraces, bulk-storage and basement) of all one and one-half story, two story or two and one-half story single family detached dwellings shall contain not less than twenty eight hundred (2,800) square feet. No dwelling shall be constructed exceeding two and one-half stories in height on any Lot.
- K. In no event shall the set-backs be less than those required by the Fulton County Comprehensive Zoning and Land Use Resolution. The Architectural Control Committee shall approve sitting location prior to construction.

Front	50 to 75 Feet
Side	25 Feet
Rear	50 to 75 Feet

Any requests for alteration of set-back lines MUST first be approved by the Architectural Control Committee PRIOR TO making a request for variance.

- L. Minimum requirement is two (2) car garage with garage doors, which shall be coordinated with all Structures of the Lot and design, materials and colors for such doors shall be as approved by the Architectural Control Committee. Unless otherwise approved by the Architectural Control Committee, all garages shall be side entry.
- M. All exterior colors and materials of all Structures shall be submitted to the Architectural Control Committee for approval and shall be subject to the Architectural Control Committee color and material guidelines. An Owner wishing to make changes in these scheduled colors, may do so only with the approval of the Architectural Control Committee in order to achieve a well coordinated color scheme throughout the community. To be valid, approvals must be recorded with the Architectural Control Committee.
- N. Fireplaces may be full masonry or with U. L. approved pre-fabricated, fire box and metal flue. Exterior of all chimneys including gas log fireplaces must be compatible with exterior masonry/stucco material used on front and foundations. Any exceptions must be approved in writing by the Architectural Control Committee.
- O. Pre-fabricated or factory built structures shall not be permitted within KINGSWOOD Subdivision development. Upon the Architectural Control Committee approval, out buildings, storage buildings, detached garages, etc. may be allowed should specific circumstances require them. Any such building is to be in total keeping with the house design in roof pitch, exterior materials, windows, doors, lighting, etc, and is to be reviewed by the Architectural Control Committee, thus establishing any such request as a special case, requiring exception and not establishing a precedent. **THE DECISION OF THE ARCHITECTURAL CONTROL COMMITTEE IS FINAL.**
- P. The location of Structures MUST be approved by the Architectural Control Committee PRIOR to clearing. All Structures together with related paved and open areas, shall be located on each **LOT** to:
 - (i). Minimize changes in the existing topography;

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- (ii). Preserve existing trees and vegetation to maximum extent possible;
 - (iii). Control drainage and prevent erosion;
 - (iv). Create prime views and conceal unsightly areas;
 - (v). Location will also be subject to Fulton County Inspection Department; and
 - (vi). Drawing of site plan to be submitted to the Architectural Control Committee.
- Q. Mailbox design and material must be approved by the Architectural Control Committee or the Builder will have to use a mailbox designed by the Developer.
- R. No outside TV antennas or satellite dishes shall be allowed unless specifically authorized in writing by the Architectural Control Committee.

Section 9. "Animals". No animals, including birds, insects and reptiles, may be kept on any lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No Structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said Structure have first been approved by the Architectural Control Committee.

ARTICLE X

INSURANCE

The Board, or its duly authorized agent, shall obtain such insurance policies upon the Common Area as the Board deems necessary or desirable in its sole discretion. The named insured on all policies of insurance shall be the Association.

ARTICLE XI GENERAL PROVISIONS

Section 1. "Enforcement".

(i). The Association or the Architectural Control Committee shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by the Architectural Control Committee to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(ii). The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions.

Section 2. "Severability". If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held "valid, the validity of the remainder of this Declaration and the application of any such provision,

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paragraph, subparagraph, article, section, sentence, clause, phrase or work in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. "Headings". The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. "Duration". The provisions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at the end of such period such covenants and restrictions shall be extended for successive periods of ten (10) years each, upon the vote of at least two-thirds (2/3) of the Owners at the time of the expiration of the initial period, or of any extension period.

Section 5. "Rights and Obligations". Each grantee of the Developer, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenant reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to be benefit of such grantee in like manner as though the provision of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. "Notices". Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Developer shall be in writing and shall be addressed to: Kenstone Homes, Inc., 11095 Houze Road, Suite 200, Roswell, Georgia 30076-1407, or

at such different address as disclosed in a written notice of change of address furnished to all Owners. Any Owner may designate a different address for notices to him by giving written notice to the Developer. Notices addressed as above shall be deemed delivered upon mailing by united State registered or certified mail, return receipt requested, or when delivered in person.

Section 7. "Amendment". This Declaration may be amended unilaterally at any time and from time to time by Developer

(i). If such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith;

(ii). If such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration;

(iii). If such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or

(iv). If such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not make any substantial changes in any of the provisions of this Declaration.

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Further, this Declaration may be amended unilaterally at any time and from time to time by the Developer for any other reason which the Developer in its sole discretion deems appropriate until such time as ninety percent (90%) of the Lots to be developed or constructed on the Property have been sold by the Developer. At such time as ninety percent (90%) of the Lots to be developed or constructed on the Property have been sold by the Developer, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five percent (75%) of the Owners of Lots; however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.

Section 8. "No Liability". Developer has used its best efforts and acted with due diligence in connection with the preparation and recording of this Declaration to ensure that each Owner has the right and power to enforce the terms and provisions hereof against every other Owner. In the event this Declaration is unenforceable by an Owner or any other person for any reason whatsoever, Developer shall have no liability of any kind as a result of such unenforceability, and each Owner, by acceptance of a deed conveying a Lot, acknowledges and agrees that Developer shall have no such liability. Approval of any Structure by the Architectural Control Committee is limited to the esthetics of style, color, materials, texture and general streetscape appearance and therefore in no way is a certification that the Structure has been built in accordance with any governmental rule or regulation, or that the Structure complies with sound building practice or design. Proper location on a specific Lot of the Structure, or any appurtenances (fences, pools, etc.) with regard to setbacks, easements, or any other restriction is the sole responsibility of the builder and/or owner.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed in his name on the day and year first above written.

DEVELOPER:

Signed, sealed and delivered
in my presence this 1st day of December, 1996.

KENSTONE HOMES, INC., a
Georgia corporation

Witness

Notary Public

By: _____
J. Howard Chatham
President

(CORPORATE SEAL)

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EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 461 and 462, 2nd District, 2nd Section, Fulton County, Georgia, and being more particularly described as follows:

COMMENCING at the intersection of the common corners of Land Lots 460, 461, 476 and 477, said district, section and county; thence running North 01 degrees 18 minutes 38 seconds West along the line dividing Land Lots 460 and 461, said district and section, a distance of 299.73 feet to an iron pin; running thence North 77 degrees 05 minutes 01 seconds East a distance of 1,697.75 feet to an iron pin located on the southwesterly right of way of Hopewell Road (being an 80 foot right of way); thence running southeasterly along the southwesterly right of way of Hopewell Road and the curvature thereof an arc distance of 178.90 feet; thence continuing on the preceding course an arc distance of 92.10 feet; continuing thence South 46 degrees 05 minutes past along the southwesterly right of way of Hopewell Road a distance of 54.0 feet to an iron pin; thence running South 55 degrees 47 minutes 31 seconds West a distance of 778.52 feet to an iron pin located on the line dividing Land Lots 461 and 476, said district and section; thence running South 89 degrees 41 minutes 08 seconds West along the line dividing Land Lots 461 and 476, said district and section, a distance of 853.19 feet to a point; thence running along the said line dividing Land Lots 461 and 476. said district and section, westerly a distance of 366.85 feet to **THE POINT OF BEGINNING.**

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