

EXHIBIT "B"

**DECLARATION OF
COVENANTS, RESTRICTIONS AND EASEMENTS
FOR
WOODVALE SUBDIVISION
FULTON COUNTY, GEORGIA**

THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THE COMMUNITY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

DECLARATION OF
COVENANTS, RESTRICTIONS AND EASEMENTS
FOR WOODVALE SUBDIVISION
FULTON COUNTY, GEORGIA

THIS DECLARATION OF COVENANTS, RESTRICTION AND EASEMENTS is made by the Woodvale Homeowners Association, Inc. a Georgia nonprofit corporation (hereinafter "Association").

WITNESSETH:

WHEREAS, the Association intends to impose on the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property and to establish a procedure for the overall development, administration, maintenance and preservation of the Property; and

WHEREAS, in furtherance of such plan, it is desirable for the Association to operate and maintain the Area of Common Responsibility (as defined below) and to administer and enforce the covenants and restrictions and design guidelines imposed hereby; and

WHEREAS, it is intended that every Owner of any of the Lots automatically, and by reason of such ownership in this Declaration, become a Member of the Association and be subject to its rules and regulations and the assessments and charges made by the Association;

NOW, THEREFORE, the Association does hereby submit the Property to the provisions of this Declaration.

Article I - Definitions

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article, such definitions being cumulative of those set forth elsewhere in this Declaration.

"Additional Property" shall mean any and all real property laying and being within two (2) miles of the Property.

"Annual Assessment" shall have the meaning specified in the Article entitled "ASSESSMENTS," and shall constitute the assessments which, pursuant to the provision of such Article, shall be levied by the Association against the Lots each year for the purpose of raising the funds necessary to pay the "Annual Expense" (as that term is defined in such Article).

"Architectural Review Board" or *"ARB"* shall mean those individuals appointed to have jurisdiction over construction on or within any portion of the Property and responsibility for administration of the Design Guidelines, as more fully described in Article VI hereof.

"Area of Common Responsibility" shall mean the Common Areas, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other person become the responsibility of the Association. The Area of Common Responsibility specifically includes, but is not limited to, the obligations of the Association under the Declaration of Easements.

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

"Association" shall mean Woodvale Homeowners Association, Inc., a Georgia nonprofit corporation.

"Board of Directors" shall mean the body responsible for the administration of the Association, selected as provided in the Bylaws.

"Builder" shall mean any person who purchases one (1) or more Lots for the purpose of constructing improvements for later sale to consumers or who purchases one (1) or more parcels of land within the Property for further subdivision, development and/or resale in the ordinary course of such Person's business. Any Person occupying or leasing a Lot for residential purposes shall cease to be considered a Builder with respect to such Lot immediately upon occupancy of the Lot for residential purposes, notwithstanding that such Person originally purchases the Lot for the purpose of constructing improvements for later sale to consumers.

"Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

"Church Property" shall mean the property adjacent to the Property owned by Prince of Peace Lutheran Church of Roswell, Georgia, Inc.

"Common Areas" shall mean, singularly or collectively, as applicable, all land, improvements and other properties which hereafter shall be deeded to or acquired by the Association for the common use and enjoyment of the Owners.

"Community Wide Standards" shall mean the standard of conduct, construction, design, 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 Board.

"County Clerk" shall mean the Clerk of the Superior Court of the county where the Property is located.

"Declarant" shall mean Hedgewood Properties, Inc. and shall include any successor or assign who shall acquire any portion of the Property for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, however, that there shall be only one "Declarant" hereunder at any one time.

"Declaration" shall mean this Declaration of Covenants, Restrictions and Easements, as the same may be hereafter amended in accordance with the terms hereof.

"Declaration of Easements" shall mean the Declaration of Easements between Wingmark Veranda, LLC, and Prince of Peace Lutheran Church of Roswell, Georgia, Inc. dated August 22, 2000, recorded in Deed Book 29466, Page 334, et seq., Fulton County, Georgia records, and the Reciprocal Easement Agreement to be entered into between Declarant and Prince of Peace Lutheran Church of Roswell, Georgia, Inc. regarding recreational use and enjoyment of the natural areas surrounding the Detention Pond.

"Design Guidelines" shall mean the design and construction of guidelines and application and review procedures applicable to all or any portion of the Property promulgated and administered pursuant to Article VI hereof.

"Detention Facility" or "Detention Pond" shall mean the detention facility shown on the Plat.

"Development Period" shall mean the period of time during which the Declarant owns any property that is subject to this Declaration or has the unilateral right to subject Additional property to this Declaration pursuant to Article II. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument with the County Clerk.

"First Mortgage" shall mean a deed or other document by means of which title to any Lot is conveyed or encumbered to secure a debt of first priority.

"Improved Lot" shall mean a Lot (i) upon which there is located a structure for which a certificate of occupancy has been issued by the applicable governmental authority, and (ii) which has been sold to a Person who is not the Declarant or a builder.

"Lot" shall mean each portion of the Property which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall include within its meaning, by way of illustration by not limitation, lots platted for townhouses or other zero lot line homes and lots platted for single-family detached houses.

"Member" shall mean a Person subject to Membership in the Association pursuant to Article IV hereof.

"NPDES" shall mean the authorization to discharge under the National Pollutant Discharge Elimination System Act (NPDES) for storm water discharges, and the permit issued by the State of Georgia Department of Natural Resources, Environmental Protection Division, required for new and existing storm water point sources within the State of Georgia in compliance with the provisions of the Georgia Water Quality Control Act (Georgia Laws 1965, p. 416, as amended), hereinafter called the "Clean Water Act" and the rules and regulations promulgated to each of these acts.

"Owner" shall mean any Person who is or shall be a recorded owner by purchase, transfer, assignment or foreclosure of a fee or undivided fee interest in a Lot; provided, however, that any Person who holds such interest merely as security for the performance of an obligation shall not be an Owner.

"Person" shall mean any natural person, corporation, trust, partnership or any other legal entity.

"Plat" shall mean that certain Final Plat for Woodvale Subdivision, prepared by W. K. Dickson, as recorded in Plat Book 232, Pages 101-103, Fulton County, Georgia and all plats that are hereafter recorded in the Plat Book records of Fulton County, Georgia in accordance with the provisions hereof.

"Property" shall have the meaning ascribed to it hereinabove.

"Supplemental Declaration" shall mean an instrument filed with the County Clerk which imposes additional restrictions and obligations on the land described in such instrument.

"Unimproved Lot" shall mean a Lot which is not an Improved Lot.

Article II - Property Submitted to this Declaration

Section 1. Lots Hereby Subjected to this Declaration. Every Owner, by taking record title to a Lot, as shown on the Plat, agrees to all of the terms and provisions of this Declaration. Each of the Lots is subject to all the burdens, and enjoys all of the benefits, made applicable hereunder.

The Property shall hereafter be held, transferred, sold, conveyed, used leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration, including, but not limited to, the lien provisions set forth herein. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots shall be a permanent charge thereon, and shall run with the Lots.

Section 2. Annexation of Additional Property. The Declarant may, at any time, and from time to time, prior to ten years for the date hereof, subject all or part of the Additional Property to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration

by executing and recording with the County Clerk an amendment to this Declaration describing the property being annexed. Declarant further has the right to convey to the Association additional Common Areas contained within such Additional Property, the maintenance of which will increase the Annual Assessment as proved elsewhere herein and may increase the amount of Annual Assessment which shall be levied against each Lot.

From and after such recording, the annexed property shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all the terms, provision, liens, charges, easements, covenants and restrictions of this Declaration, including, without limitation, all lien and assessment provisions set forth in this Declaration, and all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration shall be a permanent charge on, and shall run with, such Additional property.

No approval from any Member of the Association, or from anyone else whomsoever, shall be required for the Declarant to subject Additional Property to this Declaration.

Section 3. Easements Over the Lots. The Lots shall be subject to, and the Declarant does hereby grant, the following non-exclusive perpetual easements for the enjoyment of Declarant, the Association, the Members, the Owners, and the successors-in-title in each:

- (a) Each Lot shall be subject to all easements, borders, buffers and the like which are shown and depicted on the Plat as affecting and burdening such Lot.
- (b) Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.
- (c) Each Lot shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go upon such Lot under such circumstances and for such purposes as are described elsewhere in this Declaration.
- (d) Each Lot shall have a one foot easement as measured from the common boundary between such Lot and any adjoining Lot for purposes of driveways or fence encroachments which may be erected in said easement areas, unless such encroachment was due to a willful act of the Lot Owner.
- (e) All Lots shall be subject to a perpetual easement in favor of the Association and the Owners of all other Lots for the maintenance, management and non-exclusive use and enjoyment of Wood vale Court. The easement rights to which the aforesaid Lots shall be so subject shall include the right of contractors engaged by the Association to enter upon said Lots from time to time as necessary in order to perform repairs and maintenance work.

- (f) Lots 1 - 10 shall be subject to a perpetual easement in favor of the Church Property and the members and invitees thereof, the Association and the Owners of all other Lots for recreational pedestrian use and enjoyment of the walking trail leading to and surrounding the Detention Facility as shown on the Plat, provided that ingress and egress in such trail shall be via the established trail only or through the Common Area or through the Church Property as permitted under the Declaration of Easements and not through other portions of the Lots. Lots 1 - 10 shall be prohibited from placing any fencing of any kind or type on the Lots that impairs access to or appropriate use of said easement area and, in all events, much be approved by the ARB in accordance with Article VI hereunder.
- (g) Lot 4 - 10 shall be subject to a perpetual easement in favor of the Church Property, the Owners of all other Lots and the Association for drainage of surface water over and across such Lots and the retention thereof in the Detention Pond as shown on the Plat, and for access, repair, use, management and maintenance of said Detention Pond. The easement rights to which the Lots shall be subject shall include the right of contractors engaged by the owner of the Church Property or the Association to enter upon said Lots from time to time as necessary in order to perform, repair, and maintenance and management of the Detention Pond. Lots 4 - 10 shall be prohibited from placing any fencing of any kind or type on the Lots that impairs access to appropriate use of said easement area and, in all events, much be approved by the ARB in accordance with Article VI hereunder.

Article III Association Property

Section 1. Common Areas and Association Property. The Declarant shall have the right to transfer and convey to the Association any portion of the Property. All portions of the Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Common Areas. Said right may be exercised by the Declarant any time, and from time to time, prior to ten years from the date hereof.

The Common Areas shall be conveyed to the Association by limited warranty deed free of debt encumbrance, and subject to the rights and easements set forth in this Article, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements.

Section 2. Member's Rights in Association Property. Every Owner of any Lot shall have a nonexclusive right and easement of enjoyment and use in to the Common Areas. Such right and easement shall be appurtenant to, and shall pass with, the title to the Lot(s) owned by such Owner. Such right and easement of enjoyment and use are and shall be subject to: (a) the easements which are described in this Article; (b) the right of the Association to promulgate reasonable rules and regulations regarding the use of the Common Areas; (c) the hours of 8:00 am to 8:00 pm unless otherwise approved by the Board of Directors; and (d) the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the Owner of any Lot during any period in which: (1) any assessment which

is due to the Association from such owner remains unpaid; and (2) such period as the Board of Directors may consider appropriate for any infraction of its published rules and regulations. In addition, the Board of Directors may permit other persons who are not residents of any Lots to use the Common Areas upon such terms and conditions, and for the payment of such fees, as shall be determined by the Board of Directors.

Section 3. Easements Over Association Property. All benefits and burdens of the Declarations of Easements that inure to the Declarant hereunder as owner of the property are hereby assigned to the Association. The Property and all Common Areas shall be subject to the Declarations of Easements and shall also be subject to, and Declarant and the Association do hereby grant the following easements:

An easement across, in, under, over and through the Common Areas for purposed of the construction, installation, repair, maintenance and use of all utility and drainage facilities.

Section 4. Condemnation. In the event that any part of the Common Areas shall be either: (a) taken by any authority having the power of condemnation or eminent domain, or (b) conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of at least 2/3 majority of the Owners, then the Association shall restore or replace the improvements on the remaining land included in the Common Areas to the extent available unless, within 60 days after such taking, at least 2/3 majority of the Owners otherwise agree. The provisions of Section 5 below regarding funds for the repair of damage or destruction shall apply. If the taking or conveyance does not involve any improvements on the Common Areas, 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 may be used by the Association for such purposes as the Board shall determine.

Section 5. Damage or Destruction. In the event that any improvements located on any Common Areas shall be damaged or destroyed on account of the occurrence of any casualty, the Board of Directors shall proceed with the filing and settlement of all claims arising under any policy of insurance maintained by the Association with respect to such improvements and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements.

Any such damage or destruction shall be repaired or reconstructed unless it shall be decided, within ninety (90) days after the occurrence of casualty, by at least 2/3 majority of the Owners, not to so repair or reconstruct such damage. In the event that it shall be so decided not to repair or reconstruct some damage or destruction, the proceeds of any insurance as may become payable to the Association as a result of such damage or destruction shall be retained by and for the benefit of mortgagees and may be enforced by the mortgagee of any affected Lot. If the insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Owners, levy special assessments to cover the shortfall.

Section 6. Actions Requiring Owner Approval. If the U.S. Department of Housing and Urban Development is insuring the mortgage on any Lot or the U.S. Department of Veterans

Affairs is guaranteeing the mortgage on any Lot, then any conveyance or mortgaging of the Common Areas shall require the consent of at least 2/3 majority of the Owners. Notwithstanding anything to the contrary in this section, however, the Association, acting through the Board, may grant easements of the Common Areas for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Areas, without the approval of the Owners.

Section 7. No Partition. The Common Areas shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the Property and without the written consent of all holders of all mortgages encumbering any portion of the Property.

Section 8. Insurance. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U.S. Department of Housing and Urban Development, if and to the extent applicable to the Property. The Board of Directors shall obtain casualty insurance for all insurable improvements located on the Common Areas, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board of Directors shall obtain a public liability policy with a combined single limit of at least One Million Dollars applicable to the Association or any of its Members or agents, and if reasonably available, directors' and officers' liability insurance. Policies may contain a reasonable deductible as determined by the Board of Directors. In addition, the Board of Directors shall obtain workers' compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and a fidelity bond or bonds on all persons handling or responsible for the Association's funds, if reasonably available. If obtained, the amount of fidelity coverage shall be at least equal to three months' total assessments plus reserves on hand. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

Article IV - The Association

Section 1. The Association. Prior to the date of this Declaration has been filed for record with the County Clerk, Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the maintenance of the Area of Common Responsibility, the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as are required of the Association hereunder or as the Board of Directors shall deem to be in the best interest of the Members of the Association. Additionally, the Association shall be responsible for any costs association with the maintenance of Wood vale Court, and the Driveway, as defined in the Declaration of Easements. The Association shall further be responsible for a portion of the costs for maintaining the

Detention Pond, as those costs are further defined in the Declaration of Easements. In the event that the adjacent property owner does not maintain the Detention Pond as required under the Declaration of Easements, the Association shall have the right and the obligation to perform such maintenance.

Section 2. Membership. Every Owner is and shall be a Member of the Association. In no event shall such membership be severed from the ownership of such Lot.

Section 3. Voting Rights. The voting membership shall be all those Persons holding an interest required for membership in the Association, as specified in this Article. The Members shall be entitled to full voting privileges and shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for membership.

Section 4. Suspension of Membership Rights. The membership rights of any Member of the Association, including the right to vote, may be suspended by the Board of Directors pursuant to the authority granted in the Bylaws. Any such suspension shall not affect such Member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the Member's Lot in favor of the Association.

Section 5. Association Acts Through Its Board of Directors. Whenever approval of, or action or inaction by, the Association is referred to called for in this Declaration, such action, inaction or approval shall be by the Board of Directors of the Association, unless it is specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect to such action, in action or approval that the Members of the Association must vote. No member of the Board of Directors of the Association or any officer of the Association shall be personally liable to any Owner of any Lot for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 6. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of the Association, or any part thereof, as the Board of Directors deems to be in the best interests of the Association.

Article V - Assessments

Section 1. Creation of Lien and Personal Obligation. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. Each Owner, by acceptance of a deed or other conveyance for a Lot, covenants and agrees to pay to the Association all assessments and charges which are levied by the Association against the Lot(s) owned by such person in accordance with the terms and provisions of this Declaration.

All sums lawfully assessed by the Association against any Lot and the Owner thereof, together with interest thereon and the costs of collection thereof, shall, from the time the sums become due and payable, be the personal obligation of the Owner of such Lot and constitute a

continuing lien in favor of the Association on such Lot prior and superior to all other liens whatsoever except: (1) Liens for ad valorem taxes on the Lot; (2) The lien of any First Mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of the Declaration; and (3) The lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot. The covenant to pay assessments herein stated is and shall be a covenant running with land.

Section 2. Purposes of Assessments. The assessments levied by the Association pursuant to this Article shall be used to pay the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant to this Declaration, the Declarations of Easements, the Articles of Incorporation and the Bylaws (such costs and expenses being herein referred to as the "Annual Expenses"). Without limiting the generality of the foregoing, the Annual Expenses shall include the costs of: Payment of all costs and expense incurred by the Association in connection with the maintenance of the Area of Common Responsibility and the Association's other operations; payment of the premiums for all insurance and fidelity bonds which shall be obtained by the Association; the payment of fees of such management firms as the Board of Directors shall be required by the Association, including but not limited to legal, accounting, and architectural services, and such other purposes as the Board of Directors shall deems necessary or desirable to promote the health, safety and welfare of the Association and its Members.

Section 3. Determination of Annual Assessment and Shares Thereof. Prior to the commencement of each fiscal year of the Association or at any time it deems best (said fiscal year being specified in the Bylaws), the Board of Directors shall estimate the total amount of Annual Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Board of Directors shall thereupon adopt a budget for the Association's expenditures and reserves based upon such estimate and providing for the total annual assessment to be levied against the Members of the Association for such fiscal year (the total assessment which shall be determined and levied for any fiscal year is herein referred to as the "Annual Assessment"); provided that any Annual Assessment that exceeds the prior year's Annual Assessment by more than 10% must be approved by the majority of Lot Owners in attendance at a special meeting of the Owners called for that purpose. The assessments provided for herein shall commence as to the a Lot on the date that the Lot becomes an Improved Lot, with all Improved Lots being assessed equally. The Board of Directors shall send a copy of the budget so adopted by it, together with a written notice of the amount of the Annual Assessment so determined for such fiscal year and the amount of such Annual Assessment which shall be levied against each Lot, to the Owner of every Lot prior to the commencement of the fiscal year during which such Annual Assessment is to be paid. The amount of such Annual Assessment which shall be levied against each Lot shall be due and payable to the Association in such installments as the Board of Directors shall determine and shall be paid to the Association when due without further notice.

Section 4. Special Assessments. If, for any reason, including non-payment of any assessments to the Association by the persons liable therefore, the budget adopted by the Board

of Directors for any fiscal year shall prove to be inadequate to defray the Annual Expenses for such fiscal year, or if the Board of Directors shall determine that it is in the best interests of the Association to levy a special assessment to pay the costs of any capital improvements or capital repairs, the Board of Directors shall have the authority to levy a special assessment against the Lots and the Owners thereof to raise such needed funds. Any special assessment levied by the Board of Directors pursuant to the provisions of this Section shall be payable at such times and such installments as the Board of Directors shall determine. Each Lot shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provision of this Section.

Section 5. Specific Assessments. The Board may levy specific assessments against individual Owners (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas, or of any monument, landscaping, detention pond, or other thing maintained by the Association, which is occasioned by the acts of individual Owner(s) and not the result of ordinary wear and tear or (ii) for the payment of fines, penalties or other charges imposed against an individual Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws, or any rules or regulations promulgated hereunder.

The Board may promulgate a fine schedule for violations of the Declaration, Bylaws, or any other rules or regulations enacted by the Board and/or a 2/3 majority vote of the Owners. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses.

The Board may also specifically assess Owners for the following Association expenses: (a) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and (b) expenses of the Association which benefit all Lots, but which do not provide equal benefits to all Lots, may be assessed equitably among all Lots according to the benefit received; such allocation being reasonably determined by the Board of Directors.

Upon the establishment of a specific assessment under this Section, the Board shall send written notice of the amount and the due date of such specific assessment to the affected Owner(s) at least thirty (30) days prior to the date such assessment is due. The Board of Directors shall not be liable to any Member for claims arising out of a good faith allocation of a specific assessment

Section 6. Special Assessment for Working Capital Reserve. Upon the first transfer of title to an Improved Lot, there shall be levied against such Improved Lot and paid to the Association a special assessment against such Improved Lot as set from time to time by the Board of Directors of the Association. Such amount shall not exceed the amount of the Annual Assessment which shall have been levied against Improved Lots for the calendar year in which such transfer of title shall take place. The Association shall use all special assessment payments

which shall be so received by it pursuant to this Section to establish a working capital reserve fund for use in connection with its regular operations. The Board of Directors shall endeavor to collect such special assessment at the closing of the purchase of the Improved Lot; however, the failure to collect such special assessment at the time shall not excuse the obligation to make such payment.

Section 7. Effect of Non-payment of Assessments; Remedies of the Association. (a) In the event that any Member of the Association shall fail to pay, within ten (10) days of the date the same is due and payable, any annual, specific or special assessment (including but not limited to the special assessment for working capital reserve), or any installment of any annual, specific or special assessment which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared by the Board of Directors to be immediately due and payable in full to the Association. All such amounts so declared by the Board of Directors to be due and payable in full to the Association shall be secured by the lien of the Association on every Lot owned by the delinquent Member, which lien shall bind such Lot or Lots in the hand of the then Owner, and his heirs, devisees, successors and assigns. In addition to the lien rights, the personal obligation of the then Owners to pay such assessments shall remain his personal obligation and shall also pass to his successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which said Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors in title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves.

(b) All amounts which the Board of Directors shall declare to be due and payable pursuant to this section shall be assessed a penalty or penalties from the date of the delinquency in accordance with the late fee schedule(s) promulgated by the Board, and the Association may bring legal action against the Member of the Association personally obligated to pay the same, or foreclose its lien upon the Lot or Lots of such Member, in either of which events such Member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

The failure of the Board to fix the assessment amounts or to deliver to each Owner the assessment notice shall not be deemed a waiver, modification or release of any Owner of the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

Article VI. Architectural Control and Restrictions

Section 1. Architectural Control and Restrictions. No Exterior Structures or Improvements, as defined herein, shall be placed, erected, installed or made upon any Lot except in compliance with this Article.

All dwellings constructed on any portion of the Property shall be designed by and built in accordance with the plans and specifications of a licensed architect or other qualified building designer.

This Article shall not apply to improvements to the Common Areas by or on behalf of the Association.

Section 2. Architectural Review. Responsibility for administration of the Design Guidelines, if any, and review of all applications for construction and modifications under this Article shall be handled by the Architectural Review Board ("ARB"), the Members of which need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred by the ARB in having any application reviewed by architects, engineers or other professionals.

The ARB shall have exclusive jurisdiction over all construction on any portion of the property. The Board shall appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion.

Section 3. Guidelines and Procedures.

- (a) Design Guidelines. The Declarant may prepare the initial Design Guidelines for the Property. The Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provision which may vary according to land use and from one portion of the Property to another depending on the location, unique characteristics, and intended use. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the reviewing bodies in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the reviewing bodies and compliance with Design Guidelines does not guarantee approval of any application.

If prepared, the Design Guidelines shall be adopted by the ARB at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines. The ARB is expressly authorized to amend to Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive. The ARB shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Property.

- (b) Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARB for review and approval (or disapproval). In addition, information concerning irrigation system, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the ARB may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations. Decisions may be based solely on aesthetic consideration. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

In the event that the ARB fails to approve or disapprove any application within forty-five (45) days, of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Section 4. Specific Guidelines and Restrictions.

- (a) Exterior Structures Improvements. No exterior structures or improvements shall be placed, placed, erected, installed or made upon any Lot except in compliance with the Article. As used in this Section, the term "Exterior Structures and Improvements" shall include the following: staking, clearing, excavation, grading and other site work; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; modifications to the interior of screened porches, patios and similar portions of a Lot which are visible from outside the structures on the Lot; installation, placement or replacement of mailboxes, basketball hoops, swing sets and similar sports and play equipment, garbage cans, wood piles, swimming pools, gazebos or playhouses, hot tubs, wells, solar panels, antennas; satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; hedges, walls, dog runs, animal pens, or fences materials which are visible from the street.
- (b) Other Restrictions. In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the ARB shall have the right, in its sole discretion, to prohibit or restrict these items within the Property. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the ARB. The ARB may, but is not required to, adopt

specific guidelines as part of the Design Guidelines or rules and regulations which address the following items.

- (i) Residential Use. All of the Lots shall be restricted exclusively to single-family residential use. The term "single-family" shall include one or more related or unrelated adults, as well as the children of any such adults. No Lot shall at any time be used for any commercial, business or professional purpose. Notwithstanding the foregoing, however, nothing set forth in this section shall prohibit Owner of any Lot from using a portion of a building located on such Lot as an office, provided that such use does not create regular customer, client or employee traffic to and from such Lot and no sign, logo, symbol or nameplate identifying such business is displayed anywhere on such Lot.
- (ii) Prohibited Activities. No noxious, offensive, unsightly or unkempt activity shall be conducted on any Lot, the Common Area or any public right-of-way within the Property. Each Owner of any Lot, his family, tenants, guests and invitees, shall refrain from any act or use of his property which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of any other Lot. Storage or placement of furniture, fixtures, appliances, machinery, bicycles, towels, equipment or other goods or chattels not in active use on any Lot which is visible from outside the Lot (including rooftop terraces) is prohibited except as specifically permitted in this Declaration.
- (iii) Nuisance. No nuisance shall be permitted to exist upon any Lot. Without limiting the generality of the foregoing no exterior speakers, horns, whistles, bells, or other sound devices which may be heard by other residents, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot or any portion thereof. Additionally, household pets may also constitute a nuisance if the pet is noxious, offensive, unsightly, unkempt, or infringes upon another Owners enjoyment of his/her property.
- (iv) Animals. No Lot shall be used for the keeping or breeding of livestock animals or poultry of any kind, except that a reasonable number of household pets may be kept, provided that they are neither kept for breeding nor maintained for any commercial purpose, and provided that none of such pets are permitted to be a source of annoyance to any other resident or residents of any other Lot. Household pets may only be left outside and unattended after 6:00 am and before 9:00 pm. Between the hours of 9:00 pm and 6:00 am the owner(s) of the household pet must be present while the animal is outside.

- (v) Antennas; Aerials; Satellite Dishes. The Owner of each Lot shall have the right to install, maintain and use on such Lot one antenna, aerial or satellite dish to receive video programming that is (i) not larger than one meter in diameter, (ii) blends with the color of the roof or wall where it is installed and (iii) is installed on the Lot's rooftop, fascia or roof eave. No other exterior antennas, aerials, satellite dishes, or other reception device shall be constructed, installed, placed or affixed on any Lot unless approved in accordance with the Architectural Control provisions contained in the previous Article. Installation of an antenna deviating from the above provisions shall be approved pursuant to the Architectural Control provisions if reasonably necessary to permit the reception of an acceptable quality signal. External antennae for HAM radios, two-way radios and other hobby or professional radio or communication transmission equipment are prohibited.

The Association shall have right, without obligation, to erect an aerial, satellite dish, or other apparatus of any size for a master antenna, cable or other communication system for the benefit of all or portion of the Property.

- (vi) Clotheslines. No exterior clothesline of any type shall be permitted on any portion of any Lot.
- (vii) Window Air-Conditioners. No air-conditioner shall be installed in any window of any building located on any Lot, nor shall any air-conditioner be installed on any building located on any Lot so that the same protrudes through any exterior wall of such building.
- (viii) Vehicles and Parking. The term "vehicles" as used in this section shall include without limitation automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles. No vehicle may be left upon any portion of the Property except upon a hard surfaced parking area or within a garage. No person shall park any commercial vehicles (including but not limited to any type of vehicle with advertising or lettering), recreational vehicles, mobile homes, trailers, campers, boats or other watercraft, or other oversized vehicles, stored vehicles or unlicensed or inoperable vehicles within the Property, with the exception of emergency vehicle repairs or commercial vehicles which are temporarily parked for the purpose of servicing a Lot or the Property. No vehicle shall be parked for periods exceeding 24 hours on any driveway without being moved.

Except for automobiles which may exceed the dimensions of the Lot's garage space, all Owner and occupant vehicles must be kept stored when

not in use within the Lot's garage space.

The Association may promulgate rules regarding parking privileges on the Common Areas.

- (ix) Window Treatments. Except as may be otherwise approved in accordance with the Architectural Control provisions contained in the previous Article, all window treatments visible for the outside of a Lot shall be white or off-white in color. Additionally, temporary window covers may not be used for a period of time to exceed six (6) months from the date an Owner closes on a Property.
- (x) Trash Containers and Collection. No garbage or trash shall be placed or kept on the Property except in covered containers of a type, size and style which are approved by the Board of Directors or as required by the applicable governing jurisdiction, and subject to rules promulgated by the Association. Said containers shall only be visible from the street at times when trash or garbage pickup will be occurring. Said containers cannot be placed on the street before 4:00 pm on the day prior to pick up and must be removed from the street before 12:00 am on the day of pick up. At all other times, said containers must be screened on each Lot so as not be visible from the street or adjacent properties.
- (xi) Terraces, Decks, Sheds. Grills, patio furniture and potted plants may be permitted on terraces and decks, subject to local ordinances and any rules promulgated by the Association with respect thereto. Detached storage buildings or sheds or animal pens require advanced approval by the ARB and must be made of the same or similar naturally occurring products that comprise the home on said Lot.
- (xii) No Boat Docks. No boat docks, or similar improvements, shall be erected on the Detention Facility at any time.
- (xiii) No Subdivision of Lots or Time-Sharing. No Lot may be further subdivided into any smaller Lot. No Lot shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of years.
- (xiv) Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB, except (1) such signs as may be required by legal proceedings; (2) not more than one (1) professional security sign of such size deemed reasonable by the ARB in its sole discretion; and (3) not more than one (1) "for sale" sign. Unless in compliance with this Section, no signs shall be posted or erected by any

Owner or occupant within any portion of the Common Areas. The ARB reserves the right to prohibit signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the ARB or its duly authorized agent as may be necessary or convenient for the marketing and development of the Property.

- (xv) Trees. No healthy living trees having a diameter of six (6) inches or more measured from a point two (2) feet above the ground, and no flowering tree, shrub, evergreen, or natural ground cover, shall be removed after the Lot is an Improved Lot, unless such removal is approved by the ARB.
- (xvi) Lighting. Exterior lighting visible from the street shall not be permitted except for (1) approved lighting as originally installed on a Lot; (2) one (1) approved decorative post light; (3) pathway lighting; (4) street lights in conformity with an established street lighting program for the Property; or (5) seasonal decorative lights.
- (xvii) Mailboxes. No changes or additions shall be made to the original mailbox or its design, materials or location without obtaining prior written approval from the ARB. Replacement of any existing mailbox must be coordinated through and approved by the ARB.
- (xviii) Play Equipment. Recreational and playground equipment shall not be placed on the front or side yard of any Lot nor in the rear of any Lot adjacent to the Common Areas without prior written consent of the ARB. Materials, colors and other specifications shall be as provided in the Design Guidelines and otherwise approved by the ARB.
- (xix) Interpretation. In all cases, the covenants and restrictions herein contained shall be constructed and interpreted in a manner which, in the opinion of the Board of Directors, will best effect the intent of the general plan of development and maintenance herein set forth. Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness, the Board may modify, cancel, limit, create exceptions to, or expand the restrictions contained herein and may create, modify and enforce reasonable rules governing the use of the Property consistent with the law and with other provisions in this Declaration. The Board shall send notice to all of at which such action is to be considered. For this purpose, notice may be sent to each Owner by U.S. mail, mailed to each Owner provided that such notice is clearly identified under a separate headline in the newsletter. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Section 5. Erosion and Siltation; No Sanitary Sewer Easements. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ARB of plans and specifications for the prevention and control of such erosion or siltation. Any Builder constructing residences on any Lot shall comply with all national and state requirements for erosion control including those under the "NPDES" as defined herein. Any Builder who accepts a deed to any Lot, by such acceptance, specifically agrees to indemnify and hold harmless Declarant and the Association from any and all costs, damages, fines, expenses, and costs of defense, including reasonable attorneys fees actually incurred by Declarant or the Association, caused directly or indirectly, in whole or in part, by failure of proper erosion control measures, permits, samplings and measurements during the time Declarant retains the right to appoint and remove members of the ARB, shall have a lien against any property owned by such Builder to the extent of any liability under this indemnification. Such lien shall be enforceable as a charge against the Lot or Lots owned by such Builder, and may be collected, in addition to any other remedy at law, as a special assessment pursuant to this Declaration.

Except as may be specifically set forth elsewhere herein, no Lot Owner shall grant to any adjoining property owner a sanitary sewer easement over, across, on or through his/her Lot. In the event that a sanitary sewer easement over, across, on or through a Lot is granted by condemnation, public policy or some other means, any and all proceeds paid by the adjoining property owner for said easement shall be the property of Declarant.

Section 6. 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.

Section 7. Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARB 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.

Section 8. 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. Review and approval of any application pursuant to this Article is made on the basis of aesthetics considerations only and neither the Declarant, the Association, nor the ARB shall bear any responsibility for ensuring the structural integrity or soundness or approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARB, nor any other 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 construction on or modifications to any Lot. In all

matters, the ARB and its members shall be defended and indemnified by the Association as provided in this Declaration.

Section 9. Enforcement. Any member of the ARB, the Board, or the representatives of each, shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article shall be deemed to be nonconforming. Upon written request by the ARB, the Owner shall, at its own cost and expense, remove such structure or improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming work. Should any Owner fail to remove and restore the property as required, any authorized agent or the ARB, or the Board shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed. Entry for such purposes and noncompliance with this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the ARB by any means of enforcement described in this Declaration. All costs, together with the interest at the maximum rate then allowed by law may be assessed against the benefited Lot and collected as a specific assessment pursuant to this Declaration.

Unless otherwise specified in writing by the ARB, 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 Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the Bylaws, 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 pursuant to this Declaration.

Neither the ARB, the Association, nor any of their members, officers, or directors, shall be held liable to any Person for exercising or failing to exercise the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of any Owner who fails to comply with the terms and provisions of this Article or the Design Guidelines may be excluded by the ARB from the Property, subject to the notice and hearing procedures contained in the Bylaws.

In addition to the foregoing, the Association 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 ARB.

Article VII - Maintenance

The Association shall keep in good condition, order and repair the Area of Common Responsibility. The Association may be relieved of all or any portion of its maintenance responsibilities to the extent that such property is dedicated to any local, state or federal government or quasigovernmental entity; provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the

Board determines that such maintenance is desirable or necessary to maintain the Community Wide Standard.

Additionally, the Association may maintain other property and improvements it does not own, including without limitation property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owners, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community Wide Standard. If such maintenance is performed, any cost may be assessed as provided in Article V.

Each Owner shall maintain his or her Lot and all structures, parking areas, sprinkler or irrigation systems, landscaping and flora and any other improvements comprising the Lot in a manner consistent with the Community Wide Standard and all governing documents, unless such responsibility is otherwise assumed by or assigned to the Association.

Article VII - Amendment

Except as set forth below, the terms, provisions, covenants and restrictions of this Declaration may be amended only upon the approval of 2/3 of the Lot Owners. The approval of any such amendment by the Members of the Association shall be given by each such Member either casting a vote in favor of such amendment at a meeting of the Members of the Association duly called for such purpose, or by such Member signing a written approval of such amendment after the date on which such meeting was held. Notwithstanding the foregoing, the Board of Directors, without the vote of the Members, may amend this Declaration for the sole purpose of electing to be governed by the provisions of the Georgia Property Owners Association Act, O.C.G.A. Section 44-3-220, *et seq.*

This Declaration may also be amended unilaterally by the Board of Directors if: (a) such amendment is necessary to bring any provisions hereof into compliance with any applicable governmental statute, rules or regulation or judicial determination which shall be in conflict therewith; (b) such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots, (c) such amendment is required by an institutional or 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, (d) such amendment is necessary to enable any governmental agency or private insurance company, including but not limited to the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee mortgage loans on the Lots, provided, however, that any such amendment shall not adversely affect the title to any Owner's Lot unless such Lot Owner shall consent thereto in writing, or (e) such amendment does not materially adversely affect the substantive rights of any Owners hereunder nor adversely affect title to any Lot without the consent of the affected Owner.

Any such amendment shall become effective upon the recording with the County Clerk of the instrument evidencing such change unless a later effective date is specified therein. The

matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate. Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in the Superior Court in the county where the Property is located within one year of the date of recordation of such amendment with the County Clerk.

Every Owner, by taking record title to a Lot, and each holder of a mortgage upon any portion of any Lot, by acceptance of such mortgage, hereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided herein.

Article IX - Miscellaneous

Section 1. Failure of Enforcement. In the event that the Association shall fail to enforce the compliance with any of the provisions of this Declaration by the Owner of any Lot, then the Owner of any other Lot shall have the right to file an action in the Superior Court of the county where the Property is located for an order from such Court requiring that the Association enforce such compliance; provided, however, in no event shall the Board of Directors, or any other officer of the Association, or any of their agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. No Waivers. In no event shall the failure by the Association to insist in anyone or more cases upon the strict performance of any of the terms, covenants, conditions, provision or agreements set forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed writing and signed by a duly authorized officer of the Association.

Section 3. Duration. This Declaration, and all of the terms, easements, provisions, liens, charges, restrictions and covenants set forth herein, shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from and after the date this Declaration is recorded, after which time such covenants and restrictions shall be automatically extended for successive periods of twenty (20) years until the recordation of an instrument of termination within two (2) years of the expiration of the initial twenty-year period or any extension thereof, such instrument having been executed by a minimum of fifty-one percent of the record Owners of the Lots.

Section 4. Notices. Any notice required or permitted to be sent to any Member of the Association or any Owner of a Lot pursuant to any provisions of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the Member or Owner to whom it is intended, at the address which such Member or Owner shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in absence of any such address having been so furnished to the Secretary of the Association, at the address of the Lot owned by such Member or Owner. The date of service shall be the date of mailing. Any notice required

shall be sent to the Declarant or the Association shall be served by sending such notice by registered or certified mail, return receipt requested, to the address of its respective registered agent on file with the Secretary of Georgia. The date of service shall be the date shown on the return receipt. Rejection or other refusal to accept shall be deemed to be receipt of the notice sent.

Section 5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provisions or application, and to this end the provisions of this Declaration are declared to be severable.

Section 6. Judicial Proceedings. Enforcement of these covenants and restrictions shall be any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots, to enforce any liens created by this Declaration. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Lot Owners.

This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including the foreclosure of liens); (b) the collection of assessments; (c) proceeding involving challenges to ad valorem taxation; or (d) unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 7. Successors to Declarant. In no event shall any person or other entity succeeding to the interest of the Declarant by operation of law or through purchase of the Declarant's interest in all or any portion of the Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant. Additionally, following the assignment of Declarant's rights, Declarant shall not be liable for any act, omission or matter occurring or arising subsequent to the date of assignment and any liability shall inure to the successor Declarant.

Article X - Mortgagee Provisions

Section 1. Notice 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 Lot number, thereof becoming an "eligible holder"), will be entitled to timely written notice of: (a) any condemnation or casualty loss which affects a material portion of the Property or which affects any Lot on which a First Mortgage is held, insured, or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owned by an Owner of a Lot subject to the First Mortgage of such eligible holder where such delinquency has continued for a period of sixty (60) days, and, if such

eligible holder specifically requests, any default in the performance by the Owner of the encumbered Lot of any obligation under this Declaration or the Bylaws which is not cured within sixty (60) days; and (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

Section 2. Audit. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements of the Association within 90 days of the date of the request.

Section 3. No Priority. No provision of this Declaration or the Bylaws gives any Owner or other party priority over any rights of a Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Areas.

Section 4. HUD/VA Approval. As long as the Declarant has the right to appoint and remove the officers and/or directors of the Association and so long as the project is approved by the U.S. Department of Housing and Urban Development ("HUD") for insuring, or the U.S. Department of Veterans Affairs ("V A") for guaranteeing, any First Mortgage on any Lot, the following actions shall require the prior approval of HUD and/or the V A, as applicable: annexation of additional property; dedication of Common Areas to any public entity; merger, consolidation, or dissolution of the Association; and material amendment of the Declaration, Bylaws, or Article of Incorporation.

Section 5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.