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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

GLEN ABBEY

GEORGIA, FULTON COUNTY
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BOOK 22924PG134

Re-recorded to include Exhibit "A" which was inadvertently omitted from previous recording.

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STATE OF GEORGIA

COUNTY OF FULTON

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GLEN ABBEY

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR GLEN ABBEY (hereinafter "Declaration") is made this 4th day of August, 1997 by Jim Cowart, Inc., a Georgia corporation (hereinafter "Declarant").

W I T N E S S E T H:

WHEREAS, Declarant, together with the undersigned individuals whose signatures appear at the end of this Declaration (hereinafter "Record Owners"), are the owners of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter the "Property"). Declarant intends by this Declaration to impose upon the Property mutually beneficial covenants, conditions, restrictions and easements under a general plan of improvement and development for the benefit of future owners of property within the residential community to be known as Glen Abbey. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property submitted to this Declaration.

NOW, THEREFORE, Declarant, together with the Record Owners, hereby declares that all of the Property, and any additional property which may be subjected to this Declaration in accordance with its terms (hereinafter "Additional Property"), shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements, hereinafter set forth, which are for the purpose of protecting and preserving the value and desirability of the Property, and which shall run with the Property submitted to this Declaration and which shall be binding on all parties having any right, title or interest in and to such Property, their heirs, successors, successors in title and assigns and which shall inure to the benefit of each such party.

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ARTICLE I

DEFINITIONS

The following words, when used in this Declaration or in any amendment to this Declaration shall have the following meanings:

Section 1. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association, as such document may be amended from time to time.

Section 2. "Association" shall mean and refer to Glen Abbey Homeowners Association, Inc., a non-profit, non-stock, membership corporation incorporated under the laws of the State of Georgia, and its successors and assigns.

Section 3. "Board of Directors" or "Board" shall mean and refer to the governing body of the Association, having such duties as are provided in the Declaration, the By-Laws, the Articles of Incorporation, the Georgia Non-Profit Corporation Code and under other applicable Georgia law.

Section 4. "Builder" shall mean and refer to the Owner of a Lot (i) who is in the business of construction of Residential Units; (ii) who owns such Lot for the purpose of constructing a Residential Unit thereon for sale to a third party; and (iii) who is designated by Declarant as a builder under its builder program.

Section 5. "Buildout" shall mean and refer to the date upon which the first of the following events occur: (i) the date on which there has been a Residential Unit constructed on each Lot in the Community and each Lot in the Community has been conveyed to a Person for residential occupancy; or (ii) a date established by the Declarant, in its sole discretion, as indicated by a written instrument filed of record with the Clerk of the Superior Court of Fulton County, Georgia.

Section 6. "By-Laws" shall mean and refer to the By-Laws of the Association which govern the administration and operation of the Association, as such document may be amended from time to time.

Section 7. "Certificate of Occupancy" shall mean and refer to any required certification issued by the appropriate government authorities as a prerequisite to occupancy of any Residential Unit on any portion of the Property.

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Section 8. "Common Area" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or otherwise made available for the exclusive use and enjoyment of the Owners. The Common Area shall include, without limitation, any recreational facility for the Community containing a swimming pool, tennis courts, and play area. Nothing herein shall be construed so as to create any obligation for Declarant to convey any property or improvements to the Association.

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Section 9. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association and the Community, including reasonable capital reserves, all as may be imposed hereunder or found to be necessary or appropriate by the Board pursuant to this Declaration, the By-Laws and the Articles of Incorporation.

Section 10. "Community" shall mean and refer to the residential development by Declarant on the Property known as Glen Abbey and on such additions thereto as may be made by Declarant.

Section 11. "Community-Wide Standard" shall mean and refer to the standard generally prevailing in the Community for conduct, maintenance, architectural and design standards and other matters as determined by the Declarant, for so long as the Class B Member continues to exist, and thereafter as determined by the Board. Such determination by the Board must, however, be consistent with the Community-Wide Standard originally established by the Declarant.

Section 12. "Conversion Date" shall have the meaning ascribed to it in Section 3(b) of Article IV of this Declaration.

Section 13. "Declarant" shall mean Jim Cowart, Inc., a Georgia corporation and its successors, successors in title and assigns, provided the instrument of conveyance to any such successor in title or assign must specifically designate such successor in title or assign as the "Declarant" hereunder. Upon the designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property there shall only be one Person entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

Section 14. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Glen Abbey, as such document may be amended from time to time; provided all such amendments shall not be effective until recorded in the records of the Clerk of the Superior Court of Fulton County, Georgia.

Section 15. "Design Review Board" or "DRB" shall mean and refer to that certain Board as empowered in accordance with Article IX hereof.

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Section 16. "First Mortgage" shall mean and refer to a first priority Mortgage.

Section 17. "First Mortgagee" shall mean and refer to the holder of a First Mortgage.

Section 18. "Improvements" shall mean and refer to any Residential Unit, driveways, parking areas, fences, walls, recreational equipment, playhouses, play equipment, pools, steps, landscaping, lighting, signage, excavation, ditches, diversions, berms or any other thing or device that alters the flow of any water and all other structures, improvements or landscaping materials of every kind and type placed, erected, constructed, maintained or permitted on a Lot.

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Section 19. "Lot" shall mean and refer to a platted portion of the Property, other than the Common Area, intended for single family residential use, created in accordance with Section 3 of Article II hereof.

Section 20. "Majority" shall mean and refer to those eligible votes totaling more than fifty percent (50%) of the total eligible number.

Section 21. "Member" shall mean and refer to a Person that is a member of the Association as provided in this Declaration.

Section 22. "Mortgage" shall mean and refer to a deed to secure debt, deed of trust, mortgage or other similar instrument used for the purpose of conveying or encumbering real property as security for the payment of an obligation.

Section 23. "Mortgagee" shall mean and refer to the holder of a Mortgage.

Section 24. "Owner" shall mean and refer to the record Owner of any Lot which is part of the Property within the Community, but excluding (i) any Person holding an interest merely as security for the performance or satisfaction of any obligation, (ii) contract purchasers and (iii) any governmental authority which holds title as a result of a dedication by Declarant. When the term Owner is used, it shall include all Builders, unless otherwise stated.

Section 25. "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

Three definitions are added with the fourth amendment 2 more definnitions added in the 5th amendment

Section 26. "Residential Unit" shall mean and refer to any building, structure, or improvement on any Lot intended for use and occupancy as a residence and all appurtenances thereto including but not limited to all garages, porches, balconies, accessory structures, decks, overhangs, foundations, extensions and projections therefrom.

Section 27. "Rules and Regulations" shall mean and refer to those rules and regulations promulgated by the Board of Directors of the Association pursuant to this Declaration and the By-Laws, as such rules and regulations may be amended from time to time.

ARTICLE II

DEVELOPMENT

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Section 1. **Development of Property**. All of the Property and any right, title or interest therein shall be owned, held, leased, sold and conveyed by Declarant, any Record Owner and any subsequent Owner of all of any part thereof, subject to this Declaration and the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration. All Lots within the Property (i) shall be and are hereby restrictive exclusively to single-family residential use, (ii) shall be developed and built upon only for detached single-family dwelling purposes, and (iii) shall be subject to the terms set forth in this Declaration. Until Buildout, Declarant shall have the right, but not the obligation, to make improvements and changes to all Common Area and to all Lots owned by Declarant, including, without limitation, installation of any

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Improvements in and to the Common Area, changes in the location or boundaries of any Lots owned by Declarant or of the Common Area, and installation of any water, sewer and other utility and drainage systems and facilities.

Section 2. **Development of Additional Property**. Declarant hereby reserves the right, option and privilege (but not the obligation), to be exercised in its sole discretion, to submit and develop Residential Units from time to time Additional Property to the provisions of this Declaration. This option, right and privilege may be exercised only by Declarant in accordance with the terms, conditions and limitations set forth in Article VII, below.

Section 3. **Designation of Lots**. Declarant shall have the unilateral right and power to subdivide all or any portion of the Property owned by Declarant into Lots, without the joinder or consent of any other Person. The Declarant shall exercise such right and power from time to time by causing an appropriate plat or plats to be prepared for the Lot or Lots which Declarant desires to designate as such and by filing such plat or plats for public record in the Office of the Clerk of the Superior Court of Fulton County, Georgia.

Section 4. **Zoning**. Declarant shall have the right and power, from time to time, to change the zoning of any portion of the Property owned by Declarant in such manner as Declarant deems appropriate for the overall development of the Property. No Owner other than Declarant shall apply for any change in zoning, including variances, of any portion of the Property owned by such Owner unless such zoning changes are approved in writing by Declarant prior to the Conversion Date or by the Board after the Conversion Date. Any such zoning change shall not affect the use restrictions contained in this Declaration, which shall control over any uses permitted by such zoning changes; provided, however, nothing contained in this Declaration shall give or be deemed to give either to Declarant or any Owner the right or power to use any portion of the Property in a manner which would violate applicable zoning ordinances, rules or regulations.

ARTICLE III

PROPERTY RIGHTS

Section 1. **General** Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred and encumbered the same as other real property. The ownership of each Lot shall include, and there shall pass with title to each such Lot as an appurtenance thereto, whether or not separately described, all rights of a Member in the Association and all of the right and interest of use in and to the Common Area as set forth herein. The Declarant, the Association and their respective employees, agents, successors and assigns shall have the right at all reasonable times to enter upon all parts of each easement area transferred pursuant to this Article III for any of the purpose for which such easement area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Declaration.

Section 2. **Easement of Enjoyment**. Every Owner shall have a right and easement of ingress and egress and use and enjoyment in and to the Common Area, subject to the terms of this Declaration. Such right and easement may be exercised by each Owner and their respective family, licensees, guests and invitees, subject to the Rules and Regulations as may be adopted by the Board from time to time. An Owner may assign to a tenant of his Lot all rights of access to and use of the Common Area so that such tenant, his family and guests shall be entitled to access to and use the Common Area on the same basis as the assignor and his family and guests. The foregoing right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following easements, reservations, rights and provisions, which are expressly reserved hereby:

(a) the right of the Board to charge reasonable admission and other fees for the use of any portion of the Common Area, including, without limitation, any swimming pools, tennis courts and other recreation areas; to limit the number of guests who may use the Common Area; to allow Persons who are not Members of the Association to use the Common Area on a regular or temporary basis and to charge or not charge a user fee therefore; and to provide for the exclusive use and enjoyment of specific portions of the Common Area at certain designated times by an Owner, his family, tenants, guests, licensees and invitee;

(b) the right of the Association to suspend the voting rights of an Owner and the right to use the Common Area for any period during which (i) any assessment which is hereby provided for remains unpaid and (ii) any infraction of the terms of the Declaration, the By-Laws, or the Rules and Regulations remains uncorrected or uncured and for an additional period thereafter not to exceed thirty (30) days;

(c) the right of the Association to borrow money (i) for the purpose of improving the Common Area or any portion thereof, (ii) for acquiring additional Common Area, (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Area, or (iv) for providing the services authorized herein, and, subject to the provisions herein, to give as security for the payment of any such loan a Mortgage against the Common Area; provided, however, that the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any and all rights, interest, options, licenses, easements and privileges herein reserved or established for the benefit of Declarant and provided, further, that after the Conversion Date, no more than Ten Thousand Dollars ($10,000.00) may be borrowed by the Association unless such indebtedness has been approved by Members representing a Majority of the total Association vote and Declarant, until Buildout;

(d) the right of the Association to grant and accept easements as provided herein and to dedicate or transfer all or any portion of the Common Area to Fulton County, Georgia or to any other public agency or authority, public service district, public or private utility, or other Person provided that any such transfer must be approved by the Members representing a Majority of the total Association vote and by the Declarant until Buildout; provided, however, Declarant shall have the unilateral right, prior to the Buildout, to dedicate, transfer or grant property, permits, licenses or easements for utilities, roads and other purposes reasonably necessary useful for the proper development, maintenance or operation of the Property;

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(e) the right of the Declarant or, after Buildout, the Association with the approval of Members representing a Majority of the total Association vote, to alter, change, redefine or redescribe the use of any portion of the Common Area;

(f) the rights and easements reserved herein for the benefit of the Declarant and the Association; and

(g) the right of the Declarant or, after the Conversion Date, the Association after approval by Members representing a Majority of the total Association vote, to install and maintain guarded or electronically-monitored gates controlling vehicular access to and from the Property.

Section 3. **Reserved Easements**. Declarant hereby reserves, in addition to the other easements in this Declaration, the perpetual, alienable and transferrable easement and right, for the benefit of the Declarant and its successors and assigns and, subject to regulation by the Declarant, for the benefit of Builders, to enter and travel upon over and across the Community, including the Common Area, for the purpose of completion and repair of Improvements within the Property or Additional Property including construction, alteration, maintenance or repair of Improvements and Residential Units on Lots, and for all reasonable purposes to further assist and enhance the marketing and construction and sale of the Property, Lots or Residential Units, together with the easement in and to the Community, inclusive of the Common Area and Lots, for the maintenance of signs, sales offices, construction offices, business offices, and such other facilities the Declarant, in its sole opinion, may deem required, convenient, necessary or incidental to the completion, improvement and/or marketing and sale of Lots, Residential Units or the Community until Buildout. Any damage to any Lot, Residential Unit or any portion of the Community occurring during the use of the foregoing easement or rights shall be repaired by the Person who caused such damage.

Section 4. **Easement for Association**. There is hereby reserve for the benefit of the Association, its officers, board members, agents and employees, including, but not limited to any manager employed by the Association and any employees of any such manager, a general right and easement to enter upon any Lot or portion thereof in the performance of its respective duties. Except in the event of emergencies, this right and easement is to be exercised only during normal business hours and, whenever practical, only upon advance notice and with the permission of the Owner of the Lot directly affected thereby.

Section 5. **Easement for Maintenance**. There is hereby reserved for the benefit of the Declarant, the Association, and their respective agents, employees, successors and assigns, an alienable, transferrable and perpetual right and easement to enter upon any Lot for the purpose of mowing, removing, clearing, cutting or pruning landscape, grass, underbrush, weeds, trees, stumps or other unsightly growth and removing trash, and to exercise any other rights of maintenance provided in Article V, below, so as to maintain the Community-Wide Standard and reasonable standards of health, fire, safety and aesthetic appearance within the Property; provided that such easement shall not impose any duty or obligation upon the Declarant or the Association to perform any such action.

Section 6. **Alterations to Lots and Common Area**. There is hereby reserve in Declarant the right to alter, modify or realign the boundaries or configuration of the Common Area or any Lot owned by Declarant including, but not limited to, the right to alter the size, shape, slope and terrain of such Lots and the Common Area. Any such alteration shall be shown by an amendment to the plat depicting such Lot or Common Area which is recorded in the appropriate land records.

Section 7. **Easement of Encroachment**. If any portion of the improvements constructed on the Common Area encroaches upon any Lot, or if any Improvement constructed upon a Lot encroaches upon the Common Area, as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvement, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists; provided, however, if any Improvement on any Lot or any improvement on the Common Area is knowingly and willfully constructed, reconstructed or repaired so as to encroach, respectively, on the Common Area or a Lot to an extent greater than five (5) feet, no such easement shall exist.

Section 8. **Construction and Sale Period**. Despite any provision contained in this Declaration to the contrary, it shall be expressly permissible for the Declarant, its successors and assigns and any Builder approved by Declarant to maintain and carry on upon such portion of the Property as the Declarant may deem necessary, including, but not limited to, the Common Area, such activities as in the Declarant, in its sole discretion, may be reasonably required, convenient, necessary or incidental to construction of any Improvement or sale and marketing of any of the Property, including, without limitation, business offices, signs, model homes, and sales offices, until Buildout.

Section 9. **Easements for Utilities, Etc.**. There is hereby reserved to the Declarant and, after the Conversion Date, to the Association upon approval by Members representing a Majority of the total Association vote, and with the written consent of the Declarant until Buildout, to grant blanket easements upon, across, over and under all of the Property, including Lots, for ingress, egress, installation, replacement, repairing and maintaining of master television antenna or cable systems, security and similar systems, walkways and all utilities, including, but not limited to, water, sewer, telephone, gas, electrical, storm sewers, and drainage systems; provided this easement shall no unreasonably impair the ability of any Owner to construct or install Residential Units on any Lot or to cause physical, nonrepairable damage to any Residential Unit as might exist on any such Lot. To the extent possible, all utility lines and facilities serving the Community and located therein shall be located underground. By virtue of any such easement, it shall be expressly permissible for the holder of the easement, with respect to the portion of the Property so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities, (ii) to cut and remove any trees, bushes or shrubbery, (iii) to grade, excavate or fill, or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and facilities; provided, however, that the holder of any such easement shall take reasonable actions to repair any damages caused during the exercise of any rights granted under such easement.

Section 10. **Easement for Law Enforcement/Fire Protection**. Declarant hereby grants to Fulton County, Georgia or such other governmental authority or agency as shall have from time to time jurisdiction over the Property with respect to law enforcement and fire protection, the perpetual, alienable and transferrable right and easement upon, over and across all of the Community, including all Lots and Common Area, for purposes of performing such duties and activities related to law enforcement and fire protection as shall be required or appropriate from time to time by such governmental authorities under applicable law.

Section 11. **Easement for Walks, Signs and Perimeter Walls**. It is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the perpetual, transferrable, and alienable right and easement upon, over and across those strips of land eleven (11) feet in width located along and adjacent to the exterior boundaries of all Lots, such stripes to be bounded by the exterior boundaries adjacent to streets and roads and by lines in the interior of such Lots which are eleven (11) feet from and parallel to such exterior boundaries, for the installation, maintenance and use of sidewalks, traffic directional signals, sales signs, informational signs, and related improvements. There is further reserved for the benefit of the Declarant, the Association, and their respective successors and assigns, the transferrable, alienable and perpetual right and easement upon, over and across those strips of land fifteen (15) feet in width located along those boundaries of all lots that constitute a part of the perimeter boundary of the property, such easement to be used for the purpose of constructing, installing, replacing, and maintaining a perimeter wall or fence around the perimeter boundary of the Property, provided that neither the Declarant nor the Association shall have any obligation to construct any such perimeter wall or fence.

Section 12. **Easement for Landscape**. It is hereby reserved for the benefit of Declarant, the Association, and their respective successors and assigns, the perpetual, transferrable and alienable right and easement upon, over and across those strips of lands thirty (30) feet in width located along the exterior boundaries of Lots 101 through 106 and Lots 141 through 145 of Unit I of the Community, as depicted on that certain plat recorded in Plat Book 194, Page 79 of the Fulton County, Georgia records, adjacent to the streets and roads, for the installation and maintenance of berms and trees, bushes, shrubbery and other landscaping. No fence, wall or other structure may be built within this easement area except by the Declarant, the Association and their respective successors and assigns, provided that neither the Declarant nor the Association shall have any obligation to construct any such fence, wall or other structure.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

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Section 1. **Membership**. Subject to Section 2 of this Article, every person who is the record owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of and have membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of any such Lot, and ownership of a Lot which is subject to this Declaration shall be the sole qualification for such membership. In the event that fee title to such a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. The foregoing is not intended to include any person who has an interest in a Lot merely as security for the performance of an

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obligation, and the giving of a Mortgage in a Lot shall not terminate the grantor's membership in the Association.

Section 2. **Multiple Owners**. No Owner, whether one or more person, shall have more than one membership per Lot; provided, however, multiple use rights for multiple Owners of a Lot shall exist subject, however, to the right of the Board to regulate and limit use by multiple Owners. Each Owner, by acceptance of a deed or other conveyance of a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the submission from time to time of additional Lots as set forth herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member, the Member's spouse or other family member.

Section 3. **Voting**. The Association shall have two classes of voting Members, Class A and Class B.

(a) Class A. Class A Members shall be all Owners including Builders, with the exception of the Class B Member, if any. On any issue brought before the Members, Class A Members shall be entitled to cast one vote for each Lot in which they hold the interest required for membership by Section 1, above. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and if one of such multiple Owners exercises the vote without opposition by any other of such multiple Owners at the time such vote is exercised, the vote shall be as so exercised. In the event that more than one of such multiple Owners seek to exercise the vote, the vote appurtenant to such Lot shall be suspended.

(b) Class B. The Class B Member shall be the Declarant. Prior to the Conversion Date, the Class B Member shall be entitled to cast votes equal to one hundred four percent (104%) of the aggregate number of votes eligible to be cast by all of the Class A Members (resulting in all of the Class A Members controlling not more than approximately forty nine percent (49%) of the eligible votes of all Members and the Class B Member controlling not less than approximately fifty one percent (51%) of the eligible votes of all Members). The Class B membership shall terminate upon the earlier of (hereinafter the "Conversion Date"):

(i) ninety (90) days after the Declarant has sold ninety-five percent (95%) of the approximately five hundred nineteen (519) Lots as are contemplated to be a part of the Community on the master plan thereof, inclusive of lots not yet subdivided pursuant to Section 3 of Article II, above, have been conveyed to Owners other than the Declarant, affiliates of Declarant, or Builders;

Section 3(b)(i) is changed in Third Amendment

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(ii) twenty (20) years after the date this Declaration was recorded; or

(iii) the date on which the Declarant, in its sole discretion, chooses to terminate the Class B membership by filing of record with the Clerk of the Superior Court of Fulton County, Georgia a written notice of such termination.

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Article IV(3)(c) is added in amendment 5, suspending voting rights

From and after the Conversion Date, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot in which it holds the interest required for membership under Section 1, above.

Section 4. **Declarant Control**. Notwithstanding any other provision to the contrary in this Declaration, the Articles of Incorporation or By-Laws, Declarant retains the authority and right to appoint and remove any member of the Board of Directors and any officer of the Association until the Conversion Date. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that the Declarant shall have the authority to appoint and remove members of the Board of Directors and officers of the Association in accordance with the foregoing provision of this Section.

ARTICLE V

ASSOCIATION POWERS AND RESPONSIBILITIES

A. IN GENERAL.

Section 1. **Common Area**. The Association, subject to the rights, easements and privileges set forth in this Declaration, shall be responsible for the management and control of the Common Area and all improvements thereon and shall keep the Common Area in good repair and in a clean and attractive condition. The Association shall maintain, operate and preserve the Common Area for the good and benefit of the Community and the holders of easements herein provided for or contemplated. The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible real or personal property. Notwithstanding the foregoing, after the Conversion Date, the Association shall not, without the prior written consent of Declarant until Buildout, (i) dispose of any real property, (ii) dispose of any tangible or intangible personal property with a value in excess of One Thousand Dollars ($1,000.00), (iii) borrow money in excess of Ten Thousand Dollars ($10,000.00), or (iv) pledge, mortgage or hypothecate all or any portion of the Common Area.

Section 2. **Services**. The Association may pay for the services of any person or entity to manage its affairs or any part thereof and any other personnel as the Association's Board of Directors shall determine to be necessary or desirable for the proper operation of the Community. Such personnel may be furnished or employed directly by the Association or by any person or entity with which it contracts. The Association may obtain and pay for legal, accounting and any other professional services necessary or desirable in connection with the operation of the Community or the enforcement of this Declaration, the By-Laws and Rules and Regulations. The Association may, but shall not be required to, arrange as an Association expense to furnish trash collection, security, cable television and other common services to each Lot within the Community. All costs and expenses incident to any of the foregoing shall be a Common Expense.

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Section 3. **Power to Contract**. The Association may, acting through its Board of Directors, contract with any other residential or commercial association or neighborhood adjacent to the Community to provide services and/or perform services on behalf of such other association or neighborhood. The Association may, acting through its Board of Directors, contract with any

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governmental division, department or agency for the provision of services to the Association or its Members.

Section 4. **Rules and Regulations**. The Association, acting through its Board of Directors, may promulgate Rules and Regulations governing the use and occupancy of the Lots and the Common Area, and all improvement located thereon, and governing the operation of the Community. The Rules and Regulations shall not, however, diminish, alter or affect the rights of use, easements, permits, privileges or licenses provided to Declarant or its successor and assigns. Copies of all Rules and Regulations, and any changes thereto, must be furnished by the Association to all owners prior to their effective date. The Rules and Regulations shall be binding upon all Owners and their families, tenants, guests, licensees, invitees and agents. The Owner of each Lot shall be responsible for the conduct of his family, tenants, guests, licensees, invitees and agents and shall ensure that all of the foregoing individuals comply with the terms of this Declaration, the By-Laws and Rules and Regulations.

Section 5. **Implied Rights**. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, Articles of Incorporation or Rules and Regulations of the Association, and every other right and privilege reasonably to be implied from the existence of any such right or privilege or reasonably necessary to effectuate any such right or privilege. To the extent not otherwise required by Georgia law, this Declaration, the By-Laws or the Articles of Incorporation, the powers granted to the Association shall be exercised by the Board of Directors, acting through the duly elected officers of the Association, without any consent or action on the part of the Members.

B. MAINTENANCE.

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Section 1. **Association Responsibility**. The Association shall maintain and keep in good repair the Common Area, the cost of which shall be assessed as a part of the Common Expenses, as determined by the Board of Directors in accordance with this Declaration. Maintenance by the Association shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Area. The Association shall not be liable for any injury or damage to any person or property (a) caused by the elements, (b) caused by any Owner or any third party, or by their respective guests, invitees, licensees, successors or assigns, (c) resulting from any rain or surface water which may leak or flow from any portion of the Common Area, or (d) caused by the failure of the Association to maintain the Common Area, unless such failure is caused by the willful misconduct or gross negligence of the Association. The Association shall not be liable to any Owner for any loss or damage, by theft or otherwise, of any property of such Owner or his respective guests, invitees, licensees, successors or assigns. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for the inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or governmental authority, it being acknowledged by each Owner that the obligation to pay assessments pursuant to this Declaration is a separate and independent covenant on the part of each Owner.

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Section 2. Owner's Responsibility. Each Owner shall maintain or cause to be maintained his Lot and all Improvements thereon including his Residential Unit, in good, clean and attractive condition and repair, subject to this Declaration and in a manner which is consistent with the Community-Wide Standard. Such maintenance shall include, without limitation, prompt removal of all litter, trash, refuse and waste; reasonable maintenance, repair and replacement of all his Improvements and all exterior portions of his Residential Unit; maintenance of all grass and landscaping on a regular basis; tree and shrub pruning; watering of landscaped areas; keeping lawn and gardening areas alive, free of weeds and in attractive condition; keeping driveways in good repair; complying with all governmental health and police requirements; and repair exterior damage to the all Improvements including Residential Unit on his Lot.

In the event the Board of Directors determines that (i) any Owner has failed or refused to properly discharge his obligations with regard to the maintenance and repair for which he is responsible hereunder, or (ii) the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused by the willful or negligent act of an Owner or his family, tenants, guests, licensees or invitees, the Association, except in the event of an emergency situation, may give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement, at such Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary and shall give the Owner ten (10) days within which to complete such maintenance, repair or replacement, or, in the event such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work within such ten (10) day period and to complete such work within a reasonable time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement at the sole cost and expense of the Owner, and all costs and expenses incurred by the Association shall become part of the assessment for which such Owner is personally liable and shall become a lien against such Owner's Lot.

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Section 3. Lake. In the development of the Community, Declarant may create or utilize an existing lake (hereinafter "Lake") which may exist on certain Lots and a portion of the Common Area. The Lots to be affected by the Lake will be identified at such time as the final engineering for that portion of the Property is completed. The area covered by the Lake will be within the boundaries of the various Lots and part of the Common Area. Only the Owners of Lots which lie partially within the Lake will have any rights with respect to the Lake covering their respective Lots and the Members shall have the right to use that portion of the Lake contiguous to part of the Common Area. The Association shall have no liability or duty whatsoever with respect to the Lake, except to the extent that a portion of the Lake exists on a portion of the Common Area and then only to the extent provided by a separate declaration addressing the Lake. The size, shape, depth and physical and aesthetic attributes of the Lake may be changed from time to time by the Declarant, with the consent of the Owners of the any contiguous Lot affected by any such change in the Lake. The Declarant, the Association and the Owners of Lots covered partially by the Lake shall be subject to the terms and conditions of a document recorded in Fulton County, Georgia land records which will delineate the rights and obligations of the Declarant, the Association and such Owners with respect to the Lake. If the Declarant, the Association and such Owners do not maintain the Lake in accordance with the terms of such recorded document, the Association shall have the right, but not the obligation, to provide any maintenance or repair required of the Lake in accordance with such recorded

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document, and the additional costs and expenses so incurred by the Association, beyond its pro rata contribution required under such recorded document, shall become a part of the assessments for which such Owners are personally liable hereunder and shall constitute a lien against such Owners' Lots.

C. INSURANCE AND CASUALTY OR LIABILITY LOSSES.

Section 1. **Insurance**. The Association's Board of Directors shall have the authority to obtain insurance for all insurable improvements on the Common Area against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief. This insurance shall be in an amount sufficient to cover the full cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall also obtain a public liability policy applicable to the Common Area covering the Association, its officers, directors, members and agents. The public liability insurance shall have coverage in the amount of at least One Million Dollars ($1,000,000.00) per occurrence for bodily injury or property damage and Two Million Dollars ($2,000,000.00) of aggregate coverage. The cost of all such insurance coverage shall be a part of the Common Expenses of the Association. Each insurance policy may contain a reasonable deductible, which shall be paid by the Association.

All such insurance coverage obtained by the Association shall be written in the name of the Association for the benefit of all Owners. All policies shall be written by a company licensed to do business in Georgia, having at least an A rating as established by A.M. Best Company, Inc. or the most nearly equivalent rating. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if reasonably available. The Board of Directors shall be required to make every reasonable effort to secure insurance policies that provide a waiver of subrogation by the insurer as to any claims against the Board of Directors, the Owners and their respective family, tenants, guests, invitees, licensees, and agents and a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association.

In addition to other insurance required by this Section, the Board shall obtain, as a Common Expense, workers compensation insurance, if and to the extent necessary, and a fidelity policy or bond on officers, directors, employees and other persons handling or responsible for the Association's funds. The amount of all such coverage shall be determined by the Board of Directors, using its best business judgment.

Section 2. **Disbursement of Proceeds**. Proceeds of insurance policies shall be disbursed in payment of any repair or reconstruction covered by such insurance. Any proceeds remaining after defraying such cost of repair and reconstruction, or in the event no repair or reconstruction is made after making such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association.

Section 3. **Damage and Destruction**.

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(a) Immediately after the damage or destruction by fire or other casualty of all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors shall proceed with the filing and adjustment of all claims.

BOOK 22322PG037

arising under such insurance and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction means repairing and restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Declarant and, after the Conversion Date, at least seventy five percent (75%) of the total vote of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If reliable and detailed estimates of the cost of the repair or reconstruction or if the amount of insurance proceeds available as a result of such damage or destruction is not available within such sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed beyond sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the Common Area affected by such damage or destruction shall be restored to its natural state and maintained as an undeveloped portion of the Common Area.

Section 4. **Insufficient Insurance Proceeds**. If the damage or destruction for which the insurance proceeds are paid are not sufficient to defray the cost of the required repair or reconstruction, and if the Board determines that the funds in the capital reserve accounts are not sufficient to cover such insurance deficiency, then the Board of Directors shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners, in an equal amount, and such special assessment shall be used to complete the required repair or reconstruction.

Section 5. **Damage to Lots**. By virtue of taking title to a Lot, each Owner covenants and agrees to carry all risk casualty insurance on all Improvements, including Residential Units, constructed or placed on his Lot. Each Owner further covenants and agrees that in the event of a partial loss, damage or destruction resulting in less than total destruction of any Improvement located on any Lot, such Owner shall promptly proceed to repair or reconstruct the damage in a manner consistent with the aesthetic appearance and quality of the original construction and with the Community-Wide Standards. In the event that any Improvement, including any Residential Unit, is totally destroyed or rended uninhabitable or unusable, the Owner shall repair or rebuild such Improvement, including the Residential Unit, to substantially the same condition as it existed prior to such damage and in accordance with all applicable standards, restrictions and provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such repair and reconstruction shall be commenced promptly following such damage and shall be carried through diligently to conclusion within a reasonable time.

ARTICLE VI

CONDEMNATION

If all or any part of the Common Area shall be taken (or conveyed in lieu of and under the threat of condemnation) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association, for the benefit of all of the Owners. If the taking involves a portion of the Common Area on which improvements have been constructed and the taking occurs prior to the Conversion Date, the Declarant shall have the right, in its sole discretion, to decide whether the Association shall restore or replace such improvements on the remaining Common Area. If the taking involves a portion of the Common Area on which improvements have been constructed and such taking occurs after the Conversion Date, then the Association shall, if possible, restore or replace such improvements so taken on the remaining Common Area unless seventy five percent (75%) of the Members of the Association vote at a meeting duly called not to restore or replace such improvements and, until Buildout, the Declarant likewise agrees not to restore or replace such improvements. If the improvements are to be repaired or restored, the funds received by the Association shall be disbursed in the same manner as funds are disbursed for casualty damage or destruction as provided above. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such awarded funds or remaining funds shall be the deposited to the benefit of the Association.

ARTICLE VII

ANNEXATION OF ADDITIONAL PROPERTY

Section 1. **Unilateral Annexation by Declarant**. As the owner thereof or, if not the owner, with the written consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time until ten (10) years after the recording of this Declaration to subject all or a part of the Additional Property to the provisions of this Declaration and the jurisdiction of the Association by filing of record an amendment to this Declaration describing the Additional Property being annexed. Any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein. Any property so annexed into the Community shall thereafter be a part of the Property for all purposes under this Declaration. The Declarant may unilaterally amend this Declaration to reflect the different character of any Additional Property so annexed. The rights reserved unto Declarant to subject Additional Property to this Declaration shall not impose any obligation upon Declarant to subject any Additional Property to this Declaration or to the jurisdiction of the Association.

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Section 2. **Other Annexation**. Subject to the consent of the owner thereof and, and until Buildout has occurred, with the consent of the Declarant, upon the affirmative vote or written consent of Members representing a Majority of the total Association vote, the Association may annex real property to the provisions of this Declaration to become a part of the Common Area and the jurisdiction of the Association by filing of record an amendment to the Declaration describing the property being annexed. Any such amendment to the Declaration shall be signed

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by the president and the secretary of the Association, and any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein.

Section 3. **Withdrawal of Property**. So long as the Conversion Date has not yet occurred, Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent or joinder of any Person, for the purpose of removing certain portions of the Property then owed by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

ARTICLE VIII

ASSESSMENTS

Section 1. **Purpose of Assessment**. The assessments provided for herein shall be used for the general purpose of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and occupants of Lots in the Community, including the maintenance of real and personal property all as may be specifically authorized from time to time hereunder and by the Board of Directors.

Section two is removed and replaced per fourth amendment

Section 2. **Creation of Lien and Personal Obligation for Assessments**. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, in accordance with the provisions hereof, from and after the commencement date established in Section 9, below, (a) general assessments; (b) special assessments established as herein provided; (c) specific assessments against any particular Lot established pursuant to the terms of this Declaration; and (d) transfer assessments imposed in accordance with this Declaration. All such assessments, together with late charges, simple interest at the rate of eighteen percent (18%) per annum, costs of collection and reasonable attorney's fees actually incurred in an amount not less than fifteen percent (15%) of the assessments and interest due and owing, shall be a charge on and a continuing lien against each Lot against which each assessment is made. Each such assessment, together with the late fees, interests, court costs and attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment became due and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in a First Mortgage will not be liable for any unpaid assessments which accrued prior to the acquisition of title to the Lot by the Mortgagee. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for Owners who are delinquent in the payment of such assessments. Unless otherwise provided by the Board, assessments shall be paid in annual installments.

Section 3. **Computation of General Assessment**. It shall be the duty of the Board to prepare a budget covering the estimated cost of operating the Association during the coming

year. The budget may include a capital reserve contribution in accordance with a capital budget that may be separately prepared by the Board. The Board shall cause a copy of the budget and the general assessment to be levied therefrom to be mailed to each Member at least thirty (30) days prior to the date on which the budget will become effective. The budget and general assessment established therefrom shall be and become effective unless a written statement of disapproval executed by Members representing at least a Majority of the total Association vote is delivered to the Board no later than seven (7) days prior to the effective date of the proposed budget. Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason to so determine the budget for the succeeding year, then and until such time as a budget shall have been determined, the budget and assessments in effect for the current year shall continue for the succeeding year.

Section 4. **Special Assessments**. In addition to other assessments authorized herein, the Board may in its discretion levy special assessments in any year for the purpose of paying the costs of unexpected maintenance, repairs or replacement of the Common Area or the cost of other unanticipated expenses, needs or obligations of the Association incurred or projected to be incurred in the performance of its obligations in this Declaration. No membership vote shall be necessary prior to the imposition of a special assessment; provided that until the Conversion Date has occurred, no special assessment may be adopted without the consent of the Declarant.

Section 5. **Specific Assessments**. The Board shall have the power to specifically assess pursuant to this Section as it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may specifically assess Lots for the following Association expenses, except for expenses incurred for the maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(a) any Common Expense benefiting less than all of the Lots shall be specifically assessed equitably among the Lots so benefited, as determined by the Board of Directors;

(b) any Common Expenses occasioned by the conduct of less than all of the Owners or their family, guests, tenants, licensees, or invitees shall be specially assessed against the Owner of such Lots whose conduct, or the conduct of such Owners' family, guests, tenants, licensees, or invitees, occasioned any such Common Expenses; or

(c) any Common Expenses significantly disproportionately benefiting all of the Lots shall be assessed equitably among all of the Lots in the Community as determined by the Board of Directors.

5th amendment increases initiation fee to $2000

Section 6. **Transfer Assessments**. Upon each and every transfer or conveyance of a Lot upon which a Residential Unit has been constructed, the transferee or grantee becoming the Owner of the Lot at each such conveyance shall be obligated to pay to the Association, in addition to all other assessments levied under this Declaration, simultaneously upon such conveyance a non refundable assessment in the amount of One Thousand Dollars ($1,000.00) (hereinafter the "Transfer Assessment"). All Transfer Assessments collected by the Association shall be deposited by the Association in a capital reserve account which shall be for the purpose

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of funding capital costs required to repair or replace improvements which are a part of the Common Area. Notwithstanding the foregoing, the initial Transfer Assessment charged to Lots 103, 112, 118, 129, 135 and 149 in Unit I of the Community shall be Five Hundred Dollars ($500.00) but on every subsequent conveyance of such Lots, the Transfer Assessment shall be One Thousand Dollars ($1,000.00) as provided above.

5th amendment deletes and replaces Section 7

Section 7. **Lien for Assessments**. All assessments assessed against any Lot pursuant to this Declaration, together with late charges, interests, costs and attorney's fees as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances except for the lien for ad valorem taxes, the lien of any First Mortgage covering the Lot, and the lien of any Mortgage recorded prior to the recording of this Declaration. The recording of this Declaration shall constitute record notice of the existence of the lien and the priority of the lien. All Persons acquiring liens or encumbrances after this Declaration shall have been recorded shall be deemed to consent that such liens and encumbrances, except as otherwise provided herein, shall be inferior to the lien created by this Declaration.

Section 8 is removed and replaced per fourth amendment

Section 8. **Nonpayment of Assessments**. Any assessment levied pursuant to this Declaration which is not paid within ten (10) days after it is due shall be delinquent and shall also include a late charge established by the Board of Directors, accrue simple interest at the rate of eighteen percent (18%) per annum, and include all costs of collection, including reasonable attorney's fees in an amount not less than fifteen percent (15%) of the principal and interest due. Not less than ten (10) days after notice is sent by certified mail, return receipt requested, to the delinquent Owner at the address of the Lot, or at such other address designated in writing by such Owner, the lien in favor of the Association may be foreclosed by the Association by suit, judgment and foreclosure in the same manner as other liens for the improvement of real property. The notice shall specify the amount of the assessment then due and payable together with all late charges, interest and costs of collection, including attorney's fees. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey such Lot.

Except as stated herein, no Owner may waive or otherwise exempt himself or itself from liability for the assessments provided herein, including, but not limited to, non-use of the Common Areas or abandonment of a Lot. No diminution or abatement of any assessment or setoff shall be claimed or allowed by reason of any failure of the Association or the Board to take some action or perform some function required to be taken or performed by the Association or the Board hereunder, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance or with any order or directive of any governmental authority, it being acknowledged that the obligation to pay assessments is a separate and independent covenant on the part of each Owner.

Section 9. **Commencement of Assessments**. Transfer Assessments shall be due and payable for any Lot from and after the recording of this Declaration. All other assessments shall commence as to all Lots on the thirtieth (30th) calendar day after the subdivision of the Lot pursuant to Section 3 of Article II of this Declaration: provided that the initial general assessment shall not be levied until January 1, 1998 and provided further that neither the

Declarant nor any Builder shall pay any assessment levied against a Lot owned by it pursuant to this Declaration unless and until a Residential Unit is constructed on a Lot owned by the Declarant or a Builder and such Residential Unit is occupied. Until the Conversion Date, the Declarant may pay in cash or in kind the difference between the amount of general assessment assessed on all Lots each fiscal year and the amount of actual expenditures required to operate the Association during each fiscal year, exclusive of any capital reserve contributions.

Section 10. **Fiscal Year**. The fiscal year of the Association shall begin on January 1 of each year and shall end on December 31 of the same year.

Section 11 is added per 4th amendment

Section 12 and 13 are added per 5th amendment

ARTICLE IX

ARCHITECTURAL STANDARDS

Section 1 changed in the First Amendment

Section 1. **Creation of Design Review Board**. The Declarant shall establish and maintain a Design Review Board ("DRB") consisting of at least three (3) and no more than five (5) members. Until the Conversion Date, Declarant shall appoint all members of the DRB and all members of the DRB may be removed by Declarant with or without cause. After the Conversion Date, the Board shall have the exclusive right and authority at any time, and from time to time, to appoint and remove members of the DRB with or without cause.

Section 1 is changed in the 5th

Section 2. **Function of DRB**. No Improvements shall be erected, constructed, placed, altered, remodeled, maintained or permitted to remain on any portion of the Property, including on any Lot, until plans and specifications, in such form and detail as the DRB may deem necessary, shall have been submitted to the DRB and approved by it in writing, unless such Improvement is developed, constructed or altered by Declarant, affiliates of Declarant or a Builder in which case the Declarant must approve such Improvement. The DRB shall have the authority to select and employ professional consultants to assist it in discharging its duties and the cost of such consultants shall be paid by the Owner of any Lot for which plans and specifications have been submitted for approval prior to such plans and specifications being considered for approval by the DRB.

Section 2 is deleted and replaced per the 5th amendment

Section 3. **Modifications Committee**. After the date on which seventy-five percent (75%) of the approximately five hundred nineteen (519) Lots as are contemplated to be a part of the Community on the master plan thereof, inclusive of Lots not yet subdivided pursuant to Section 3 of Article II, above, have been conveyed to Owners other than the Declarant, affiliates of Declarant or Builders, the Declarant may form a modifications committee of not less than three (3) nor more than five (5) members (hereinafter "Modifications Committee"), who shall be Members of the Association. The Modifications Committee shall have the authority of the DRB, and the DRB shall relinquish such authority, concerning the erection, construction, placement, alteration, remodeling, or maintenance of any Improvement on any Lot owned by Persons other than Declarant, affiliates of Declarant or Builders. Declarant shall evidence the formation of a Modifications Committee by filing of record with the Clerk of the Superior Court of Fulton County, Georgia a written notice that a Modifications Committee for the Association has been formed. The Modifications Committee shall be governed by and shall act consistent with all of the rights, obligations, terms, provisions and guidelines concerning and applicable to the DRB set forth in this Article. After the Conversion Date, the Modifications Committee shall

The last sentence in Section 3 is changed in the First Amendment

automatically terminate and cease to exist, and all of the rights and powers granted to the Modifications Committee hereunder shall automatically revert back to the DRB.

Section 4(a) is changed in the 5th amendment

Section 4. Plans and Specifications.

(a) The DRB shall have the right to approve or disapprove any submitted plans or specifications that are not in compliance with this Declaration, if they are incomplete or if the DRB reasonably determines that such plans and specifications are not consistent with the Community-Wide Standards considering among other things, the following: (i) architectural character and nature, shape, color, size, material, location and kind of all proposed Improvements, taking in consideration the aesthetic quality of any Residential Unit with respect to height, form, proportion, volume, siting and exterior materials; (ii) adequacy of lot dimensions for proposed Improvements; (iii) conformity and harmony of exterior design with neighboring Lots and Improvements; (iv) relation of topography, grade and finished ground elevations to that of neighboring Lots and Improvements; (v) screening of mechanical and other installations; (vi) functional appropriateness with respect to vehicle handling, sitting of buildings (both in relationship to one another and in relationship to buildings, existing or proposed, located on other Lots), drainage, utility service systems and lighting; (vii) extent and quality of landscaped areas; or (viii) compliance with the Community-Wide Standard.

(b) Prior to the commencement of construction of Improvements on any Lot, the Owner of such Lot shall submit detailed information in writing regarding the proposed Improvements including site plans and two (2) full sets of final construction drawings and specifications (which shall be sealed and certified by duly licensed architect or engineer if so required by the DRB) (hereinafter the "Plans"), showing or stating all aspects of the proposed Improvements including but not limited the following: (i) location of all structures, street rights-of-way and setback lines; (ii) location of all walks, driveways and curve lines; (iii) all landscaping, including location, height, spread, type and number trees and shrubs and location and type of all ground cover and material, and existing trees and limits of clearing and grading; (iv) location, height, intensity and fixture type of all exterior lighting; (v) location, size and type of all fencing; (vi) architectural floor plans, elevation, wall sections and details of the Residential Unit; (vii) building material and color information, including samples if requested; and (viii) size and square footage and height of the Residential Units and all other Improvements.

Section 4(c) is deleted and replaced and Section 4(d) is revised in 5th amendment

(c) Should the DRB fail either to approve or disapprove the Plans within thirty (30) days after submission in accordance with the terms of this Declaration, it shall be conclusively presumed that the DRB has approved the Plans. Approval of any Plans with regard to a Lot shall not be deemed to be a waiver of the DRB's right, in its discretion, to disapprove similar plans and specifications, or any features or elements included therein, for any other Lot.

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(d) If construction has not commenced within one (1) year from the date the Plans are approved, then the approval given pursuant to this Article shall be deemed to be automatically revoked by the DRB, unless the DRB extends the time for commencing construction. In any event, all work covered by such approval shall be completed within nine (9) months of the commencement thereof, except for such period of time as completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies,

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critical material shortages or other intervening forces beyond the control of the Owner, unless the DRB extends the time for completion.

Section 5. **Release of Liability**. Each Owner hereby releases the Declarant, the Association, the Board of Directors, and the DRB and the Modifications Committee, if and when formed, from any and all liability for (i) any defects in any plans and specifications submitted, revised or approved pursuant to the terms of this Declaration, (ii) any loss or damage to any Person arising out of the approval or disapproval of any such plans and specifications, (iii) any loss or damage arising from the noncompliance with such plans and specifications or any governmental ordinance or regulation, or (iv) any defects in construction undertaken pursuant to such plans and specifications, regardless of whether such claim arises by reason of mistake in judgment, negligence or nonfeasance by the DRB.

Section 6. **Compliance with Law**. All Improvements, including Residential Units, constructed, erected, placed, altered, remodeled, maintained or permitted on any Lot shall comply with any and all applicable federal, state, county and municipal zoning and building restrictions, including, but not limited to, grading, clearing, construction of impervious surfaces, building and other construction rules and regulations.

Sections 7 and 8 are revised per 5th amendment

Section 7. **Inspection**. The DRB, or its designee, shall have the right during reasonable business hours to enter upon and inspect any Lot or Improvement under construction to determine whether the approved Plans are being followed or adhered to. If the DRB shall determine that such Plans have not been approved or that the Plans are not being followed or adhered to, the DRB may in its discretion give the Owner of such Lot written notice of such violation. If such violation is not corrected, the Board of Directors shall have the right to enjoin further construction and/or require the removal or correction of any work in place that does not comply with the approved Plans or this Declaration and to take such other action as may be allowed under this Declaration, the By-Laws or under applicable law.

Section 8. **Interior Alterations**. No Owner shall make any alterations or improvements to the interior of a Residential Unit on his Lot, remove any portion thereof, make any additions thereto, or do any thing that would change the exterior appearance of such Improvements without first submitting plans and specifications therefore and obtaining the written consent of the DRB pursuant to this Article. Any other interior alteration of any Improvement may be made by the Owner without first obtaining the approval of the DRB.

Section 9 is added per 5th amendment

ARTICLE X

MORTGAGEE PROVISIONS

The following provisions are for the benefit of the holders of First Mortgages on Lots in the Community. To the extent applicable, necessary or proper, the provisions of this Article shall apply to both this Declaration and to the By-Laws.

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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 identify specifically the Lot encumbered by the

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First Mortgage, thereby becoming an "eligible holder") will be entitled to timely written notice of: (a) any condemnation loss or casualty loss which affects a material portion of the Community or which affects a portion of the Lot on which there is a First Mortgage held, insured or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the First Mortgage of the eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, the Association may, without request from such eligible holder, provide notice of such delinquency to such First Mortgage; (c) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or (d) any proposed action which would require the consent of a specified percentage of eligible holders.

Section 2. **No Priority**. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or any other Person a priority over any rights of the First Mortgagee on a Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

Section 3. **Notices to Association**. Upon request, each Owner shall obligated to furnish to the Association with the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. **Failure of Mortgagee to Respond**. Any Mortgagee who receives a written request from the Board to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days after the date of the Association's request.

ARTICLE XI

USE RESTRICTIONS

Section 1. **General**. This Article sets out certain use restrictions which must be complied with by all Owners and their respective families, tenants, guests, licensees and invitees. In addition, the Board may from time to time, without the consent of the Owners, adopt, modify or delete Rules and Regulations applicable to the Community as permitted under this Declaration.

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Section 2. **Residential Use**. Except for development, sale and marketing activities carried on by the Declarant, affiliates of Declarant and Builders in connection with the Lots and Residential Units, each Lot shall be used for residential purposes only. No trade or business of any kind may be conducted in or from a Lot, except for business use ancillary to a primary residential use so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the Residential Unit; (b) the business activity does not involve Persons coming onto the Lots who do not reside in the Community or door-to-door solicitation of Owners of Lots; (c) the business activity conforms to all zoning requirements for the Lot; and (d) the business activities are consistent with the resident character of the Community and does not constitute a nuisance, a hazardous or offensive use, or threaten the security or safety of other Owners of Lots, as may be determined in the sole discretion of the Board of Directors.

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Section 3. Gardens. No gardens of any type may be planted or maintained in the front or side yard of any Lot.

Section 4. Play Equipment. Playhouses, treehouses, basketball goals, trampolines, hammocks, play structures and other recreational equipment constitute Improvements and are therefore subject to review and approval by the DRB in accordance with Article IX of this Declaration.

Section 5. Temporary Structures. Other than temporary facilities as might be installed by Declarant or a Builder, with the Declarant's consent, no structure of a temporary character, whether a trailer, tent, shack, garage, barn or other out building, shall be permitted, maintained or used on any Lot at any time as a residence or for any other purpose, either temporarily or permanently.

Section 6. Signs. Except for signs placed in the Community by Declarant or affiliates of Declarant, no signs, including "For Sale" signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot or on the Common Area without the express written consent of the Board of Directors. Notwithstanding the foregoing, the Owner of each Lot may place one "For Sale" or "For Rent" sign on his Lot; provided, however, the Board of Directors has the right to regulate the size and design of the sign to ensure consistency with the Community-Wide Standard. Declarant hereby reserves the right to construct and maintain such signs, billboards and advertising devices as is determined by Declarant to be necessary in connection with the development, marketing and sale of Lots in the Community.

Section 7. Nuisance. It shall be the responsibility of each Owner and occupant of a Lot to prevent the development of any unclean, unhealthy, unsightly or unkept condition on his Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing which will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the Owners and occupants of surrounding Lots. No obnoxious or offensive activity shall be carried on within the Community, nor shall any thing be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person on any Lot or the Common Area. Without limiting the generality of the foregoing, no horn, speaker, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes and stereo speakers, shall be located, installed or maintained upon the exterior of any Residential Unit. Any siren or device for security purposes shall contain a device which causes it to automatically shut-off within a reasonable time after sounding.

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Section 8. Animals and Pets. No animals, pets, livestock, birds or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other usual household pets may be kept by an Owner on his respective Lot and within their respective Residential Unit provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health of or unreasonably disturb Owners of Lots within the Community. The Board of Directors shall have the right to adopt reasonable Rules and Regulations governing animals and pets kept by Owners of Lots in the Community, including the right to prohibit animals of a

certain size, weight or type. No structure for the care, housing or confinement of any pet or animal shall be constructed or maintained on any part of the Common Area, and any such structures maintained on a Lot must be approved by the DRB pursuant to Article IX of this Declaration. Pets and animals shall be on a leash at all times when walked or exercised in any portion of the Community, except on the Owner's Lot. No pet or animal shall be permitted to leave its excrement on any portion of the Common Area or on any Lot not owned by the Owner of the animal or pet and the Owner of such animal or pet shall immediately remove such excrement. In the event an animal or pet is deemed by the Board of Directors to be a nuisance or to be kept in violation of this Declaration, the Board of Directors shall have the right to require the Owner of such animal or pet to remove such animal or pet from the Community. The animal control authority shall be permitted to enter the Community to patrol and remove all pets and animals which are in violation of such animal control regulations or this Declaration. All animals and pets shall be registered, licensed and inoculated as required by law.

Section 9. **Garbage Cans, Wood Piles, etc.** All garbage cans, wood piles, and related equipment and other similar items shall be located or screened so as to be concealed from view from the streets in front each Lot and shall be located in the rear of each Residential Unit. All rubbish, trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Trash, garbage or other rubbish shall be kept in sanitary containers with covers or lids, which sanitary containers shall be removed from the front of each Lot promptly after pickup by the local garbage service. Exterior clotheslines are expressly prohibited on any Lot. The Declarant expressly reserves the right to allow Builders to dump, bury and/or burn construction debris and trees on any Lot as needed for efficient construction; otherwise, no dumping or burning of debris or trees is permitted on any Lot.

Section 10. **Lighting**. Except for decorative lights during the holiday season, all exterior lighting on each Lot must be submitted and approved by the DRB in accordance with Article IX, above. The Board of Directors shall have the right to adopt reasonable Rules and Regulations concerning seasonal decorative lights.

Section 11. **Sight Distance at Intersections**. All Lots located at any street intersection shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or landscape planting shall be place or permitted to remain at any corner of a Lot located at any street intersection where, in the opinion of the Board of Directors, the condition would create a traffic or sight problem for vehicles or persons entering or traveling upon these streets.

Section 12. **Energy Conservation Equipment**. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed, installed or maintained upon any Lot unless approved by the DRB in accordance with Article IX, above.

Section 13. **Above-Ground Pools**. Above-ground swimming pools are strictly prohibited and may not be erected, placed or maintained upon any Lot within the Community.

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Section 14. **Parking**. All boats, buses, recreational vehicles, motorcycles, mopeds, all terrain vehicles, scooters, mini bikes, go carts, motor homes, mobile homes, trailers and campers kept or maintained in the Community for periods longer than twenty-four (24) hours must be kept in an enclosed garage. All automobiles, vans and trucks, shall be parked within enclosed garages

to the extent that garage space is available and, if not, such automobiles, vans and trucks shall be parked on the driveways of Lots, and not in the Common Area. Garages shall not be used for storage or in any manner so that they become unavailable for parking automobiles and other transportation vehicles and devices therein. No automobile, van or truck may be parked along any street for a period longer than twenty-four (24) hours. After such twenty-four (24) hour period, such automobile, van or truck shall be considered a nuisance and may be removed from the Community by the Board of Directors at the expense of the Owner. Any boat, bus, recreational vehicle, motorcycle, moped, all terrain vehicle, scooter, mini bike, go cart, motor home, mobile home, trailer or camper parked on any Lot in violation of this Declaration for periods longer than twenty-four (24) hours shall be considered a nuisance and may be removed from the Community by the Board of Directors at such Owners' expense.

Section 14 is amended in the 5th amendment

Automobiles and other transportation vehicles or devices which are either dismantled, partially dismantled, inoperative, discarded or which do not have a valid license plates attached thereto must be stored within an enclosed garage. No Owner or occupant of any Lot shall repair or restore any automobile or other transportation vehicle or device of any kind upon a Lot, except within an enclosed garage or only to the extent necessary to enable its movement in the event of an emergency repair.

Section 15. **Antennas or Similar Equipment**. No antenna, receiver, satellite dish, equipment serving as an antenna or satellite dish, or other similar device or equipment shall be attached, placed upon or installed on any Lot, Resident Unit, or any other portion of the Property, unless installed by the Association, the Declarant, or in accordance with this Declaration. Direct Broadcast Satellite ("DBS") dishes measuring one meter or greater in diameter are strictly prohibited as are any antennas which extend more than twelve (12) feet above any roof line. DBS dishes measuring less than one meter in diameter and antennas extending less than twelve (12) feet above roof lines are permitted, subject to the Rules and Regulations and provided the plans and specifications therefore are submitted to and approved by the DRB. No radio or television signals nor any other form of electromagnetic radiation or other signal shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Community.

Section 16. **Firearms**. The use of firearms within the Community is strictly prohibited. The term "firearms" includes B.B. guns, pellet guns and other firearms of all types, regardless of size, power or gauge.

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Section 17. **Traffic Regulations**. All vehicular traffic on all streets and paved areas within the Community shall be subject to the laws of the State of Georgia and Fulton County, Georgia concerning operation of motor vehicles in public streets and paved areas. The Association is hereby authorized to promulgate, administer and enforce Rules and Regulations governing vehicular and pedestrian traffic, including reasonable safety measures and speed limits, within the Community. The Association shall be entitled to enforce such Rules and Regulations by establishing such enforcement procedures as it deems appropriate, including levying of fines for any violations thereof. All vehicles of any kind and nature which are operated on the streets or paved area within the Community shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all Owners and occupants of Lots.

BOOK 22922PG049

Section 18 is amended in the 5th amendement

Section 18. **Leasing**. Residential Units may be leased for residential purposes only. All leases shall have a minimum term of one (1) year, unless the prior written approval is given by the Board of Directors. All leases shall require that the tenant acknowledge receipt of a copy of the Declaration, the By-Laws and Rules and Regulations of the Association and shall also obligate such tenant to comply with those documents. Owners are responsible for the actions and conduct of their tenants and the tenants' family, guests, licensees and invitees.

Section 19. **Drainage**. Natural drainage of streets, Residential Units, Lots or driveways of Lots shall not be impaired by any Owner. No Owner shall obstruct or rechannel the drainage flow of water after location and installation of catch basins, berms, drainage areas, drainage swales, storm sewer or storm drain systems.

Section 20. **Unsightly or Unkept Conditions**. It shall be the responsibility of each Owner to prevent any unclean, unhealthy, unsightly or unkept condition from existing on or within his Lot and Residential Unit. Any item such as outside patio furniture or other articles that can be viewed from the streets within the Community, Common Area, or other Lots shall be maintained in a neat and attractive condition as determined by the Board. The pursuit of hobbies or other activities, including, but not limited, assembly, disassembly and repair of motor vehicles or other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions shall not be pursued or undertaken on any part of the Community other than in an enclosed garage.

Section 21. **Fences**. No fence may be installed or constructed on any Lot without the prior written approval of the DRB in accordance with Article IX, above.

Section 22. **Artificial Vegetation, Exterior Sculpture and Similar Items**. No artificial vegetation shall be permitted in the Community except within a Residential Unit. Exterior sculptures, fountains, flags and similar items must be approved by the DRB in accordance with Article IX, above.

Section 23. **Tree Removal**. No trees shall be removed within ten (10) feet of the rights-of-way of any street within the Community without the prior written consent of the DRB, except for diseased or dead trees, trees requiring removal to promote the growth of other trees or for safety reasons.

Section 24 and Section 25 is added in the 5th amendment

ARTICLE XII

GENERAL PROVISIONS

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Section 1 is revised in the 5th amendment

Section 1. **Enforcement**. Every Owner and every occupant of any Lot, and their respective families, guests, invitees, licensees, successors and assigns, shall comply with this Declaration, the By-Laws and the Rules and Regulations of the Association, as they now exist and may be amended from time to time. Except as otherwise provided herein, the Association shall send written notice of any violation to the violating Owner, who shall have ten (10) days from the date of the notice (in the event of an emergency, as determined by the Board of Directors, only reasonable notice is required) to correct and cure the violation and comply with this Declaration, the By-Laws or the Rules and Regulations. Any lack of such compliance shall entitle the Board of Directors to impose and assess fines and other sanctions against the Owner of the Lot, which

shall be collected as provided herein for the collection of assessments. Furthermore, any lack of such compliance shall authorize the Board of Directors to temporarily suspend voting rights and the rights of use of the Common Areas; provided, however, no such suspension shall deny an Owner or any occupant of a Lot access to the Lot owned or occupied. Additionally, any lack of such compliance shall authorize the Board of Directors to institute legal action against the Owner and occupant of a Lot to recover damages as a result of such party's action or for injunctive relief, or both, which action shall be maintainable by the Board of Directors on behalf of the Association or, in a proper case, by any aggrieved Owner. Failure by the Board of Directors or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board of Directors shall have the right to record in the appropriate land records a notice of violation of the Declaration, the By-Laws, or the Rules and Regulations, and assess the cost of the recording and removing of such notice against the Owner responsible for the violation of such documents.

Section 2. **Self-Help**. In addition to any other remedies provided for herein, the Board or its duly authorized agent shall have the power to enter upon any portion of the Property, including Lots and Residential Units, to abate or remove, using such force as may be reasonably necessary, any Improvement, Residential Unit, thing or condition which violates this Declaration, the By-Laws, or the Rules and Regulations. The Board shall give the violating Owner ten (10) days written notice of its intent to exercise self-help (except in the event of an emergency, as determined by the Board of Directors in which event only reasonable notice is required). All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as proved for herein for the collection of assessments.

Section 3. **Duration**. The provisions of this Declaration shall run with and bind the Property and shall be and remain in effect for a period of twenty (20) years after the date that the Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of twenty (20) years, unless such extension is disapproved in writing by Members representing greater than a Majority of the total Association vote. A written instrument reflecting such disapproval, if disapproved, must be recorded within the year immediately preceding the beginning of each twenty (20) year renewal period. Every purchaser or grantee of any interest in the Property subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 3 and 4 are removed and replaced per 4th amendment

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Section 4. **Amendment**. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) 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; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any portion of the Property subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on any portion of the

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Property subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Owner shall consent thereto in writing. Further, until Buildout, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially and adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to the Lot of any Owner without the consent of the affected Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Members representing a Majority of the total Association vote and, until Buildout, with the consent of the Declarant. A meeting may be called (but shall not require to be called) to consider and vote upon any amendment.

Amendments to the Declaration shall become effective upon recordation, unless a later effective date is specified therein. Until Buildout, no provision of this Declaration which reserves or grants rights, privileges, easements, or any authority to the Declarant shall be amended without the prior written consent of the Declarant. Any procedural challenge to an amendment must be made within two (2) months of its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of the Declaration or By-Laws.

Section 5. **Partition**. The Common Area shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of every Owner, the written consent of all holders of Mortgages encumbering the Property, and, until Buildout, the consent of the Declarant. No Lot may be subdivided or partitioned.

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Section 6. **Severability**. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid. If the application of any provision of this Declaration shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Declaration are declared to be severable.

Section 7. **Captions**. The captions of each Article and Section hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 8. **Perpetuities**. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 9. **Indemnification**. In accordance with Section 14-3-850, et seq., of the Georgia Nonprofit Corporation Code, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the name of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association, against any and all expenses, including attorney's fees,

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imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be liable as Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right of indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is available at reasonable cost, as determined in the sole discretion of the Board.

Section 10. **Contracts Executed During Declarant Control**. All contracts or leases executed by or on behalf of the Association prior to the Conversion Date shall contain, or shall be deemed to contain, a termination clause permitting the Association to terminate the contract or lease at any time, without cause and without penalty, upon not more than ninety (90) days written notice.

Section 11. **Books and Records**. This Declaration, the By-Laws, the Articles of Incorporation, the Rules and Regulations, design guidelines, membership register, books of account, and minutes of meetings of the Members, of the Board and of committees shall be made available for inspection and copying by any Member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any First Mortgage, at their expense, at any reasonable time and for a purpose reasonably related to his or her interest as a Member or holder, insurer, or guarantor of a First Mortgage at the office of the Association or at such other reasonably place as the Board shall prescribe.

The Board shall establish reasonable rules with respect to:

(a) notice to be given to the custodian of the records;

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(b) hours and days of the week when such an inspection may be made; and

(c) payment of the cost of reproducing copies of documents.

Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a reasonable number of extra copies of documents at the expense of the Association.

Section 12. **Financial Statements**. Financial statements reflecting the accounts of the Association shall be compiled annually in such a manner as the Board may decide; provided,

however, after having received the Board's financial statements at the annual meeting, the Members representing a Majority of the total Association vote, and until Buildout, with the consent of the Declarant, may require that financial statements of the Association be audited as an Association expense by a certified public accountant. Upon written request of an institutional holder of a First Mortgage, such holder, upon payment of the costs associated therewith, shall be entitled to receive financial statements within ninety (90) days of the date of the request.

Section 13. **Notice of Purchase**. Upon acquisition of an interest in the Property, the acquiring Owner shall notify the Board in writing of the name of the acquiring Owner and such other information as the Board may reasonably require.

Section 14. **Estoppel Certificates**. Upon the request of any Member, the Board or its designee shall furnish a written certificate signed by an officer or agent of the Association regarding unpaid assessments levied against that Member's Lot and any violations of the Declaration, By-Laws, or Rules and Regulations, by an Owner or occupant of such Owner's Lot. Such certificate shall bind the Association with respect to the foregoing matters. The Association may require the advance payment of a processing fee not to exceed Twenty Five Dollars ($25.00) for the issuance of each such certificate.

Section 15. **Agreements**. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community, except that no such agreements shall be binding as to the Declarant until Buildout without the written consent of the Declarant.

Section 16. **Implied Rights**. The Association may exercise any right or privilege given to it expressly by the Declaration, the By-Laws, the Articles of Incorporation, or the Rules and Regulations and every other right or privilege reasonably to be implied from the existence of any such right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 17. **Use of Word "Glen Abbey"**. No Person shall use the word "Glen Abbey" in the name of any commercial or residential building or any commercial or residential business or enterprise or in any printed or promotional material without the prior written consent of the Declarant. However, Owners or occupants of Lots may use the word "Glen Abbey" in printed or promotional matter where such phrase is used solely to specify that particular property is located within the Glen Abbey Community.

Section 18. **Variances**. Notwithstanding anything to the contrary contained herein, until Buildout, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration or the By-Laws, except the provisions of Article VIII of this Declaration regarding assessments, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 19. Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control.

Section 20. Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANT, THE ASSOCIATION AND ITS BOARD OF DIRECTORS, AND THE DRB DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND DRB ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, AND DRB HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

Section 21. Gender and Grammar. The singular whenever used herein shall be construed to mean and include the plural, when applicable, and vise versa, and the use of the masculine or neuter pronoun shall include the feminine, when applicable, and vise versa.

Section 22. Interpretation. In all cases, the provisions set forth in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant, or the Board after the Conversion Date, will best evidence the intent of the general plan of the Community. The provisions hereof are to be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

IN WITNESS WHEREOF, the undersigned has executed this instrument under seal this 4th day of August, 1997.

BOOK 22924 PG 170

Signed, seal and delivered in the presence of:

JIM COWART, INC.

CORP. SEAL

By: _____
Jim Cowart, President

Witness

Notary Public
My Commission Expires: 10/24/98

CAROL S. McCLOUD NOTARY PUBLIC FULTON COUNTY, GEORGIA My Comm. Expires Oct. 24, 1998

[SEAL]

[SIGNATURES CONTINUE ON NEXT PAGE]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

RAY VICK HOMES, INC.

By: _____
Ray Vick, an authorized officer
Record Owner of Lot Nos. 101, 102, 103, 104, 116, 117, 121, 122, 131, 132, 133, 137

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

BROWN & WEBB BUILDERS, INC.

By: _____
Joe Brown, an authorized officer
Record Owner of Lot Nos. 106, 124, 147

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

KRS BUILDERS, INC.

By: _____
Kendall Sanborn, an authorized officer
Record Owner of Lot Nos. 107, 113, 129, 134

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

GCS PROPERTIES, INC.

By: _____
Glenn Sanborn, an authorized officer
Record Owner of Lot Nos. 108, 136

[SEAL]

[SIGNATURES CONTINUED ON NEXT PAGE]

BOOK 22924PG171

BOOK 22922PG056

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

JOHN WILLIS HOMES, INC.

By: _____
John Willis, an authorized officer
Record Owner of Lot Nos. 109, 135, 140, 146 , 115

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

By: _____
Fred Robinson
Record Owner of Lot No. 118

CORP. SEAL

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

VINTAGE HOMES, INC.

By: _____
Ron Morgan, an authorized officer
Record Owner of Lot Nos. 110, 120

[SEAL]

COR SEA

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

MARS SERVICE CORP.

By: _____
Harry Dukes, an authorized officer
Record Owner of Lot Nos. 111, 123

[SEAL]

CORP. SEAL

[SIGNATURES CONTINUE ON NEXT PAGE]

BOOK 22924PG172

BOOK 22922PG057

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

CoSTAR PROPERTIES, LLC

By: _____
Bill Stark, an authorized officer
Record Owner of Lot Nos. 112, ~~148~~

CORP. SEAL

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

JOSH STEED HOMES, LLC

By: _____
Josh Steed, an authorized officer
Record Owner of Lot Nos. 119, 145

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

JIM HOGAN HOMES, INC.

By: _____
Jim Hogan, an authorized officer
Record Owner of Lot Nos. 125, 128, 139, 150

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

CONSTRUCTION BY SANBORN, INC.

By: _____
Ken Sanborn, an authorized officer
Record Owner of Lot Nos. 126, 130, 141

CORP. SEAL

[SEAL]

Signed, sealed and delivered in the presence of:

Witness

Notary Public
My Commission Expires: 10/24/99

JENNINGS CONSTRUCTION, INC.

By: _____
Vernon Jennings, an authorized officer
Record Owner of Lot Nos. 127, 142

[SEAL]

BOOK 22924PG173

[SIGNATURES CONTINUED ON NEXT PAGE]

BOOK 22922PG058

CORP. SEAL

Signed, sealed and delivered in
the presence of:

Witness

Carol S. McCloud

Notary Public
My Commission Expires: 10/24/

CAROL S. McCLOUD NOTARY PUBLIC FULTON COUNTY, GEORGIA EXP. OCT. 24, 1998

PITTARD CONSTRUCTION CO.

By: _____
Rob Pittard, an authorized officer
Record Owner of Lot Nos. 144, 148

[SEAL]

COWART.JIM\DOCUMENT\GLENABBE\DECLARAT

Signed, sealed and delivered in
the presence of:

Witness

Carol S. McCloud

Notary Public
My Commission Expires: 10/24/

CAROL S. McCLOUD NOTARY PUBLIC FULTON COUNTY, GEORGIA EXP. OCT. 24, 1998

By: _____
Udo Topp
Record Owner of Lot No. 149

CORP. SEAL

BOOK 22924PG174

BOOK 22922PG059

EXHIBIT A

TRACT I

All that tract or parcel of land lying and being in Land Lots 4, 5, 6, 39, 40, 41, 42, 43, 50, 51, 52, 53 and 54 of the 1st District, 1st Section of Fulton County, Georgia, being more particularly described as follows:

Beginning at the corner common to Land Lots 6, 7, 40 and 41, said District, Section and County; run thence south 89 degrees 11 minutes 42 seconds west along the line dividing said Land Lots 6 and 7, 1307.59 feet to a one-half inch rebar found on the line dividing said Land Lot 6 and Land Lot 915 of the 1st District, 2nd Section of Fulton County; run thence north 01 degree 28 minutes 48 seconds west along said Land Lot line 323.60 feet to a one-half inch rebar found; continue thence north 01 degree 28 minutes 48 seconds west along said Land Lot line 71.56 feet to a point; continue thence north 01 degree 28 minutes 48 seconds west along said Land Lot line and the line dividing Land Lots 6 and 5 of the 1st District, 1st Section and Land Lot 914 of the 1st District, 2nd Section of Fulton County, 990.58 feet to a point; continue thence north 01 degree 28 minutes 48 seconds west along said Land Lot line 26.26 feet to a point on the centerline of Big Creek; run thence in a generally northeasterly direction along said centerline the following courses and distances: south 89 degrees 53 minutes 49 seconds east 39.12 feet to a point; north 86 degrees 01 minutes 36 seconds east 97.63 feet to a point; north 86 degrees 50 minutes 51 seconds east 88.24 feet to a point; north 89 degrees 15 minutes 46 seconds east 82.93 feet to a point; north 84 degrees 54 minutes 23 seconds east 53.30 feet to a point; north 89 degrees 48 minutes 04 seconds east 19.84 feet to a point; north 74 degrees 04 minutes 03 seconds east 44.35 feet to a point; north 47 degrees 51 minutes 21 seconds east 35.31 feet to a point; north 35 degrees 33 minutes 13 seconds east 48.43 feet to a point; north 26 degrees 18 minutes 22 seconds east 80.28 feet to a point; north 14 degrees 14 minutes 53 seconds east 78.85 feet to a point; north 05 degrees 04 minutes 10 seconds east 50.36 feet to a point; north 16 degrees 20 minutes 04 seconds east 31.87 feet to a point; north 22 degrees 32 minutes 32 seconds east 85.80 feet to a point; north 07 degrees 51 minutes 26 seconds east 30.98 feet to a point; north 01 degree 27 minutes 40 seconds west 59.31 feet to a point; north 11 degrees 59 minutes 23 seconds west 90.79 feet to a point; north 27 degrees 17 minutes 42 seconds west 41.64 feet to a point; north 29 degrees 09 minutes 14 seconds west 77.99 feet to a point; north 36 degrees 45 minutes 37 seconds west 96.34 feet to a point; north 28 degrees 27 minutes 36 seconds west 33.18 feet to a point; north 27 degrees 19 minutes 44 seconds west 75.63 feet to a point; north 19 degrees 25 minutes 00 seconds west 70.57 feet to a point; north 16 degrees 21 minutes 10 seconds west 64.68 feet to a point; north 07 degrees 25 minutes 40 seconds west 36.36 feet to a point; north 03 degrees 26 minutes 32 seconds west 57.05 feet to a point; north 01 degree 10 minutes 15 seconds west 34.97 feet to a point; north 06 degrees 30 minutes 38 seconds east 73.49 feet to a point; north 10 degrees 23 minutes 51 seconds east 66.25 feet to a point; north 16 degrees 52 minutes 25 seconds east 76.09 feet to a point; north 53 degrees 33 minutes 15 seconds east 75.11 feet to a point; north 72 degrees 34 minutes 25 seconds east 58.20 feet to a point; north 81 degrees 43 minutes 23 seconds east 90.47 feet to a point; south

81 degrees 10 minutes 26 seconds east 107.95 feet to a point; south 84 degrees 09 minutes 09 seconds east 71.91 feet to a point; south 81 degrees 45 minutes 20 seconds east 71.13 feet to a point; south 79 degrees 37 minutes 47 seconds east 54.14 feet to a point; south 89 degrees 06 minutes 03 seconds east 59.80 feet to a point; south 79 degrees 50 minutes 11 seconds east 85.84 feet to a point; south 81 degrees 04 minutes 36 seconds east 86.95 feet to a point; south 78 degrees 54 minutes 11 seconds east 52.07 feet to a point; south 77 degrees 59 minutes 27 seconds east 85.20 feet to a point; south 80 degrees 02 minutes 50 seconds east 89.95 feet to a point; south 78 degrees 32 minutes 41 seconds east 79.20 feet to a point; south 48 degrees 33 minutes 13 seconds east 42.17 feet to a point; south 86 degrees 12 minutes 32 seconds east 111.40 feet to a point; north 68 degrees 06 minutes 16 seconds east 48.35 feet to a point; south 70 degrees 07 minutes 27 seconds east 65.38 feet to a point; north 81 degrees 28 minutes 05 seconds east 44.56 feet to a point; north 46 degrees 07 minutes 26 seconds east 72.00 feet to a point; north 59 degrees 41 minutes 41 seconds east 51.76 feet to a point; north 59 degrees 40 minutes 33 seconds east 54.35 feet to a point; north 56 degrees 19 minutes 08 seconds east 45.91 feet to a point; north 57 degrees 47 minutes 48 seconds east 90.55 feet to a point; north 55 degrees 57 minutes 19 seconds east 50.09 feet to a point; north 24 degrees 32 minutes 19 seconds east 59.86 feet to a point; south 56 degrees 52 minutes 50 seconds east 54.59 feet to a point; north 44 degrees 14 minutes 09 seconds east 49.69 feet to a point; north 36 degrees 26 minutes 56 seconds east 127.25 feet to a point; north 42 degrees 01 minutes 02 seconds east 54.99 feet to a point; north 37 degrees 11 minutes 21 seconds east 82.73 feet to a point; north 59 degrees 49 minutes 08 seconds east 75.78 feet to a point; south 83 degrees 19 minutes 31 seconds east 108.20 feet to a point; south 02 degrees 22 minutes 55 seconds west 20.34 feet to a point; south 72 degrees 22 minutes 05 seconds east 80.25 feet to a point; south 79 degrees 56 minutes 47 seconds east 52.78 feet to a point; south 82 degrees 10 minutes 14 seconds east 104.97 feet to a point; south 51 degrees 31 minutes 58 seconds east 69.70 feet to a point; south 43 degrees 18 minutes 41 seconds east 51.00 feet to a point; south 85 degrees 49 minutes 19 seconds east 85.33 feet to a point; south 53 degrees 03 minutes 45 seconds east 68.74 feet to a point; south 34 degrees 36 minutes 03 seconds east 73.21 feet to a point; south 28 degrees 41 minutes 12 seconds east 24.41 feet to a point; north 83 degrees 02 minutes 01 seconds east 85.33 feet to a point; south 02 degrees 07 minutes 13 seconds east 28.73 feet to a point; south 13 degrees 24 minutes 37 seconds east 104.07 feet to a point; south 50 degrees 13 minutes 30 seconds west 12.73 feet to a point; south 36 degrees 29 minutes 58 seconds west 43.52 feet to a point; south 27 degrees 53 minutes 00 seconds east 129.31 feet to a point; south 74 degrees 48 minutes 33 seconds east 59.47 feet to a point; south 48 degrees 36 minutes 40 seconds east 21.20 feet to a point; south 58 degrees 00 minutes 09 seconds east 16.44 feet to a point; thence leave said centerline and run south 14 degrees 31 minutes 53 seconds east 213.00 feet to a point on the northwestern right of way line of Buice Road (30 foot right of way); thence southerly along said right of way line the following courses and distances: south 54 degrees 01 minute 39 seconds west 128.42 feet to a point; south 50 degrees 26 minutes 15 seconds west 46.82 feet to a point; south 27 degrees 03 minutes 54 seconds west 37.90 feet to a point; south 02 degrees 22 minutes 31 seconds west 45.41 feet to a point; south 13 degrees 53 minutes 16 seconds east 40.92 feet to a point; south 23 degrees 13 minutes 59 seconds east 75.36 feet to a point; south 35 degrees 22 minutes

01 second east 65.10 feet to a point; south 35 degrees 50 minutes 18 seconds east 34.91 feet to a point; south 35 degrees 46 minutes 11 seconds east 69.05 feet to a point; south 35 degrees 46 minutes 11 seconds east 40.26 feet to a point; south 25 degrees 30 minutes 34 seconds east 51.95 feet to a point; south 15 degrees 44 minutes 49 seconds east 63.18 feet to a point; south 17 degrees 08 minutes 26 seconds east 66.29 feet to a point; south 27 degrees 23 minutes 36 seconds east 68.90 feet to a point; south 35 degrees 09 minutes 10 seconds east 67.97 feet to a point; south 38 degrees 44 minutes 06 seconds east 67.31 feet to a point; south 36 degrees 38 minutes 15 seconds east 67.40 feet to a point; south 30 degrees 28 minutes 11 seconds east 66.60 feet to a point; south 26 degrees 36 minutes 56 seconds east 61.58 feet to a point; south 25 degrees 05 minutes 27 seconds east 59.35 feet to a point; south 25 degrees 30 minutes 16 seconds east 55.97 feet to a point; south 26 degrees 00 minutes 06 seconds east 61.59 feet to a point; south 22 degrees 10 minutes 21 seconds east 59.16 feet to a point; south 14 degrees 30 minutes 00 seconds east 80.32 feet to a point; south 19 degrees 08 minutes 51 seconds east 45.28 feet to a point; south 27 degrees 07 minutes 20 seconds east 62.30 feet to a point; south 32 degrees 09 minutes 07 seconds east 65.34 feet to a point; south 30 degrees 00 minutes 52 seconds east 57.03 feet to a point; south 32 degrees 50 minutes 51 seconds east 63.71 feet to a point; south 41 degrees 31 minutes 15 seconds east 51.77 feet to a point; south 48 degrees 40 minutes 35 seconds east 73.22 feet to a point; south 55 degrees 08 minutes 30 seconds east 177.63 feet to a point; thence leave said right of way line and run south 01 degree 14 minutes 26 seconds east 987.07 feet to a point on the line dividing Land Lots 53 and 80, said District, Section and County; run thence along said Land Lot line south 01 degree 14 minutes 51 seconds east 249.76 feet to a point; continue thence along said land lot line south 01 degree 11 minutes 57 seconds east 616.94 feet to a point on the northern right of way line of Kimball Bridge Road (60 foot right of way); run thence southwesterly along said right of way line the following courses and distances: south 76 degrees 36 minutes 51 seconds west 76.26 feet to a point; south 75 degrees 55 minutes 21 seconds west 100.00 feet to a point; south 75 degrees 38 degrees 39 seconds west 124.94 feet to a point; south 75 degrees 15 minutes 09 seconds west 62.72 feet to a point; south 75 degrees 00 minutes 10 seconds west 69.42 feet to a point; south 74 degrees 22 minutes 01 seconds west 67.60 feet to a point; south 73 degrees 51 minutes 50 seconds west 69.42 feet to a point; south 72 degrees 53 minutes 25 seconds west 71.61 feet to a point; south 71 degrees 55 minutes 40 seconds west 50.40 feet to a point; south 72 degrees 13 minutes 51 seconds west 50.01 feet to a point; south 71 degrees 11 minutes 32 seconds west 102.51 feet to a point; south 69 degrees 55 minutes 41 seconds west 101.31 feet to a point; south 69 degrees 00 minutes 53 seconds west 99.46 feet to a point; south 67 degrees 43 minutes 13 seconds west 90.51 feet to a point; south 66 degrees 34 minutes 22 seconds west 98.04 feet to a point; south 65 degrees 30 minutes 16 seconds west 50.03 feet to the point of intersection of said right of way line with the mitered right of way of the northeast line of Spruell Circle (60 foot right of way); run thence northwesterly along said right of way line of Spruell Circle the following courses and distances: north 72 degrees 20 minutes 45 seconds west 44.47 feet to a point; 259.59 feet along the arc of a 331.50 foot radius curve to the left (said arc being subtended by a chord lying to the southwest having a bearing and distance of north 55 degrees 12 minutes 12 seconds west 253.01 feet) to a point; north 77 degrees 38 minutes 08 seconds west 391.40 feet to a point; 175.34 feet along the

arc of a 686.53 foot radius curve to the right (said arc being subtended by a chord lying to the northeast having a bearing and distance of north 70 degrees 19 minutes 08 seconds west 174.86 feet) to a point; north 63 degrees 00 minutes 08 seconds west 239.30 feet to a point; 161.20 feet along the arc of a 1116.10 foot radius curve to the right (said arc being subtended by a chord lying to the northeast having a bearing and distance of north 58 degrees 51 minutes 53 seconds west 161.06 feet) to a one-half inch rebar found; north 58 degrees 51 minutes 06 seconds west 141.26 feet to a point; north 46 degrees 50 minutes 07 seconds west 86.59 feet to a five-eighth inch rebar found; thence leave said right of way line and run north 00 degrees 44 minutes 02 seconds west 210.01 feet to a five-eighth inch rebar found; run thence north 50 degrees 55 minutes 02 seconds west 209.91 feet to a point on the line dividing said Land Lots 7 and 40; run thence north 00 degrees 39 minutes 41 seconds west along said Land Lot line 652.95 feet to the TRUE POINT OF BEGINNING; said metes and bounds, courses and distances being more particularly shown on that certain Boundary Survey for Jim Cowart, Inc., bearing the seal and certification of Travis N. Pruitt, Sr., GRLS No. 1729, dated December 2, 1994, and being designated as Tract I and containing 297.1475 acres according to said survey, said survey being incorporated herein by this reference.

AND

Tract II

All that tract or parcel of land lying and being in Land Lots 51 and 52 of the 1st District, 1st Section, Fulton County, Georgia, being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, commence at a point on the western right-of-way line of Buice Road (30 foot right-of-way) at its intersection with the west line of Land Lot 81, said District, Section and County; run thence northerly along said right-of-way line the following courses and distances: north 55°08'30" west 177.63 feet to a point; north 48°40'35" west 73.22 feet to a point; north 41°31'15" west 51.77 feet to a point; north 32°50'51" west 63.71 feet to a point; north 30°00'52" west 57.03 feet to a point; north 32°09'07" west 65.34 feet to a point; north 27°07'20" west 62.30 feet to a point; north 19°08'51" west 45.28 feet to a point; north 14°30'00" west 80.32 feet to a point; north 22°10'21" west 59.16 feet to a point; north 26°00'06" west 23.01 feet to a point; thence leave said right-of-way line and run north 88°00'39" east 32.95 feet to a point on the east right-of-way line of Buice Road, which point is the TRUE POINT OF BEGINNING; FROM SAID TRUE POINT OF BEGINNING AS THUS ESTABLISHED, run thence northerly along said east right-of-way line the following courses and distances: north 26°06'26" west 51.86 feet to a point; north 25°30'16" west 55.73 feet to a point; north 25°05'27" west 59.64 feet to a point; north 26°36'56" west 62.99 feet to a point; north 30°28'11"west 69.23 feet to a point; north 36°38'15" west 69.57 feet to a point; north 38°44'06" west 66.92 feet to a point; north 35°09'10" west 65.00 feet to a point; north 27°23'36" west 64.17 feet to a point; north 17°08'26" west 63.23 feet to a point; north 15°44'49" west 65.38 feet to a point; north 25°30'34" west 57.21 feet to a point; north 35°46'11" west 42.95 feet to a point; north 35°46'11" west 69.05 feet to a point; north 35°50'04" west 35.10 feet to a point; north 35°22'01" west 62.33 feet to a point; north 28°13'59" west 69.72 feet to a point; north 13°53'16" west 32.86 feet to a point; north 02°22'31" east 34.56 feet to a point; north 27°03'54" east 25.13 feet to a point; north 50°26'15" east 38.89 feet to a point; north 53°59'02" east 116.47 feet to a point; thence leave said right-of-way line and run south 14°31'53" east 532.32 feet to point; run thence north 81°45'07" east 254.30 feet to a point on the centerline of a creek; run thence southeasterly along said center line the following courses and distances: south 14°42'18" east 87.95 feet to a point; south 28°41'11" west 29.87 feet to a point; south 23°41'37" east 121.12 feet to a point; south 04°16'07" west 84.87 feet to a point; south 11°49'34" east 113.58 feet to a point; south 25°23'56" east 31.13 feet to a point; south 13°44'40" east 69.59 feet to a point; south 26°42'30" east 56.75 feet to a point; south 07°15'01" west 24.18 feet to a point; thence leave said centerline and run south 88°00'39" west 118.47 feet to the point of beginning; said metes and bounds, courses and distances being more particularly shown on that certain boundary survey for Jim Cowart Inc., bearing the seal and certification of Travis N. Pruitt, Sr., G.R.L.S. No. 1729, dated December 2, 1994, being designated as Tract II and containing 4.1467 acres according to said survey, said survey being incorporated herein.

AND

Tract III

All that tract or parcel of land lying and being in Land Lots 39, 40 and 54 of the 1st District, 1st Section, Fulton County, Georgia, being more particularly described as follows:

Beginning at the southwestern most point of the mitered right-of-way of the southern line of Spruell Circle (60 foot right-of-way) and the northern line of Kimball Bridge Road (60 foot right-of-way); run thence south 65°29'52" west along said right-of-way line of Kimball Bridge Road 16.85 feet to a point; run thence south 64°47'47" west along said right-of-way line 367.29 feet to a point; thence leave said right-of-way line and run north 14°17'03" west 331.42 feet to a point; run thence north 14°40'26" west 200.02 feet to a 1½ inch open top pipe found; run thence north 15°03'35" west 16.34 feet to a point; run thence north 14°45'39" west 311.24 feet to a point on the southern right-of-way line of Spruell Circle; run thence southeasterly along said right-of-way line the following courses and distances: 100.83 feet along the arc of a 1176.10 foot radius curve to the left (said arc being subtended by a chord lying to the northeast having a bearing and distance of south 60°32'46" east 100.80 feet) to a point; south 63°00'08" east 239.30 feet to a point; 190.66 feet along the arc of a 746.52 foot radius curve to the left (said arc being subtended by a chord lying to the northeast having a bearing and distance of south 70°19'08" east 190.14 feet) to a point; south 77°38'08" east 391.40 feet to a point; 203.94 feet along the arc of a 271.51 foot radius curve to the right (said arc being subtended by a chord lying to the southwest having a bearing and distance of south 56°07'03" east 199.18 feet) to a point; and south 17°02'54" west 39.77 feet to the point of beginning; said metes and bounds, courses and distances being more particularly shown on that certain boundary survey for Jim Cowart Inc., bearing the seal and certification of Travis N. Pruitt, Sr., G.R.L.S. No. 1729, dated December 2, 1994, being designated as Tract III and containing 8.9814 acres according to said survey, said survey being incorporated herein by this reference.

AND