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Rebecca Keaton

Rebecca Keaton
Clerk of Superior Court Cobb Cty. Ga.

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Return to:

M

NowackHoward, LLC
Resurgens Plaza, Suite 1250
945 East Paces Ferry Road, NE
Atlanta, Georgia 30326
Attention: MKB

STATE OF GEORGIA

Cross Reference: Deed Book: 10878

COUNTY OF COBB

Page: 179

Deed Book: 10944

Page: 287

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR KING VALLEY AT VININGS SUBDIVISION**

42

IMPORTANT NOTICE
THIS PROPERTY IS SUBJECT TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT
SECTION 44-14-20 B.E.P.C.
CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH
ASSESSMENTS CHARGES DUE ON LOTS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED
IMPROVEMENTS ON LOTS PURSUANT TO THE PROVISIONS HEREOF

PREPARED BY:



NOWACKHOWARD
COMMUNITY ASSOCIATION ATTORNEYS

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STATE OF GEORGIA
COUNTY OF COBB

AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR KING VALLEY AT VININGS SUBDIVISION

WITNESSETH

WHEREAS, Poston Property, Inc., hereinafter referred to as "Declarant," entered into and executed the Declaration of Covenants, Conditions and Restrictions for King Valley at Vinings Subdivision, dated December 16, 1997, and recorded on December 17, 1997 in Deed Book 10878 at Page 179 of the Cobb County, Georgia land records ("Original Declaration"); and

WHEREAS, the Original Declaration was re-recorded for purposes of correcting the original execution on January 16, 1998 in Deed Book 10944 at Page 287 of the Cobb County, Georgia land records; and

WHEREAS, the Original Declaration was amended by the First Amendment to Declaration of Covenants, Conditions and Restrictions for King Valley at Vinings Subdivision recorded on October 16, 1998 in Deed Book 11791 at Page 469 of the Cobb County, Georgia land records; and

WHEREAS, the Original Declaration was amended by the Second Amendment to Declaration of Covenants, Conditions and Restrictions for King Valley at Vinings Subdivision recorded on July 16, 1999 in Deed Book 12706 at Page 394 of the Cobb County, Georgia land records; and

WHEREAS, the Original Declaration and foregoing amendments subjected the real property described in Exhibit "A" to the Original Declaration, including the improvements constructed or to be constructed thereon, and this property is held, sold and conveyed subject to the easements, restrictions, covenants, and conditions, set forth in the Original Declaration, which are for the purpose of protecting the value and desirability of, and which run with the title to, the real property subject to this Declaration, and are binding on all parties having any right, title, or interest in all or any part of the real property subject to the Original Declaration, their respective heirs, successors and assigns and are for the benefit of all owners of the property subject to the Original Declaration; and

WHEREAS, Article IX, Section 2 of the Original Declaration provides for amendment of the Original Declaration by an agreement signed by at least seventy five (75%) percent of the Owners; provided, however, such amendment by the Owners shall not be effective unless also signed by the Declarant, if Declarant is the owner of any real property subject to the Original Declaration; and

WHEREAS, at least seventy-five (75%) percent of the Owners in the Association have approved the following Amended and Restated Declaration; and

WHEREAS, the Declarant no longer owns any real property subject to the Declaration and its consent to this amendment is not necessary; and

WHEREAS, this amendment does not alter, modify, change or rescind any right, title, interest, or privilege granted or accorded by the Original Declaration to the holder of any mortgage encumbering any Lot or the Common Property; provided, however, in the event a court of competent jurisdiction determines that this amendment does alter, modify, change or rescind any right, title, interest, or privilege held by any mortgagee without such mortgagee's required consent in writing, then this amendment shall not be binding on the mortgagee so involved, unless such mortgagee consents to this amendment; and if such consent is not forthcoming, then the provisions of the Original Declaration effective prior to the recording of this amendment shall control with respect to the affected mortgagee; and

NOW, THEREFORE, the Original Declaration and all exhibits thereto, are hereby stricken in their entirety and the following is simultaneously substituted therefor which shall be known as the Amended and Restated Declaration of Covenants, Conditions and Restrictions for King Valley at Vinings Subdivision.

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DESCRIPTION OF SUBMITTED PROPERTY....."A"

ARTICLE 1. NAME

The name of the Community is King Valley at Vinings Subdivision, which is a residential property owners' development subject to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

ARTICLE 2. DEFINITIONS

Unless the context otherwise requires, capitalized terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as set forth in this Paragraph 2. Otherwise, the terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code.

Section 2.1. Act means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

Section 2.2. Architectural Control Committee or ACC shall mean the committee established to exercise the Architectural Review powers set forth in Article 11 hereof, which shall be the Board of Directors of the Association unless by resolution the Board appoints a separate Architectural Control Committee.

Section 2.3. Area of Common Responsibility means the Common Property, together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person become the maintenance responsibility of the Association.

Section 2.4. Articles or Articles of Incorporation shall mean the Articles of Incorporation of King Valley HOA, Inc., filed with the Secretary of State of the State of Georgia.

Section 2.5. Assessments shall mean the sum charged to Lot Owners to be used for any purpose the Board of Directors determines will benefit the Owners, which includes, but is not limited to Common Expenses for the management of the affairs of the Association and insurance as provided herein, as well as the maintenance of the reserve fund the Board has established to cover major repair, maintenance, and replacement of Common Property, deficiencies, and unforeseen contingencies.

Section 2.6. Association shall mean King Valley HOA, Inc., a Georgia non-profit corporation, its successors and assigns.

Section 2.7. Association Legal Documents means this Declaration and all exhibits hereto, the Bylaws, the Articles of Incorporation, the plats and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

Section 2.8. Board or Board of Directors shall mean the appointed or elected body of the Association, as applicable, having its normal meaning under Georgia corporate law.

Section 2.9. Bylaws shall mean the Bylaws of the King Valley HOA, Inc.

Section 2.10. Common Expenses means the expenses incurred or anticipated to be incurred for the general benefit of all Lots, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Property. Examples of Common Expenses include, but are not limited to, the costs to maintain the swimming pools, tennis courts, other recreational facilities, common fences, walls, and Common Property landscaping.

Section 2.11. **Common Property** means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Property shall include, but not be limited to, the open space and recreation area, as shown on the recorded plat for King Valley at Vinings Subdivision.

Section 2.12. **Community** shall mean and refer to the Property that comprises the King Valley at Vinings development.

Section 2.13. **Community-Wide Standard** shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community as may be determined by the Board of Directors of the Association, in its discretion, from time to time.

Section 2.14. **Declarant or Developer** shall mean and refer to Poston Property, Inc.

Section 2.15. **Declaration** means this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for King Valley at Vinings Subdivision.

Section 2.16. **Director** means a member of the Association's Board of Directors.

Section 2.17. **Dwelling** shall mean any building situated on a Lot designated and intended for use and occupancy as a single-family residential home.

Section 2.18. **Effective Date** shall mean the date that this Declaration is recorded in the Official Records.

Section 2.19. **Electronic Document** shall mean information created, transmitted, received or stored by electronic means and retrievable in humanly perceivable form including, without limitation, e-mail, web pages, electronic documents, and facsimile transmissions.

Section 2.20. **Electronic Signature** shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

Section 2.21. **Eligible Mortgage Holder** shall mean those holders of first Mortgages secured by Lots in the Community who have requested notice of certain items as set forth in this Declaration.

Section 2.22. **Governing Documents** shall mean the Declaration, Bylaws, Articles of Incorporation, all Design Guidelines, the rules of the Association, as each may be amended from time to time.

Section 2.23. **Lot** shall mean any plot of land in the Community, whether or not improvements are constructed thereon, which constitutes a single-family Dwelling site as shown on the Plats. Each Lot consists of a Lot and all improvements thereon, including but not limited to, a Dwelling, driveways and garages.

Section 2.24. **Member** shall mean a Person subject to membership in the Association pursuant to this Declaration.

Section 2.25. **Mortgage** shall mean any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

Section 2.26. Mortgagee or Mortgage Holder shall mean the holder of a Mortgage.

Section 2.27. Occupant shall mean any Person occupying all or any portion of a Lot in the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such Property. "Occupy" or "Occupancy" shall refer to the situation when a Person occupies a Lot for any period.

Section 2.28. Official Records shall mean the official land records of the Clerk of the Superior Court of Cobb County, Georgia.

Section 2.29. Owner means the record title holder of a Lot, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Lot shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Lot.

Section 2.30. Person shall mean any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

Section 2.31. Plats means those plats of the survey relating to the Community filed in the Cobb County, Georgia land records, and any amendments or supplements thereto. All of the Plats of survey are incorporated herein by this reference.

Section 2.32. Property means that real estate, which is subject to the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference. All of the real property in the King Valley at Vinings community shall be owned in fee simple and subject to the provisions of this Declaration and the Georgia Property Owners' Association Act, O.C.G.A., Section 44-3-220, et seq. The Property subjected to this Declaration constitutes a residential property owners' development that hereby submits to and avails itself of all provisions and terms of the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie, 1982), as such Act may be amended from time to time.

Section 2.33. Secure Electronic Signature shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in such a manner that if the data is changed, the electronic signature is invalidated.

Section 2.34. Structure shall mean:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any trailer) or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill ditch, diversion dam or other thing, or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 2.33 applies to such change.

Section 2.35. Total Association Vote shall mean all of the eligible votes attributable to members

of the Association as of the record date for such action.

Section 2.36. Violator means any Owner who violates any provision of the Association Legal Documents and any Owner's family member, guest or Occupant who violates such provisions; provided, however, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Owner of the relevant Lot also shall be considered a Violator.

ARTICLE 3. PROPERTY SUBJECT TO THIS DECLARATION AND GEORGIA PROPERTY OWNERS ASSOCIATION ACT

Section 3.1. Submitted Property. The real property subject to this Declaration and the Act is located in Land Lots 405, 406, 458, 459 of the 17th District, 2nd Section, Cobb County, Georgia, known King Valley at Vinings, Units 1, 2 and 3 as reflected at and recorded in Plat Book 169, Page 25, 26, and 27; Plat Book 175, Pages 60 and 61; and Plat Book 181, Pages 54-56, as described on Exhibit "A" and the Plats, which are both incorporated in this Declaration by this reference, hereafter collectively referred to as the "Property" or "Community."

Section 3.2. Subject to Georgia Property Owners Association Act. The Property in the Community is hereby submitted to the Georgia Property Owners Association Act ("Act").

ARTICLE 4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 4.1. Membership. The Association shall have one class of membership. Each Owner of a Lot subject to the Annual Assessment hereunder shall be a member of the Association. This does not include persons who hold an interest merely as security for the performance of an obligation. The giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot owned in the Property. If more than one Person holds title to a Lot, the membership shall be shared in the same proportion as the title, but there shall be only one membership and one vote per Lot. Membership shall be appurtenant to the Lot and shall be transferred automatically by conveyance of the Lot. Membership may be transferred only in connection with the transfer of the Lot.

Section 4.2. Voting. The Owner(s) of each Lot subject to the Annual Assessment hereunder shall be entitled to one equally weighted vote for each such Lot, which vote may be exercised and suspended as provided in this Declaration and the Bylaws. When more than one (1) Person holds an ownership interest in any Lot subject to assessment, the vote for such Lot shall be cast as those Owners decide and instruct the Secretary prior to any meeting. If the Secretary is not instructed, the Lot's vote shall be suspended in the event more than one (1) Owner of a Lot attempts to cast it. No vote shall be exercised on behalf of Lot if any assessment for such Lot is delinquent.

ARTICLE 5. ADMINISTRATION OF THE PROPERTY

Section 5.1. Association Rights and Obligations. The administration of the Property, the maintenance, repair, renovation, and operation of the Common Property and those acts required of the Association by this Declaration shall be the responsibility of the Association, and such administration shall be pursuant to the provisions of this Declaration and the Bylaws and Articles of Incorporation of the Association. The powers herein or elsewhere granted to the Association may be exercised by the Board of Directors, acting through officers, without any further consent or action on the part of the owners unless otherwise specifically provided herein. Notwithstanding the duty of the Association to maintain, repair, renovate, and operate the Common Property, the Association shall not be liable for injury or damage caused by any condition of the Common Property nor for injury caused by the elements, owners or other persons, nor shall any officer or director of the Association be liable to any owner for injury or damage caused by such

officer or director in the performance of his duties unless due to the gross misfeasance or malfeasance of such officer or director.

Section 5.2. Powers of the Association. Unless otherwise provided, the Association, acting through its Board of Directors, shall have the right and authority to take all actions permitted by this Declaration, the Bylaws, the Act and the Georgia Nonprofit Corporate Code.

The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of all other rights it may have, but not the obligation, to:

- (i) make and to enforce reasonable rules and regulations governing the use of the Community, including the Lots and the Common Property;
- (ii) enforce use restrictions, other Declaration and Bylaws provisions, and rules and regulations by imposing reasonable monetary fines, exercising self-help powers, and suspending use and voting privileges and services paid for as a Common Expense, as provided herein. These powers, however, shall not limit any other legal means of enforcing the use restrictions or Association rules and regulations by either the Association or, in an appropriate case, by an aggrieved Owner;
- (iii) grant and accept permits, leases, licenses, utility easements, and other easements necessary for the proper maintenance or operation of the Community under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Common Property;
- (iv) control, manage, operate and, in the Board's discretion, maintain, replace, alter or improve all portions of the Community for which the Association is assigned maintenance responsibility under this Declaration, and to pay all taxes or other expenses with respect to same;
- (v) to represent and act on behalf of the Owners in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of this Declaration;
- (vi) represent the Owners in dealing with governmental entities on matters related to the Common Property;
- (vii) permanently or temporarily close any portion of the Common Property (excluding any portion of the Common Property the use of which is reasonably necessary for access to or from a Lot) with thirty (30) Days prior notice to all Owners, except that, in emergency situations requiring a temporary closing, prior notice shall not be required so long as notice is given within three (3) Days after the closing explaining the reason for the closing. Notwithstanding the above, the Owners may re-open the closed Common Property by a majority of the Total Association Vote, cast at a duly called special or annual meeting.
- (viii) acquire, lease, hold, and dispose of tangible and intangible personal property and real property.

ARTICLE 6. ALLOCATION OF LIABILITY FOR COMMON EXPENSES AND EXPENSES

Section 6.1. General Allocations. Except as provided below, or elsewhere in the Act or the Association Legal Documents, the amount of all Common Expenses shall be assessed against all the Lots equally.

Section 6.2. Power to Impose. The Association shall have the power to levy assessments as

provided herein and in the Act. Assessments shall be used for any purpose the Board of Directors determines will benefit the Owners or the Property.

Section 6.3. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any 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 all assessments and other charges levied pursuant to the Master Declaration, this Declaration and the Bylaws.

All assessments and charges levied against a Lot and its Owner, together with interest, costs and reasonable attorneys' fees actually incurred (including post-judgment attorneys' fees, costs and expenses), and rents (if the Board of Directors so elects), in the maximum amounts permitted under the Act, shall be: (1) a charge and a continuing lien against such Lot; and (2) the personal obligation of the Person who is the Owner of the Lot on the due date of the assessment. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance of the Lot. The Association, in the Board's discretion, may record a notice of such lien in the Cobb County, Georgia land records evidencing the lien created under the Act and this Declaration. The lien provided for herein shall have priority and may be foreclosed upon by the Association as provided in the Act.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the annual assessment shall be due and payable in advance on the first Day of April each year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the 15th Day following the due date unless otherwise specified by Board resolution.

Section 6.4. Computation of Operating Budget and Annual Assessment. To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Property for that fiscal year, which may include a reserve contribution. The Board shall provide the operating budget and annual assessment to the Owners not less than 21 days prior to the Association's annual meeting. The budget and the annual assessment for the upcoming fiscal year shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove them at a duly called membership meeting.

If the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine a new budget, the budget then in effect shall continue until a new budget is adopted as provided herein. The Board may adopt an adjusted budget, which may include an additional assessment amount, at any time during the year following the procedure specified above.

The budget shall not operate as a limitation on expenditures by the Board of Directors. The budget is merely an estimate of Common Expenses and contributions to reserve funds on which the Board establishes the annual assessment.

Unless otherwise provided by the Board of Directors, the amount of annual assessments shall become due and payable yearly commencing on April 1st each year.

Section 6.5. Special Assessments. In addition to all other assessments and charges provided for herein, the Association may levy special assessments against all Owners for any purpose from time to time; provided, however, that such special assessment must first be approved by at least two-thirds (2/3rds) of the votes of those Members voting either by: (1) written ballot in lieu of a meeting pursuant to the Bylaws; or (b) in

person or by proxy at a duly called meeting of the members, notice of which shall specify the purpose of such meeting.

Section 6.6. Specific Assessments. In addition to the all other assessments and charges provided for herein, the Board of Directors may levy specific special assessments ("Specific Assessments") to the fullest extent permissible under Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. By way of illustration, but not limitation, the Board may specifically assess for the following Common Expenses:

(a) Any Common Expenses benefiting less than all of the Lots may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefited Lots according to the respective benefit received.

(b) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot(s) may be specifically assessed by the Board of Directors against such Lot(s) based upon the conduct committed which occasioned any such Common Expenses.

(c) Any Common Expenses significantly disproportionately benefiting all the Lots may be specifically assessed equitably, in the Board of Director's reasonable discretion, among all of the benefited Lots according to the respective benefit received.

Additionally, fines, costs of self-help, and other charges assessed against less than all the Lots shall be deemed Specific Assessments,

Failure of the Board to specifically assess hereunder 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 do so in the future.

Section 6.7. Delinquent Assessments. All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.

If any assessment or charge, or any part or installment thereof, is not paid in full within 15 days of the due date, or such later date as may be provided by the Board of Directors:

(a) a late charge equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner;

(b) interest at the rate of 10% per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date;

(c) if paid in installments, the Board may accelerate and declare immediately due any unpaid installments of that Owner's assessments and charges. Upon acceleration, the Owner shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such privilege in writing. If the Association has pending legal action against an Owner for unpaid assessments or charges, then no notice shall be required to accelerate unpaid installments of any annual or special assessments that come due during any fiscal year after such legal action commences, until all amounts owed are paid in full or the Board otherwise reinstates such privilege in writing; and

(d) the Association may bring legal action to collect all sums owed under the Declaration and Georgia law and/or foreclose its lien as provided by the Act.

If assessments or other charges, or any part thereof, remain unpaid more than 30 days after the due date, the Owner's right to vote and use the Common Property are suspended automatically until all amounts owed are paid in full or the Board of Directors otherwise reinstates such rights in writing; provided, however, the Board may not deny ingress or egress to or from a Lot.

No Owner may waive or otherwise exempt himself or herself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. The obligation to pay assessments is a separate and independent covenant on the part of each Owner, and no diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, 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 by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

The Association may bid for the Lot at any foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot subject to assessment shall be charged, in addition to its usual assessment, its pro rata share of the assessment allocated to the Lot owned by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien of any subsequent assessments. However, impact on the lien upon the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall be as provided by the Act. If the first Mortgagee of such Lot is not responsible under the Act for unpaid assessments due prior to the acquisition of title, such unpaid assessments shall be deemed to be Common Expenses and the Board may assess them and collect them against the Owners of all Lots subject to the assessment, including against the acquirer of such Lot, its successors and assigns.

Section 6.8. Capital Contribution Assessment upon Transfer of Lots. In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Lot, other than to the spouse or heir or devisee of the Owner or the Owner of any other Lot, the purchaser or grantee thereof may be assessed, at the sole discretion of the Board of Directors, and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment").

The Capital Contribution Assessment shall be an amount not to exceed the annual assessment applicable to such Lot at the time of such conveyance or transfer, which amount shall be established by the Board of Directors annually as part of the budget process under this Article. The Capital Contribution Assessment shall not constitute an advance payment of the annual assessment. The Capital Contribution Assessment shall constitute a specific special assessment against such Lot, a continuing lien against such Lot, and a personal obligation of the Owner of such Lot.

Section 6.9. Foreclosure Administration Fee. It is recognized that foreclosures of mortgages on Lots create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal

periodicals to determine when foreclosures occur, searching the Cobb County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Lot. Pursuant to this Declaration and Section 44-3-225(a) of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Lots. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any person who acquires a Lot at a foreclosure sale of the mortgage on such Lot, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of \$1,500.00 at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Cobb County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

Section 6.10. Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments and charges due and unpaid, including but not limited to any late charges, interest, fines, attorneys' fees or other charges against such Lot. The Association shall respond in writing within five business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein, if such statement is reasonably relied upon in connection with the issuance of any Mortgage on such Lot.

Section 6.11. Failure to Assess. Failure of the Board to establish assessment amounts or rates or to deliver or to mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

Section 6.12. Capital Budget and Contribution. The Board of Directors may prepare an annual or multi-year capital reserve budget and may establish a capital reserve fund contribution based on such budget. Capital reserve budgets should take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

Section 6.13. Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, be: (1) distributed to the Owners; (2) credited to the next assessment chargeable to the Owners; or (3) added to the Association's capital reserve account.

ARTICLE 7. INSURANCE AND CASUALTY LOSSES

Section 7.1. Property Insurance. The Board of Directors shall obtain property insurance for all insurable improvements on the Common Property or required to be maintained by the Association. This insurance shall include, at a minimum, coverage for fire, wind, storm, hail, vandalism, malicious mischief and civil commotion and if obtainable at a reasonable cost the coverage shall be in an amount sufficient to cover the full replacement cost of such insurable improvements. Alternatively, the Board may purchase "special form" coverage in like amounts.

Section 7.2. Association Liability Insurance. The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, in their capacities as such, with a combined single limit of at least \$1,000,000.00.

Section 7.3. Directors' and Officers' Liability Insurance. The Board shall obtain a Directors and Officers liability insurance policy with a limit of at least \$1,000,000.00.

Section 7.4. Theft Insurance. The Board shall obtain insurance on Directors, Officers, employees, and other persons handling or responsible for the Association's funds, regardless of whether they are compensated by the Association. If reasonably available, the insurance shall cover at least one-quarter of the annual assessments from all members plus the reserve funds in the custody of the Association at any time during the term of the policy. The policy must provide that it may not be canceled, substantially modified or subject to non-renewal without at least 30 days prior written notice to the Association.

Section 7.5. Additional Association Insurance. The Board may obtain such additional insurance as it deems appropriate.

Section 7.6. Premiums and Deductibles on Association Policies. Premiums for all Association insurance shall be a Common Expense. The policies may contain reasonable deductibles. Deductibles shall not be subtracted from the face amount of the policies in determining whether the insurance equals the full replacement cost of the insurable improvements.

Section 7.7. Insurance on Lot and Dwelling. Each Owner is solely responsible for obtaining insurance on the Owner's Lot and Dwelling.

ARTICLE 8. DAMAGE AND DESTRUCTION

Section 8.1. In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Article, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessary to comply with applicable building codes.

Section 8.2. Repair and Construction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Total Association Vote and the Owners of any damaged Lots otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

(a) Insurance Proceeds Insufficient to Fund Repairs and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors may, at its sole discretion, without the necessity of a vote of the Association's members, levy a special assessment against the Owners of all Lots. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

(b) Insurance Proceeds Greater Than Cost of Repair and Reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not

repaired or reconstructed, such excess shall be allocated to the reserve fund.

(c) **Disposition of Property upon Determination not to Repair or Reconstruct.** In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the property shall be maintained as an undeveloped portion of the Property by the Association in a neat and attractive condition.

Section 8.3. Damage to Dwelling. All damage to a Dwelling shall be repaired or replaced within six (6) months of the casualty, unless otherwise permitted by the Board or ACC. In the event it is decided the Dwelling will not be repaired or replaced, the Lot Owner shall, within six (6) months of the casualty, remove all portions of the Dwelling, fill in the foundation and landscape the Lot in accordance with a plan submitted to and approved in writing by the Board or ACC.

ARTICLE 9. CONDEMNATION

The Association, acting through the Board of Directors, shall represent the Owners in any condemnation proceeding or in any negotiations, settlements, and agreements with any condemning authority for such acquisition of the Common Property, or any part thereof. For such purpose, the Owners hereby appoint the Association as attorney-in-fact. Whenever any Common Property is taken by, or conveyed in lieu of condemnation to, any authority having condemnation or eminent domain power, the Board of Directors shall give notice thereof to each Owner. If any structure on the Common Property is so taken or conveyed, the Board shall arrange for and supervise the prompt reconstruction of such structure, to the extent sufficient Common Property is available, with such improvements or modifications it deems appropriate, unless 75% of the Owners vote not to do so.

If proceeds from the condemning authority are not sufficient to defray the Board's estimated or actual costs of reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

ARTICLE 10. ARCHITECTURAL STANDARDS

Section 10.1. Standards and Interpretation. The Board of Directors may establish, amend, and publish written Community-Wide Standards and Design Guidelines for the construction of a Dwelling, for the installation and maintenance of landscaping, for the maintenance of and repair or modifications to a Dwelling or Lot that affect the exterior appearance thereof, and for the removal of a Dwelling.

Section 10.2. Architectural Control Committee. The Architectural Control Committee ("ACC") shall constitute a standing committee of the Board. The ACC shall consist of the Board of Directors unless the Board of Directors delegates to other Persons the authority to serve on the ACC. At least a majority of the members of the ACC shall be residents of the Property.

Section 10.3. Action Requiring ACC Approval. Except as otherwise provided herein, prior written approval of the Board or ACC is required for the following:

- (a) Any site work, including but not limited to, staking, clearing and grading a Lot; the construction of any Dwelling or other improvement on a Lot, including without limitation landscape, hardscape, garages, sheds, decks, porches, pergolas and driveways;
- (b) The demolition in whole or in part of a Dwelling or other improvement on a Lot;

(c) Any change or alteration to a Lot or Dwelling that affects the exterior appearance of the Dwelling or Lot, including but not limited to (1) changes to the exterior color of a Dwelling or outbuilding; (2) changes to the shape of or materials on the exterior of a Dwelling or outbuilding; (3) changes to the placement or surface of a driveway; or (4) significant changes in landscaping visible from any street or any portion of any other Lot;

(d) The erection, placement or posting of any Structure, object or thing on a Lot, that affects the exterior appearance of the Lot, including but not limited to, fences, gates, columns, walls, pools, exterior lighting (including landscape lighting), statuary, bird baths, wagons, fountains, decorative boulders, awnings, shutters, patio covers, decks, gazebos, hot tubs and basketball goals.

Section 10.4. Improvements of Lots. All construction of Dwellings, accessory structures, and all other Structures and improvements on the Property shall be undertaken and completed in accordance with the Community-Wide Standards, the Design Guidelines, if any, and the following conditions:

(a) All construction shall be carried out in compliance with the laws, code, rules, regulations and orders of all applicable governmental agencies and authorities.

(b) Concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any Dwelling or accessory structure constructed or placed on any Lot.

(c) Only one mailbox shall be located on any Lot, which mailbox shall be selected consistent with the quality and design of surrounding dwellings and mailboxes and shall be placed and maintained to complement the Dwelling to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States Postal Service, its successors and assigns. All mailboxes shall be approved before installation by the ACC.

(d) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devise, or any other materials or devices used for building purposes shall be stored on any Lot except for purposes of construction of a Dwelling or accessory structure on such Lot nor shall any such building materials or devises be stored on any Lot for longer than the length of time reasonably necessary for the construction in which such materials or devices are to be used.

(e) No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the ACC.

(f) Adequate off-street parking shall be provided for each Lot.

(g) All garages must have doors, and each garage door must be coordinated in design and color with the Dwelling to which it is appurtenant.

(h) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of construction.

Section 10.5. Application Process, Review and Appeal. The Board of Directors may establish procedures, forms, conditions and requirements for the submission of applications for new construction of a Dwelling or other Structure or for modifications to a Dwelling, Structure or a Lot that affect the exterior appearance thereof. Such applications shall be in writing and, unless otherwise provided by the Board, submitted

to the ACC. If the application requests any variance from provisions of this Declaration or any published Property-Wide Standards and Guidelines related to the exterior appearance of the Lot or Dwelling, the Owner must expressly identify such variance in the application. No approval issued hereunder shall authorize such a variance unless that variance is expressly identified in the application and specifically approved in writing by the ACC or the Board.

The standards for approval of such construction or modifications shall include, but not be limited to: (1) aesthetic considerations; (2) materials to be used; (3) compliance with this Declaration and the Community Wide Standards and Design Guidelines which may be established by the Board; (4) harmony with the external design of the existing Dwellings, Lots and structures, and the location in relation to surrounding structures and topography; and (5) any other matter deemed to be relevant or appropriate by the Board or ACC. The Board or ACC shall approve any application that it determines to be in substantial compliance with such standards for approval.

The ACC, if one is appointed, or otherwise the Board, shall be the sole arbiter of such application.

Section 10.6. Ruling on Application. If the Board or ACC fails to approve or to disapprove such application within 45 days after the application and all required information has been submitted, the Owner submitting the application may issue written notice, via certified mail, to the Association President, informing the President of the Owner's intent to proceed with the construction or modification as identified in the application. Unless the Association issues a written disapproval of the application within 10 days of receipt of the Owner's notice, the approval will not be required and this Paragraph will be deemed complied with as to the items specifically identified in the application. However, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any modification to a Lot, Dwelling or other Structure that is otherwise in violation of the Association Legal Documents, or of any applicable zoning or other laws. Except as provided in this subparagraph, no approval of a construction on or modification to a Lot, Dwelling or other Structure shall be valid unless issued in writing. Owners may not rely on any verbal approval or statements from any person as the approval required for any such modification.

Section 10.7. Appeal. If the ACC does not consist of the Board of Directors, and the ACC disapproves any application or part thereof, an Owner may, in writing, appeal the ACC's decision to the Board. The notice of appeal must be sent to the Board by certified mail and received by the Board within 14 days from the date of the ACC's disapproval notice, otherwise the decision of the ACC shall become final and all rights of appeal shall terminate. Within 45 days of receipt of a timely appeal, the Board shall approve, disapprove, or conditionally approve the Owner's application, and such ruling shall be final and binding on the Owner.

Section 10.8. Professional Consultants and Fees. The Board of Directors shall be authorized to charge, as a specific assessment, against any Owner and Lot: (1) a reasonable administrative fee for review of modifications on, or submitted plans for, such Lot; and (2) reasonable fees for any architect, engineer or other professional consultant engaged by the Board to assist with review of modifications on, or submitted plans for, such Lot. The Board of Directors shall also have the authority to collect security deposits in reasonable amounts, as determined by the Board of Directors in its sole discretion, to protect against any damage to the Common Property caused by construction, including, without limitation, damage resulting from the transportation and use of construction materials, vehicles and equipment. Costs for repair of such damage may be deductible from the security deposit and any additional expenses may be specifically assessed against the Lot under this Article.

Section 10.9. Limitation of Liability. Review and approval of any application pursuant to this Article may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board of Directors nor the ACC shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations; and other governmental requirements. Neither the Association, the Board of Directors, the ACC, nor member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner,

design, or quality of approved construction on or modifications to any Lot, nor may any action be brought against the Association, the Board of Directors, the ACC, or any member thereof, for any such injury, damage or loss.

Section 10.10. Commencement and Completion of Modifications to a Lot. Once approved by the Board or ACC:

(a) The construction of a new Dwelling approved hereunder or work on other improvements or modifications to a Dwelling, Structure or Lot approved hereunder must be commenced within six months from the date of approval, or such approval shall be deemed revoked unless the Board or ACC gives a written extension for commencing the work.

(b) Unless otherwise agreed in writing by the Board or ACC, all construction of a Dwelling approved hereunder shall be completed in its entirety within one (1) year from the date of commencement.

(c) Unless otherwise agreed in writing by the Board or ACC, all construction, work or improvements, other than the construction of a new Dwelling, approved hereunder shall be completed in its entirety within six (6) months from the date of commencement.

(d) The date of commencement shall be the date of written approval of an application by the Board or ACC. The completion date for a new Dwelling shall be the date a certificate of occupancy is issued by Cobb County.

Section 10.11. Enforcement. Any construction, alteration, or other work done in violation of this Article, the Declaration, the Bylaws or the Community Wide Standards and Design Guidelines shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the Lot of the violating Owner. This enforcement provision is in addition to the Association's authority to impose reasonable fines and all other remedies allowed pursuant to the enforcement provisions set forth in Article 15.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article, the Design Guidelines and/or the Association Legal Documents may be excluded by the Board from the Community, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this Section.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Board and/or ACC. Any and all reasonable attorney fees actually incurred by the Association to seek compliance with this provision may be assessed against the responsible Lot and collected as a Specific Assessment pursuant to this Declaration.

Section 10.12. No Waiver of Future Approvals. The approval of the ACC and/or Board of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Board, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters later or additionally submitted for approval or consent.

Section 10.13. Variance. The ACC and/or Board may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall: (a) be effective unless in writing; (b) be contrary to the restrictions set forth in this Declaration; or (c) estop the ACC from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 10.14. Dwelling Quality and Size. All Dwellings shall meet the following criteria as well as all construction criteria adopted and published by the Board of Directors as Community Wide Standards and Design Guidelines. Changes to the Community Wide Standards and Design Guidelines shall become effective when published to the Owners,

(a) Only one (1) single family Dwelling, not to exceed two (2) stories in height excluding any basement, shall be erected on a Lot.

(b) Setback criteria: All Dwellings, including front steps, shall be erected within the building setback lines as delineated on the Plats.

ARTICLE 11. GENERAL COVENANTS AND RESTRICTIONS

Section 11.1. General. Each Owner shall be responsible for ensuring that the Owner's family, guests, tenants, and Occupants comply with all provisions of the Association Legal Documents. In addition to the following use restrictions, the Board of Directors may establish rules and regulations applicable to the Lots and the Common Property in accordance with the terms hereof and as specified in the Bylaws.

Section 11.2. Residential Use. All Lots shall be used solely for the purpose of private residential use and no structure shall be erected on any Lot other than a detached single-family Dwelling or outbuilding as permitted in Section 11.5.

(a) Notwithstanding the foregoing, the Owner or Occupant residing in a Dwelling on a Lot may conduct ancillary business or other non-residential activities within the Dwelling as long as:

(i) the existence or operation of the business or non-residential activity is not apparent or detectable by sight, sound, or smell from outside of the Dwelling;

(ii) the business or non-residential activity does not involve visitation or deliveries to the Lot by employees, clients, customers, suppliers, couriers, mail carriers, or other invitees or guests in greater volume than would normally be expected for a Lot without such activity;

(iii) the business or non-residential activity does not involve use of the Common Property, except for necessary access to and from the Lot by permitted invitees and guests;

(iv) the business or non-residential activity is legal and conforms to all zoning requirements for the Property;

(v) the business or non-residential activity does not increase any insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; and

(vi) the business or non-residential activity is consistent with the residential character of the

Property and does not constitute a nuisance and/or a hazardous or offensive use or activity as such may be determined by the Board of Directors in its sole discretion.

(b) **Exculpatory Clause:** The Association shall not be liable for any injury or damage resulting from any business or other non-residential use or activity within the Property or any Lot. The Association shall also not be liable for any injury or damage resulting from any act or omission by it, or any of its contractors and/or vendors or any "Association Leader," that may negatively or adversely impact an Owner's, Occupant's or "Other Party's" business or other non-residential use or activity. Each Owner, Occupant and "Other Party" hereby releases and holds harmless the Association, its contractors and/or vendors, and any "Association Leader" and assumes all risk, for any interruption or suspension of, or any damages to, any business or other non-residential use or activities conducted on a Lot or within the Property. Owners and Occupants shall obtain whatever supplemental insurance may be necessary to protect their business assets, business continuity and business or non-residential interests with regard to a Lot and the Property. Such insurance shall constitute the Owner or Occupant's sole remedy and recourse for any damage or injury. The Association is not obligated to obtain any insurance coverage for any Owner's or Occupant's business or non-residential use or activity.

(c) The term "business," as used in this section, shall include, without limitation, any occupation, work or activity that involves the provision of goods or services to persons other than the provider's family for a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore.

Section 11.3. Occupants Bound. All provisions of the Declaration, Bylaws and of any rules and regulations, use restrictions or Community Wide Standards and Design Guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to Occupants even though Occupants are not specifically mentioned. The Owner shall be responsible for ensuring that an Occupant, and the guests, invitees and licensees of an Owner or Occupant strictly comply with all such provisions.

Section 11.4. Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property, without the prior written consent of the Association, except as specifically provided herein.

The Common Property shall be used by the Owners, and their agents, servants, tenants, family members, invitees and licensees for such purposes authorized by the Association. With the prior written approval of the Board of Directors, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Property for use for a period of time as set by the Board. The Board of Directors shall be permitted to charge such Owner or Owners reasonable fees, as determined in the Board's sole discretion, in connection with the reservation and use of any portion of the Common Property. Any such Owner or Owners who reserve a portion of the Common Property as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees. Any recreational area or other areas or equipment located on the Common Property shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 11.5. Debris, Trash Disposal & Garbage Containers. No Lot shall be used or maintained as a dumping ground for rubbish or debris, and no rubbish or debris of any kind shall be permitted to accumulate on any portion of an Owner's Lot so that it becomes unsanitary, unsightly or offensive. Trash, garbage, or other

waste shall not be kept on the exterior of a Lot except in closed, trash containers, and shall be stored in compliance with any Board rules.

Section 11.6. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot except for the initial construction of residences and development of the Property unless the same is approved by the ACC.

Section 11.7. Signs. Except as may be provided for herein or as may be required by legal proceedings or any governmental construction permitting process, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain in the Community without the prior written consent of the Board of Directors or ACC, other than: (1) two professional security signs displayed on a Lot; (2) one professionally lettered "For Sale" in a style approved by the Board or the ACC; and (3) one professionally lettered sign denoting recent application of herbicides or other lawn treatments. The Board shall have the right to erect signs on the Common Property. The Board may establish additional rules regarding signs.

Section 11.8. Fences. No chain link or cyclone fences may be placed on any Lot or portion of the Community. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or ACC. The Board or ACC may issue guidelines detailing acceptable fence styles or specifications and locations. All applications for fencing shall be submitted in accordance with Article 11 of this Declaration.

Section 11.9. Vehicles and Parking. Vehicles may only be parked: (1) in garages, driveways and other paved areas located on the Lots; or (2) in parking areas on the Common Property designated for such purpose by the Board, subject to rules and regulations promulgated by the Board.

Recreational vehicles, boats, trailers campers, trucks (except for passenger pickup trucks and vans), busses or any such similar recreational or commercial vehicles are not permitted on any Lot, the Common Property, or to be parked on any streets within the Property, except that a visitor may park a recreation vehicle in a driveway on a Lot for a period not to exceed forty-eight (48) hours total in a six month period of time and provided the ACC receives advance notice of the time the vehicle will be so parked.

Notwithstanding the foregoing, the following vehicles are prohibited from being parked on the Common Property without the prior written consent of the Board of Directors:

(1) Disabled and stored vehicles. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains in the Community, other than in a garage, for 14 consecutive days or longer without prior written consent of the Board.

(2) Boats, jet-skis, trailers, buses, taxis, hearses, limousines, recreational vehicles, motor homes, campers, panel trucks, trucks with a cargo-load capacity of one ton or more, full-size vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors (other than Sheriff's, Marshall's, or police officer's vehicles marked as such), golf carts, ATVs and other unlicensed vehicles, and boat trailers.

The Board may establish additional rules regarding types of permissible vehicles, use of vehicles, and parking on the Common Property. Golf carts, ATVs and other unlicensed vehicles may be operated on the Common Property in the Community only in accordance with the rules and regulations adopted by the Board that govern the use of such vehicles.

If any vehicle is parked in the Community in violation of this Section or the Association's rules, the Board or agent of the Association may tow or boot the vehicle. Provided, however, that in the event that the vehicle to be towed or booted is located on a Lot, the Board shall first provide twenty-four (24) hours' notice of its intent to tow or boot. Such notice shall: (1) be placed on the vehicle; (2) specify the nature of the violation; (3) warn of possible towing or booting; and (4) state the name and telephone number of a person to contact regarding the violation. If 24 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed or booted from the Lot in accordance with the original notice and without further notice. No notice shall be required to tow or boot a violating vehicle on the Common Property.

If a vehicle is towed or booted in accordance with this Section, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines.

Section 11.10. Recreational Equipment, Basketball Goals and Tennis Courts. No recreational equipment, basketball goals or tennis courts, or lighting for any such structures, shall be erected on any Lot without the prior written approval of the ACC.

Section 11.11. Accessory Structures. No structures, tents, shacks, garages, carports, barns, tool sheds, dog houses, cages or coops, gazebos, pergolas, decks, porches, covered structures or other thing shall be erected by any Owner or Occupant on any Lot without the prior written approval of the Board or ACC. Any such accessory structure approved by the Board or ACC, with the exception of a garage attached to the Dwelling, shall be located only behind the Dwelling as such Dwelling fronts on the street abutting such Lot. Such accessory structures shall also be located with such side and rear setback lines as may be required hereby or by applicable zoning law. There shall be no outside lighting for such structures installed except with the prior written approval of the ACC. Notwithstanding the foregoing, no temporary or permanent residence shall be established on any Lot in a trailer, mobile home, or other vehicle, or in a basement, tent, shack, garage, barn, log cabin or any other outbuildings; and no structure of a temporary character, trailer, basement, tent, shack, carport or other outbuilding shall be erected or used as a residence or for any other purpose on any portion of the Property at any time.

Section 11.12. Animals. No animals, including birds, insects, reptiles, livestock, or poultry of any kind shall be raised, bred or kept on a Lot, unless kept thereon solely as household pets and not for a commercial purpose. All animals must be confined to their Owner's Lot, and no animal shall be allowed to become a nuisance to other residents in the Community. Pets must be kept on a leash and be under the control of a responsible Person at all times while on the Common Property, and pets or other animals determined in the Board's sole discretion to be dangerous shall not be brought onto the Common Property at any time.

Any Owner or Occupant who brings any pet unto the Common Property shall be deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of such pet's actions while on the Common Property.

Section 11.13. Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance through the Community, no awnings, shades or window boxes shall be attached to, or hung or used on the exterior of, any window or door of any Dwelling, and no railings, fences or walls shall be installed or constructed upon any Lot or part of the Community without the prior written approval of the ACC. Further, no foil or other reflective material shall be used on any windows or sunscreens, blinds, shade or for any other purpose, nor shall any window mounted heating, air-conditioning or fan units be permitted in the Community. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed

or maintained upon any Lot or portion of the Community, nor shall any clothing, rugs or other items be hung on any railing, fence, hedge or wall on a Lot or on any portion of the Community.

Section 11.14. Antennas and Satellite Dishes. As provided below or otherwise approved by the Board of Directors, or as may be permitted under law, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Community. Direct broadcast satellite ("DBS") antennas and multi-channel multi-point distribution services ("MMDS") one meter or less in diameter and television broadcast service antennas may be installed in accordance with rules and regulations of the Federal Communication Commission ("FCC") and the Association. Any such devices shall be installed in the least conspicuous location available on the Lot that permits reception of an acceptable quality signal. All such devices shall be promptly removed when no longer functioning or used.

Section 11.15. Subdivision of Lots. No Lot shall be divided or subdivided into a smaller Lot, nor shall any portion of a Lot be separately sold, leased, rented or otherwise transferred.

Section 11.16. No Hazardous Materials. Nothing shall be done or kept on any Lot or in the Common Property which will increase the rate of insurance on any portion of the Common Property, without the prior written consent of the Board of Directors.

Section 11.17. Prohibition of Damage, Nuisance and Noise. No noxious or offensive activity shall be maintained or carried on, on any Lot or in the Common Property, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to any other Owner or occupant. No Owner shall make or permit any disturbing noise on the Property, or any portion thereof, by himself, his family, servants, guests, tenants or lessees, nor do or permit anything by any of such persons that will interfere with the rights, comfort or convenience of other Owners. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Community.

However, nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder, if it elects to do so in its sole discretion. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof.

Section 11.18. Abandoned Personal Property. Personal property, except for personal property owned by the Association, is strictly prohibited from being stored, kept, or allowed to remain for a period of more than forty-eight (48) hours upon any portion of the Common Property unless approved by the Board of Directors. If the Board or its designee, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine. If personal property is removed in accordance with this Article, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

Section 11.19. Firearms. The use, display, or discharge of firearms on any portion of the Common Property is prohibited, except to the extent Georgia law expressly allows such and except with prior approval of the Association; provided, however, that the display of lawful firearms in the Community is permitted by law

enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Owner's Lot. The term "firearms" includes "BB" guns, pellet guns, and other firearms of all types, regardless of size.

Section 11.20. Temporary Decorations. The Board may establish rules regarding the placement of holiday and other celebratory decorations or announcements on Lots.

Section 11.21. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) feet and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangle area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitation shall apply on any Lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances or such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 11.22. Pools. Above-ground swimming pools are prohibited. In-ground swimming pools require prior written approval as provided in Article 10.

Section 11.23. Mailboxes. All mailboxes and mailbox posts shall be uniform in design and construction and approved by the Board or ACC, but will be maintained by the Lot owners. Owners shall maintain their mailboxes (including house numbers, posts, and hinged doors) in good condition and shall replace or restore any destroyed or damaged mailboxes on their Lot. The Board may establish mailbox standards and require reasonable modifications or upgrades to mailboxes and mailbox posts to meet revised Community-Wide Standards.

Section 11.24. Interpretation and Determination of Certain Violations. The Board shall have the authority to, in its discretion, interpret the terms and the restrictions and standards set forth in this Article and to determine whether a Lot, or an Owner or Occupant is or has been in violation of the restrictions and standards set forth in this Article. Such determination shall constitute a final determination that a violation has occurred or exists. Nothing herein shall be deemed to diminish or otherwise limit any discretion already provided for in any other Article of this Declaration. Further, all Owners and Occupants hereby acknowledge that the members of the Board of Directors will change over time and the Board's interpretation and enforcement of the terms, restrictions and standards set forth in the aforementioned Sections may vary over time, however, such variance shall not constitute a waiver by the Board of the right to interpret and enforce these Sections. No Board determination or interpretation provided for herein shall constitute a binding precedent with respect to subsequent Board determinations or interpretations.

ARTICLE 12. MAINTENANCE

Section 12.1. Association's Responsibility. The Association shall, in the Board's discretion, maintain and keep in good repair, and where necessary replace (subject to any insurance then in effect) all property within the Area of Common Responsibility, which shall include all structures and improvements on the Common Property.

The Association may, as a Common Expense, maintain other property and improvements that it does not own, including without limitation, property dedicated to the public or signage or other improvements erected by the Declarant, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Dwelling, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Area of Common Responsibility or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, family, or Domestic Partner for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest, family or Domestic Partner for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Section where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, 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 by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association, is caused through the willful or negligent act of an Owner, his or her family, guests, lessees, or invitees, and is not completely covered or paid for by insurance, then the Association may perform the maintenance, repair or replacement at the expense of the Owner, and all costs shall be specifically assessed against the Owner and shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

In performing its responsibility hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board of Directors.

Any maintenance or repair performed on or to the Common Property by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Property) shall be performed at the sole expense and risk of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair unless the Board in its discretion agrees in writing to reimburse some or all of the expense.

Section 12.2. Owner's Responsibility. Each Owner is responsible for all maintenance, repair and replacement of the Owner's Dwelling, Lot and any Structures and improvements thereon. Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standards and Design Guidelines. Any maintenance which involves an exterior change, including, without limitation, landscaping and planting or repainting of the exterior of improvements in a different color, shall require prior approval of the Board or the ACC pursuant to Article 11 of this Declaration; provided, however, that the Board may, in Community-Wide Standards and Design Guidelines, or other rules, exempt certain types of maintenance and repair work from requiring prior approval.

Each Owner also shall be obligated:

(a) With respect to improved Lots, to maintain all grounds visible from a street in a neat manner, with grass regularly trimmed and edged, weeds controlled, landscape and tree beds regularly mulched and edged, and debris and fallen trees and branches promptly removed.

(c) To perform his or her responsibility in such manner as not to unreasonably disturb other persons in other Lots.

(d) To promptly report to the Association or its agent any defect or need for repairs for which the Association is responsible.

(e) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Owner, his or her family, Domestic Partner, tenants or guests, with the cost thereof assessed as a specific assessment.

Section 12.3. Failure to Maintain.

(a) If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair or replacement of items within his or her Lot for which he or she is responsible hereunder, the Association may give the Owner written notice of the Association's intent to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. Such notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board of Directors. The Owner shall have ten (10) days from receipt of such notice within which to complete maintenance or repair on his own, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days and diligently pursue completion thereafter. If the Owner does not undertake or complete the work on his own in a timely manner, all reasonable costs incurred by the Association to complete the work shall be assessed against the Owner as a specific assessment.

(b) Notwithstanding anything in this Subsection, no prior notice of the Association's intent to perform the work described herein at the Owner's expense shall be required if the Board of Directors determines that an emergency exists that requires immediate action.

(c) These enforcement provisions are in addition to the enforcement provisions set forth in Article 16.

Section 12.4. Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary as the composition of the Board of Directors changes. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Article. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board. The Board shall have the authority to, in its discretion, interpret the terms and the restrictions and standards set forth in this Article and to determine whether a Lot, or an Owner or Occupant is or has been in violation of the restrictions and standards set forth in this Article. Such determination shall constitute a final determination that a violation has occurred or exists. Nothing herein shall be deemed to diminish or otherwise limit any discretion already provided for in any other Article of this Declaration.

ARTICLE 13. MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 13.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number) (therefore becoming an "eligible holder") will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by

such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

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

Section 13.3. Amendments by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 13.4. Applicability of this Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 13.5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE 14. EASEMENTS

Section 14.1. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and non-exclusive easement of entry and exit, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his Lot, subject to:

(i) The Association Legal Documents;

(ii) The right of the Board, in its discretion, to adopt, amend and repeal rules regulating the use and enjoyment of the Common Property, including rules limiting the number of guests who may use the Common Property;

(iii) the right, but not the obligation, of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his or her family, tenants, guests, and invitees;

(iv) the right of the Association to suspend the voting rights of an Owner and the right of an Owner to use Common Property in the Community for any period during which any assessment against his or her Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or rules and regulations;

(v) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Property; subject to such approval requirements as set forth in this Declaration;

(vi) The right of the Board, in its discretion, to permit use of any facilities situated on the Common Property by persons, other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;

(vii) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred subject to any approval requirements in the Governing Documents;

(viii) the right of the Association, acting through the Board; to grant and accept permits, leases, licenses, utility easements, and other easements, under, through or over the Common Property;

(ix) the right of the Board of Directors to permit Architectural changes or alterations which encroach upon the Common Property.

(b) Notwithstanding the foregoing, the conveyance or mortgaging of any real property included within the Common Property shall require the prior approval of Owners representing at least 2/3 of the total votes in the Association.

(c) Any Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family, his or her tenants, and guests. An Owner shall be deemed to have made a delegation of all these rights to the Occupants of the Owner's Lot, if leased. No delegation shall relieve the Owner of responsibility for compliance with the Declaration and rules and regulations of the Community.

Section 14.2. Easements for Utilities.

(a) There is hereby reserved, created, established, promulgated and declared non-exclusive, perpetual, reciprocal, appurtenant easements for the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Property (but not through a structure) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing telephone, cable television systems; and other devices for sending or receiving data and/or other electronic signals; storm-water drains, land drains, public and private sewers, irrigation, and drainage systems; and all utilities and pipelines for supplying gas, water and heat,, including, but not limited to, water, sewer, telephone, gas, and electricity, and utility meters; and for any other public or quasi-public facility, service or function, and an easement for access of vehicular and pedestrian traffic over, across, and through the Property, as necessary, to exercise the easements described above.

The local water supplier, electric company, telephone company, all utility providers and natural gas supplier shall have the easements set forth herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

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

Section 14.3. Easement for Entry. In addition to the right of the Board to exercise self-help provided the Declaration, the Board shall have the right, but not the obligation, to enter upon any property in the Community (a) for the purpose of inspecting the property to ensure compliance with this Declaration, the Bylaws and the rules; (b) for emergency situations; (c) to respond to concerns affecting the safety and security of persons in the Community; and (d) as reasonably necessary for the proper maintenance and operation of the Community. This right may also be exercised by the agents of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition after request by the Board or in an emergency situation. The entering party shall be responsible for any damage caused.

Section 14.4. Easement for Association Maintenance. There is hereby reserved to the Association and its designee, an easement and right across all portions of the Community, to allow the Association to fulfill the maintenance obligations described in this Declaration. This easement shall be exercised with a minimum of interference to the quiet enjoyment of the Owner's property, reasonable steps shall be taken to protect the Owner's property, and any Person causing damage to the Owner's property shall repair the damage at its sole expense.

Section 14.5. Public in General. The easements and rights created in this Article do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, that nothing set forth herein shall in any way limit or restrict any existing easements or rights already granted to the public as such easements or rights if previously recorded in the Official Records. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon fifteen (15) days prior written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Community), all or any portion of the Community which, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Declaration.

ARTICLE 15. AUTHORITY AND ENFORCEMENT

Section 15.1. Compliance with Association Legal Documents. All Owners, Occupants and all of their family members and guests shall comply with the Association Legal Documents. The Association, and in an appropriate case, one or more aggrieved Owners, may take action to enforce the terms of the Association Legal Documents directly against all Violators. However, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Association, in its sole discretion, is permitted to enforce the terms of the Association Legal Documents against: (1) only the Owner; (2) only the violating family member, Domestic Partner, tenant, guest or Occupant; or (3) both the Owner and the violating family member, tenant, guest or Occupant. Notwithstanding anything herein to the contrary, the Owner of the Lot is always ultimately responsible for his or her own actions and the actions of all family members, Occupants, guests, and lessees (and their family members and guests) of such Lot.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed independently for relief from interference with his or her personal or property rights against a Person violating the Association Legal Documents. The Board of Directors may, in its discretion, require the aggrieved Owner or

Occupant to independently pursue all available remedies under Georgia law against the Violator before the Association intervenes and commences enforcement action against such Violator.

Section 15.2. Types of Enforcement Actions. In the event of a violation of the Association Legal Documents, the Association shall have the power to take any or all of the following actions separately or simultaneously; provided, however, all suspensions and fines shall comply with the procedures described below and nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Lot:

- (a) Suspend all Violators' rights to use the Common Property;
- (b) Suspend the voting rights of a violating Owner;
- (c) Impose reasonable fines against all Violators, which shall constitute a lien on the violating Owner's Lot;
- (d) Use self-help to remedy the violation;
- (e) Bring an action for permanent injunction, temporary injunction, and/or specific performance to compel the Violator to cease and/or correct the violation; and
- (f) Record in the Cobb County land records a notice of violation identifying any uncured violation of the Association Legal Documents regarding the Lot.

Section 15.3. Suspension and Fining Procedure. Except as provided below, before imposing fines or suspending the right to use the Common Property or the right to vote, the Association shall give a written violation notice to the Violator as provided below.

- (a) Violation Notice. The written violation notice to the Violator shall:
 - (i) Identify the violation, suspension(s) and/or fine(s) being imposed; and
 - (ii) Advise the Violator of the right to request a violation hearing before the Board of Directors to contest the violation or request reconsideration of suspension(s) or the fine(s).

Notwithstanding the Violator's right to request a violation hearing, suspension(s) and/or fine(s) shall commence on the date of the written violation notice, unless a later date is specified in such notice.

(b) Violation Hearing. If the Violator submits a written request for a violation hearing within 10 days of the date of the violation notice described above, then the Board of Directors shall schedule and hold, in executive session, a violation hearing. If a Violator fails to timely request a violation hearing, such Violator loses the right to contest the violation and request reconsideration of the suspension(s) and/or the fine(s). If a Violator timely requests a violation hearing, the Violator shall have a reasonable opportunity to address the Board regarding the violation; provided, however, the Board may establish rules of conduct for the violation hearing, including but not limited to, limits on the amount of time one person can speak and limits on the number of participants who may be present at one time. The minutes of the violation hearing shall contain a written statement of the results of such hearing.

(c) No Violation Notice and Hearing Required. No violation notice or violation hearing shall be required to:

- (i) impose late charges on delinquent assessments;

(ii) suspend a violating Owner's voting rights if the Violator's Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the violating Owner's right to vote shall be automatic and shall continue until the violation no longer exists or the Board of Directors otherwise reinstates such rights in writing;

(iii) suspend a Violator's right to use the Common Property if the Violator's Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the Violator's right to use the Common Property shall be automatic (which shall allow the Association to tow and/or boot a Violator's vehicle located on the Common Property without complying with the Suspension and Fining Procedures described above);

(iv) engage in self-help in an emergency;

(v) impose fines for each day of a continuing violation, in which case, each day the violation continues or occurs again constitutes a separate violation and fine(s) may be imposed on a per diem basis without any further notice to the Violator; or

(vi) impose fines if the same violation occurs again on the same Lot, in which case fine(s) may be imposed on a per diem basis without any further notice to the Violator.

Section 15.4. Injunctions and Other Suits at Law or in Equity. All Owners agree and acknowledge that there may not be adequate remedies at law to enforce the Association Legal Documents. Therefore, in addition to all other enforcement rights granted herein, the Association is hereby entitled to bring an action for permanent injunction, temporary injunction and/or specific performance to compel a Violator to cease and desist and/or correct any violation.

Section 15.5. Costs and Attorney's Fees for Enforcement Actions. In any action taken by the Association to enforce the Association Legal Documents, the Association shall be entitled to recover from the Violator and Lot Owner, any and all costs incurred by the Association, including but not limited to attorneys' fees actually incurred, all of which shall constitute a lien against the violating Owner's Lot.

Section 15.6. Failure to Enforce. The Board of Directors has the sole discretion to decide which, if any, enforcement action to pursue against each Violator. The failure of the Board to enforce any provision of the Association Legal Documents shall not be deemed a waiver of the right of the Board to do so thereafter. No right of action shall exist against the Association for failure to enforce if the Board of Directors determines that:

(a) the Association's position is not strong enough to justify taking enforcement action;

(b) a particular violation is not of such a material nature as to be objectionable to a reasonable person;

(c) a particular violation is not of such a material nature to justify the expense and resources to pursue or continue to pursue enforcement action;

(d) the aggrieved Owner or Occupant asserting a failure of enforcement has not independently pursued all available individual remedies under Georgia law; or

(e) the Association enforces only against an Owner for the violation of the Owner's family

member, guest or Occupant or the Association does not enforce against the Owner and enforces only against the violating family member, guest or Occupant.

ARTICLE 16. AMENDMENTS

Section 16.1. Approval Procedure: Except where a higher vote is required for action under any other provisions of this Declaration or by the Act, this Declaration may be amended with the agreement of Owners of Lots to which two-thirds of the votes in the Association appertain. Notice of a meeting, if any, at which a proposed amendment will be considered shall state that an amendment will be considered and describe the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Cobb County, Georgia land records.

Section 16.2. Amendments to Comply with Law or Conform Documents. Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration to comply with any applicable state, city, federal, or county law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Articles, and applicable laws.

Section 16.3. Validity of Amendments. No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the Bylaws more than one year after the recording thereof in the Cobb County, Georgia land records.

ARTICLE 17. GENERAL PROVISIONS

Section 17.1. Duration. The covenants and restrictions of this Declaration shall run with and bind all real property in the Community perpetually to the extent provided in the Act.

Section 17.2. SECURITY. THE ASSOCIATION MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS THAT DIRECTLY OR INDIRECTLY IMPROVE SAFETY IN THE COMMUNITY. HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION IS NOT A PROVIDER OF SECURITY AND SHALL HAVE NO DUTY TO PROVIDE SECURITY FOR THE COMMUNITY. FURTHERMORE, THE ASSOCIATION DOES NOT REPRESENT THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS NOR DOES THE ASSOCIATION REPRESENT THAT CRIMINAL ACTS WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. IT SHALL BE THE RESPONSIBILITY OF EACH OWNER TO PROTECT HIS OR HER PERSON AND PROPERTY, AND ALL RESPONSIBILITY TO PROVIDE SUCH SECURITY SHALL LIE SOLELY WITH EACH OWNER. THE ASSOCIATION SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY SECURITY SYSTEM OR MEASURES, INCLUDING ANY MECHANISM OR SYSTEM FOR LIMITING ACCESS TO THE PROPERTIES, CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS AND ALL OCCUPANTS OF ITS UNIT THAT THE ASSOCIATION, ITS BOARD OF DIRECTORS AND COMMITTEES ARE NOT INSURERS AND THAT EACH PERSON USING THE PROPERTIES ASSUMES ALL RISKS OR PERSONAL INJURY

AND LOSS OR DAMAGE TO PROPERTY, INCLUDING UNITS AND THE CONTENTS OF UNITS, RESULTING FROM ACTS OF THIRD PARTIES.

Section 17.3. Dispute Resolution. Any Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any director, or any agent of the Association. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date no less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing by the person requesting the hearing.

Section 17.4. No Discrimination. No action shall be taken by the Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or disability or any other basis proscribed by law.

Section 17.5. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the Bylaws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

Section 17.6. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 17.7. Indemnification and Limitation of Liability and Duties.

The Association shall indemnify every member of the Board, ACC and other committee established by the Board or pursuant to the Governing Documents, and any officer of the Association, against all damages, liabilities, and expenses, including attorney's fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the Board of Directors) to which he or she may be a party by reason of being or having been a member of the Board, ACC or other committee, or an officer of the Association, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and/or Bylaws of the Association, and Georgia law.

Notwithstanding anything to the contrary provided herein, nothing in the Governing Documents shall create or be deemed to create or imply a duty or otherwise obligate the Association (in any manner that could render it liable for damages in tort or breach of contract) to enforce or otherwise pursue any violation of the Governing Documents or to exercise its rights under any easement. The Association, the individual members of its Board of Directors, ACC, or other committee established by the Board or pursuant to the Governing Documents, and any volunteer, agent, property manager and/or employee of the Association (hereafter "Association Leader") shall not be liable for any injury or damage to any Lot Owner, or any lessee, Occupant, licensee, guest, family or third party (hereafter "Other Party") for any such failure. However, nothing herein will preclude the Association from recovering any money or property (or the value of same) that is misappropriated, converted or otherwise possessed by anyone not entitled to same, the value of any business opportunity of the Association appropriated by another, the value of any improper personal benefit obtained by another, or for the types of liability set forth in O.C.G.A. §14-3-860 to 865. Nothing in the Governing Documents shall create or be

deemed to create a fiduciary relationship between a Lot Owner or any "Other Party" and the Association or any Association Leader.

In addition, neither the Association nor any Association Leader shall be liable for any injury or damage for any mistake of judgment, act, failure to act, breach of duty, or for the performance of or failure to perform any duty, obligation or responsibility, arising out of or in connection with the Governing Documents, whether negligent or otherwise, except for his or her own individual willful misconduct.

In any litigation or other legal action or proceeding (judicial, administrative or otherwise, including alternative dispute resolution) between the Association or an Association Leader and any Lot Owner or any "Other Party" arising out of or in connection with the Property, any portion thereof, the Association, and/or the Governing Documents, the Association or an Association Leader shall be entitled to recover his/her/it's reasonable attorney's fees incurred to the extent he/she/it prevails.

Section 17.8. Electronic Records, Notices and Signatures. Notwithstanding any other portion of this Declaration, records, signatures and notices (including required attachments) shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws shall govern the giving of all notices required by this Declaration.

Section 17.9. Preamble. The preambles and recitals of this Declaration are by reference made a part of this document as if fully stated herein in their entirety.

Section 17.10. Preparer. This Declaration was prepared by Melinda K. Banks, Esq., NowackHoward, LLC, Resurgens Plaza, Suite 1250, 945 East Paces Ferry Road, Atlanta, Georgia 30326.

Section 17.11. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, 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 17.12. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

[SIGNATURES COMMENCE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned officers of the King Valley HOA, Inc., hereby certify that the above Amendment to the Declaration was duly adopted by the required agreement of the Association members and as provided for by the Declaration.

This 27th day of January, 2020.

KING VALLEY HOA, INC.

By: [Signature] [SEAL]
President

Drew Ashby
(Printed Name of President)

Attest: [Signature] [SEAL]
Secretary

Lauren Noyias
(Printed Name of Secretary)

[CORPORATE SEAL]

SWORN TO AND SUBSCRIBED BEFORE ME

this 27th day of January, 2020.

[Signature]
Witness

[Signature]
Notary Public

[NOTARY SEAL]

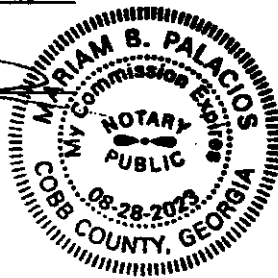


EXHIBIT "A"

Description of Submitted Property

EXHIBIT "A"

Legal description of Phase I

King Valley Subdivision

All that tract or parcel of land lying and being in Land Lots 406, 407, 408, 409 of the 17th District, 2nd Section, Cobb County, Georgia, and being more particularly described on that certain Final Plat of King Valley at Vinings, Unit I, dated June 5, 1997 and prepared by Watts & Manning Engineers, Inc., V. T. Hammond, Georgia Registered Land Surveyor Number 2554, said survey being recorded in Plat Book 169, Pages 25, 26 and 27, Records of Cobb County, Georgia, said plat being incorporated herein by reference.

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 405 and 406, of the 17th District, 2nd Section, Cobb County, Georgia, and being King Valley at Vinings, Unit 2, as shown on the final plat of King Valley at Vinings Unit 2, dated August 19, 1998, and recorded in Plat Book 175, Pages 60 and 61, Superior Court Records, Cobb County, Georgia, which said plat is hereby incorporated herein by reference for a complete description of said property.

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lots 406, 468 and 469, of the 17th District, 2nd Section, Cobb County, Georgia, and being King Valley at Vikings, Unit 3, as shown on the final plat of King Valley at Vikings Unit 3 prepared by Watts & Browning Engineers, Inc. and recorded in Plat Book 181, Page 54-56, Superior Court Records, Cobb County, Georgia, which plat is hereby incorporated herein by reference for a complete description of said property.