

DK2092PG0401

PAULDING COUNTY, GEORGIA
PAULDING COUNTY COURTS
FILED IN OFFICE

2006 FEB 16 PM 2:28

TREVA W. SHELTON
CLERK
PAULDING COUNTY COURTS

Return to: Weissman, Nowack, Curry & Wilco, P.C.
One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
Attn: Ellen J. Fleming, Esq.

DECLARATION OF COVENANTS

FOR

ROSEWOOD PARK

WEISSMAN, NOWACK, CURRY, & WILCO, P.C.

Attorneys

One Alliance Center, 4th Floor
3500 Lenox Road
Atlanta, Georgia 30326
(404) 926-4500

COPYRIGHT © 2006.

ALL RIGHTS RESERVED. THIS DECLARATION MAY BE USED ONLY IN CONNECTION WITH
THE PROPERTY AT ROSEWOOD PARK AND THE OPERATION OF THE ROSEWOOD PARK
COMMUNITY ASSOCIATION, INC.

DK2092PG0402

STATE OF GEORGIA

COUNTY OF PAULDING

DECLARATION OF COVENANTS

FOR

ROSEWOOD PARK

THIS DECLARATION, consisting of covenants, conditions, easements and restrictions, is made on the date set forth below by Traton Investments, LLC, a Georgia limited liability company ("Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Article III of this Declaration;

WHEREAS, Declarant desires to subject the real property described in Article III to the provisions of this Declaration and to provide for the subjecting of other real property to the provisions of this Declaration; and

NOW, THEREFORE, Declarant declares that, subject to the provisions of Section 3 of Article XI of this Declaration, the real property described in Article III of this Declaration, including the improvements constructed or to be constructed thereon, is subjected to the provisions of this Declaration, and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, set forth in this Declaration, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property subject to this Declaration, and shall be binding on all Persons having any right, title, or interest in all or any portion of the real property subject to this Declaration, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall be for the benefit of all owners of the property subject to this Declaration.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO CREATE A CONDOMINIUM REGIME SUBJECT TO THE GEORGIA CONDOMINIUM ACT, O.C.G.A. § 44-3-70, ET SEQ.

THIS DECLARATION DOES NOT AND IS NOT INTENDED TO SUBMIT THE COMMUNITY TO THE TERMS OF THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT, O.C.G.A. § 44-3-220, ET SEQ.

TABLE OF CONTENTS

	<u>Page</u>
I PURPOSE.....	1
II DEFINITIONS.....	1
III PROPERTY SUBJECT TO THIS DECLARATION.....	4
IV ASSOCIATION MEMBERSHIP AND ALLOCATION OF VOTES	4
V ASSESSMENTS	5
1. Purpose of Assessment	5
2. Creation of the Lien and Personal Obligation For Assessments	5
3. Delinquent Assessments	5
4. Computation of Operating Budget and Assessment	6
5. Special Assessments	6
6. Specific Assessments	6
7. Date of Commencement of Assessments	7
8. Initiation Fee	8
9. Capital Reserve Budget and Contribution.....	8
VI AREA OF COMMON RESPONSIBILITY	8
1. Partition of Area of Common Responsibility.....	8
2. Conveyance of Area of Common Responsibility by Declarant to Association.....	8
VII MAINTENANCE.....	9
1. Association's Responsibility	9
2. Owner's Responsibility	9
3. Maintenance Standards.....	9
4. Minimum Standard for Lawn and Yard Care	10
5. Failure to Maintain.....	10
VIII USE RESTRICTIONS AND RULES.....	10
1. General	10
2. Residential Use	10
3. Building Type and Location.....	11
4. Exterior Painting or Redecorating.....	11
5. Signs	11
6. Leasing	11
7. Occupants Bound	13
8. Pets	13
9. Number of Occupants	13
10. Vehicles and Parking	13
11. Garages.....	14
12. Outbuildings.....	15
13. Nuisance.....	15
14. Unsightly or Unkempt Conditions.....	15
15. Antennas and Satellite Dishes.....	15

Table of Contents (Continued)

Page

	16.	Tree Removal	16
	17.	Drainage	16
	18.	Sight Distance at Intersections.....	16
	19.	Garbage and Refuse Disposal	16
	20.	Clotheslines, Woodpiles, Etc.....	16
	21.	Subdivision of Lot.....	16
	22.	Storage Buildings or Sheds.....	16
	23.	Fences	17
	24.	Air Conditioning Units	17
	25.	Lighting	17
	26.	Artificial Vegetation, Exterior Sculpture, and Similar Items	17
	27.	Energy Conservation Equipment	17
	28.	Swimming Pools	17
	29.	Standard Mailboxes	17
	30.	Playground Equipment.....	17
	31.	Driveways.....	17
	32.	Temporary Structures	18
	33.	Use of Area of Common Responsibility Including Amenities	18
	34.	Firearms and Fireworks	18
	35.	Garage Sales.....	18
	36.	Basketball Equipment	18
IX		INSURANCE AND CASUALTY LOSSES	18
	1.	Insurance on Property Maintained by the Association	18
	2.	Repair and Reconstruction.....	19
X		CONDEMNATION	20
XI		ANNEXATION OF ADDITIONAL PROPERTY	20
	1.	Annexation Without Approval	20
	2.	Annexation With Approval	21
	3.	Withdrawal of Property	21
	4.	Additional Covenants and Easements	21
	5.	Amendment	21
XII		ARCHITECTURAL STANDARDS	21
	1.	General	21
	2.	Lot Appearance Review.....	22
	3.	Guidelines and Procedures	23
	4.	Disclaimer	23
	5.	No Waiver of Future Approvals.....	24
	6.	Variance	24
	7.	Enforcement	24
	8.	Commencement of Construction	24

Table of Contents (Continued)

Page

XIII	MORTGAGEE PROVISIONS.....	25
	1. Notices of Action.....	25
	2. No Priority.....	25
	3. Notice to Association.....	25
	4. Amendments by Board.....	25
	5. VA/HUD Approval.....	26
	6. Applicability of This Article.....	26
	7. Failure of Mortgagee to Respond.....	26
XIV	EASEMENTS.....	26
	1. Easements for Encroachment and Overhang.....	26
	2. Easements for Use and Enjoyment.....	26
	3. Easement for Utilities.....	27
	4. Easement for Entry.....	27
	5. Easement for Association Maintenance.....	27
	6. Easements for Maintenance and Repair.....	28
	7. Easement for Street Signs.....	28
	8. Public in General.....	28
	9. Construction and Sales Period Easement.....	28
	10. General.....	29
	11. Easement for Drainage.....	29
	12. Approved Builder.....	29
XV	GENERAL PROVISIONS.....	29
	1. Enforcement.....	29
	2. Self-Help.....	29
	3. Duration.....	30
	4. Amendment.....	30
	5. Security.....	30
	6. Dispute Resolution.....	31
	7. Gender and Grammar.....	31
	8. Severability.....	31
	9. Captions.....	31
	10. Perpetuities.....	31
	11. Indemnification.....	31
	12. Construction and Sale Period.....	32
	13. Contracts Executed During Declarant Control.....	32
	14. Financial Review.....	32
	15. Sale of Lots.....	33
	16. Agreements.....	33
	17. Implied Rights.....	33
	18. Variances.....	33
	19. Disclosures.....	33
	20. Preparer.....	34

BK2092PG0406

TABLE OF EXHIBITS

EXHIBIT "A" – PROPERTY SUBMITTED

EXHIBIT "B" – ADDITIONAL PROPERTY

EXHIBIT "C" – BYLAWS

Article I.
Purpose

Declarant intends to create a residential neighborhood connected through a network of streets and sidewalks designed to encourage pedestrian travel. Sidewalks will lead to a variety of gathering areas throughout the Community. The Community Development Plan employs "connectivity" throughout the Community to encourage natural, positive, social interaction and promote a strong sense of community. A park area, recreational facility, community entrance, signage, street lighting, Common Property, and street trees along with open spaces will be used to create visually interesting street vistas and help give the Community a unique identity.

Since the Community will be developed over a period of years, and will therefore be subject to changing tastes, consumer preferences and market forces, Declarant reserves to itself the right to modify, alter or change the Community Development Plan. No statement contained herein should be construed as a warranty or representation with respect to the nature of the services, amenities and land uses to be located within the Community, the social or physical environment existing within the Community, or the administration and operation of the Community.

Article II.
Definitions

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

(a) "Additional Property" shall mean that property described on Exhibit "B" attached hereto and incorporated herein which may be submitted to the Community as provided in this Declaration.

(b) "Approved Builder" shall mean any builder or developer that is designated by Declarant as an "Approved Builder". An Approved Builder shall continue to be an Approved Builder for so long as it owns at least one (1) Lot for the purpose of construction of a residence and resale of the Lot and residence.

(c) "Area of Common Responsibility" shall mean and refer to the Common Property (as defined herein), and the Park/Open Area (as defined herein), together with other areas, if any, which by the terms of this Declaration or by contract or agreement with any other Person become the responsibility of the Association. Notwithstanding anything to the contrary stated herein, as used in Article VI hereof, the term "Area of Common Responsibility" shall collectively refer to the Common Property and the Park/Open Area only.

(d) "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of Rosewood Park Community Association, Inc., which has been filed with the Secretary of State of the State of Georgia.

(e) "Association" shall mean Rosewood Park Community Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) "Board of Directors" or "Board" shall mean the appointed or elected body of the Association, as applicable, having its normal meaning under Georgia corporate law.

(g) "Bylaws" shall refer to the Bylaws of Rosewood Park Community Association, Inc., attached to this Declaration as Exhibit "C" and made a part of this Declaration.

(h) "Common Expenses" shall mean the expenses incurred or anticipated to be incurred by the Association for the general benefit of the Community, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Area of Common Responsibility, and any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation of the Association, but shall not include any expenses for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Owners representing a Majority of the Total Association Vote. As more specifically set forth in Article V Section 6(c) of this Declaration, financial subsidies, if any, to ensure the financial viability and availability of any service, activity, or enterprise within the Community, as deemed appropriate in the sole discretion of the Board, shall constitute a Common Expense.

(i) "Common Property" shall mean any and all improved real property and any easements, conditions and other real property interests, together with the facilities and improvements located in the Community, now or in the future owned by the Association, including but not limited to, the park, certain utilities, storm water detention facilities, storm water drainage system, including, but not limited to, storm water pipes, inlets, junction boxes, headwalls and drop inlet basins, sidewalks, tennis courts and all equipment for same, swimming pool and all personal property that the Association may own in any of these areas.

(j) "Community" shall mean and refer to that certain real property and any easements, conditions and other real property interests therein described in Exhibit "A" attached hereto, and such additions thereto as may be made by the Association in accordance with the procedures outlined in Article XI of this Declaration.

(k) "Community Development Plan" shall mean the Declarant's land use plan for the Community, as amended from time to time. Inclusion of property in the Community Development Plan shall not obligate the Declarant or any other Person to subject such property to this Declaration, nor shall exclusion of property from the Community Development Plan bar the Declarant or any other Person from adding such property to the Declaration.

(l) "Community Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. This determination, however, must be consistent with the Community Standard originally established by the Declarant.

(m) "Declarant" shall mean and refer to Traton Investments, LLC, a Georgia limited liability company, and such of its successors-in-title who shall (i) acquire, from a predecessor "Declarant," and for the purpose of development or sale, all or any portion of the real property described in Exhibit "A" and/or Exhibit "B" attached hereto and incorporated herein by this reference, and (ii) be designated as the "Declarant" in the deed of transfer by which such successors-in-title shall so acquire its interest in such real property, or by written assignment of Declarant rights in an instrument recorded in the Paulding County, Georgia records.

There shall only be one "Declarant" at any one time; in no event shall more than one (1) Person have the right to exercise the power and authority of the "Declarant" at any one time.

(n) "Declarant Control Period" shall mean the period of time during which the Declarant is entitled to appoint and remove the members of the Board of Directors as provided in Article III, Part A, Section 2 of the Bylaws.

(o) "Design Guidelines" shall mean the design guidelines and application and review procedures as more specifically addressed in Article XII, Section 3 hereof.

(p) "Domestic Partner" shall mean any adult who cohabitates with an Owner and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's Secretary. A Person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.

(q) "Electronic Record" shall mean information created, transmitted, received or stored by electronic means and retrievable in human perceivable form.

(r) "Electronic Signature" shall mean information created, transmitted, received or stored by electronic means and includes, but is not limited to, a secure electronic signature.

(s) "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.

(t) "Lot" shall mean any portion of the Community intended for independent ownership, whether improved or unimproved. The term shall include, by way of illustration, but not limitation, single-family detached houses on separately platted lots. A tract of vacant land or land upon which improvements are being constructed shall be deemed a single Lot until a subdivision plat or other similar instrument showing the location of all contemplated improvements, is filed in the Paulding County, Georgia records. Thereafter, the property encompassed by such plat shall have the number of Lots intended for independent ownership.

(u) "Maintenance Standards" shall mean those standards for the maintenance of the exterior portions of a Lot as prepared and adopted by the Board of Directors in accordance with Article VII.

(v) "Majority" shall mean those eligible votes by Owners, or other group as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

(w) "Modifications Committee" or "MC" shall mean the committee established to advise the NCC and/or review and approve all modifications, additions or alterations made on or to existing structures on Lots as more specifically set forth in Article XII hereof.

(x) "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.

(y) "Mortgagee" shall mean the holder of a Mortgage.

(z) "New Construction Committee" or "NCC" shall mean the Committee established to review and approve all original construction on any portion of the Community as more specifically set forth in Article XII hereof.

(aa) "Occupant" shall mean any Person other than an Owner occupying or residing in all or any portion of a Lot for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year, regardless of whether such Person is a tenant.

(bb) "Owner" shall mean and refer to the record owner, whether one (1) or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(cc) "Park/Open Area" shall mean any and all unimproved real property and any easements, conditions and other real property interests related thereto, located in the Community (as may be more specifically shown on the Survey), now or in the future owned by the Association, including but not limited to, certain utilities, storm water detention facilities, storm water drainage system, including, but not limited to, storm water pipes, inlets, junction boxes, headwalls and drop inlet basins, buffer areas and other portions of the Community that are not included in the boundaries of a Lot. The Park/Open Area shall be used only for passive uses.

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

(ee) "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.

(ff) "Supplementary Declaration" shall mean an amendment or supplement to this Declaration, which subjects Additional Property to this Declaration or imposes additional restrictions and obligations on the Community, or a portion thereof.

(gg) "Survey" shall mean the recorded plats of survey for Rosewood Park, as amended, that are recorded in the Paulding County, Georgia records.

(hh) "Total Association Vote" shall mean all of the votes attributable to members of the Association (including votes of Declarant), and the consent of Declarant so long as Declarant owns any property for development and/or sale in the Community.

Article III.

Property Subject To This Declaration

The real property which is, by the recording of this Declaration, subject to the covenants and restrictions set forth in this Declaration is the real property described in Exhibit "A", attached and made a part of this Declaration. By one (1) or more Supplementary Declaration, Declarant and the Association have the right, but not the obligation, to subject the Additional Property described in Exhibit "B" to this Declaration, as provided in Article XI.

Article IV.

Association Membership and Allocation of Votes

All Owners, by virtue of their ownership of a fee or undivided fee interest in any Lot in the Community, excluding Persons holding such interest under a Mortgage, are members of the Rosewood Park Community Association, Inc., and, except as otherwise provided herein or in the Bylaws, shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Bylaws. Subject to the provisions of the Declaration and Bylaws, the Owner or collective Owners of a Lot shall be entitled to one (1) equally weighted vote for such Lot.

Article V.
Assessments

Section 1. Purpose of Assessment. The Association shall have the power to levy assessments as provided herein. The assessments for Common Expenses provided for herein shall be used for the general purposes of protecting the physical and social environment within the Community and promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots in the Community as may be more specifically authorized from time to time by the Board.

Section 2. Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest at a rate not to exceed the maximum rate permitted by law per annum on the principal amount due, and costs, including, without limitation, reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

The Association shall, within five (5) business days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

Annual assessments shall be levied at a uniform rate per Lot and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in annual installments.

Section 3. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(a) If any annual assessment or any part thereof is not paid in full within ten (10) days of the due date, a late charge equal to the greater of Fifty and No/100 Dollars (\$50.00) or ten percent (10%) of the amount not paid may be imposed without further notice or warning to the delinquent Owner and interest at the rate of ten percent (10%) per annum or such higher rate as may be permitted under Georgia law shall accrue from the due date.

(b) If part payment of assessments and related charges is made, the amount received may be applied first to costs and attorney's fees, then to late charges, then to interest, then to delinquent assessments, and then to current assessments.

(c) If assessments and other charges or any part thereof remain unpaid more than sixty (60) days after the assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the Bylaws, and Georgia law, including reasonable attorneys' fees actually incurred, and suspend the Owner's right to vote and the right to use the Common Property; provided, however, the Board may not limit ingress or egress to an Owner's Lot. Enforcement under this subparagraph is not dependent upon or related to other restrictions and/or other actions.

Section 4. Computation of Operating Budget and Assessment. It shall be the duty of the Board at least twenty-one (21) days prior to the Association's annual meeting to prepare and deliver to each member a budget covering the estimated costs of operating the Community during the coming year and a notice of the annual assessments to be levied against each Lot for the following year. The budget and the annual assessment shall become effective unless disapproved at a duly called and constituted annual meeting of the Association by a vote of a Majority of the Total Association Vote; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the current year shall continue for the succeeding year. In such case, the Board may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least twenty-one (21) days prior to the proposed effective date thereof and at least ten (10) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings.

Section 5. Special Assessments. In addition to the annual assessment provided for in Section 4 above, the Board may, at any time, and in addition to any other rights it may have, levy a special assessment against all Owners, notice of which shall be sent to all Owners. Any special assessment which would cause the total of special assessments levied in one (1) fiscal year to exceed Three Hundred and No/100 Dollars (\$300.00) per Lot, shall be presented to the membership for a vote by ballot or at a meeting and deemed approved unless disapproved by a Majority of the Total Association Vote. Notwithstanding the foregoing, until one hundred percent (100%) of the Community has been developed and conveyed to Owners in the normal course of development and sale, any such special assessments must be approved by Declarant.

Section 6. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article V of the Bylaws and the costs of maintenance performed by the Association for which the Owner is responsible for under Article VII of this Declaration shall be specific assessments. The Board may also specifically assess Owners for the following Association expenses:

(a) expenses of the Association which benefit less than all of the Lots in the Community may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and

(b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Section 7. Date of Commencement of Assessments.

(a) Assessments shall commence as to each Lot on the day on which such Lot is conveyed to a Person other than the Declarant or an Approved Builder. Neither the Declarant nor an Approved Builder who purchases a Lot for the purpose of construction of a residence and resale of a Lot and residence shall be responsible for the payment of any type of assessment; provided, however, assessments shall commence on Lots containing occupied residences that are owned by Declarant or an Approved Builder on the first day of the month following the occupancy of the Lot. The first Assessment shall be adjusted according to the number of months then remaining in that fiscal year. Subsequent assessments shall be due and payable on the first business day of the Association's fiscal year, unless provided otherwise by the Board of Directors.

(b) Any residence constructed on a Lot that has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such residence constructed on a Lot is approved for use as a model home and is not occupied for residential purposes.

(c) Notwithstanding anything to the contrary herein, for so long as Declarant has the unilateral right to annex Additional Property pursuant to Article XI, Declarant may elect, but shall not be obligated, to reduce the assessment for any fiscal year by paying a subsidy on such terms and under such circumstances as Declarant in its sole discretion may decide. However, any Declarant subsidy shall be conspicuously disclosed as a line item in the income portion of the common expense budget. If the Declarant elects to pay a subsidy, the amount of the subsidy shown on the budget shall be an estimate only, and the Declarant shall be obligated to fund such subsidy only to the extent of any operating deficit, if any, between the actual operating expenses of the Association and the sum of annual, common assessments, special assessments, and specific assessments collected by the Association in any assessment year. The payment of a subsidy in one (1) year shall under no circumstances obligate the Declarant to continue payment of a subsidy in future years; provided, however, the Declarant shall be responsible for assessments to the extent required by Section 7 of this Article. The Declarant, in its sole discretion, may choose to characterize all such subsidized amounts expended to offset any actual operating deficit of the Association as loans to the Association, which, at the Declarant's request shall be evidenced by a promissory note(s) from the Association to Declarant. Such promissory note(s), if any, shall be due and payable upon demand, with interest at the rate of ten percent (10%) per annum after demand, unless otherwise negotiated and agreed to by the Association and the Declarant.

The Declarant's option to subsidize the assessment may be in the form of cash, or by "in kind" contributions of services or materials, or a combination of these. The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If Declarant, or its affiliate, as the case may be, and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and Declarant, or its affiliate, as the case may be, cannot agree as to the value of any contribution, Declarant, or its affiliate, as the case may be, shall supply the Association with a detailed explanation of the services performed and materials furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors, approved by Declarant, or its affiliate, as the case may be, who are in the business of providing such services and materials. If the Association and the Declarant, or its affiliate, as the case may be, are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

Section 8. Initiation Fee. The first Owner of a Lot conveyed from the Declarant or an Approved Builder ("First Owner") shall pay to the Association an initiation fee in an amount equal to fifty percent (50%) of the annual assessment in effect for the current year. After the First Owner, any subsequent Owner, who acquires a Lot subject to mandatory membership in the Rosewood Park Community Association, Inc. pursuant to the terms of this Declaration shall pay an initiation fee in an amount equal to twenty-five percent (25%) of the annual assessment in effect for the current year upon acquisition of the Lot. The initiation fee shall not be deemed an advance payment of regular or special assessments. The Board shall have discretion to increase the initiation fee by resolution of the Board; provided, however, the initiation fee shall not be changed by the Board without Declarant's consent so long as Declarant owns any property in the Community or fifteen (15) years from the date of recording of this Declaration, whichever comes first. Notwithstanding anything to the contrary herein, no initiation fee shall be due from any Person who takes title through foreclosure (or deed in lieu of foreclosure) upon the lien of any first priority Mortgage covering the Lot and the lien of any secondary purchase money Mortgage covering the Lot. This initiation fee shall be an assessment, which is the personal obligation of the Owner, and shall constitute a lien, which may be collected as provided in this Article.

Section 9. Capital Reserve Budget and Contribution. After the expiration of the Declarant Control Period, the Board of Directors shall annually prepare a capital reserve budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital reserve contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital reserve budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The annual capital reserve contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in Section 4 of this Article. A copy of the capital reserve budget shall be distributed to each member in the same manner as the operating budget.

Notwithstanding any other provisions of this Declaration, during the Declarant Control Period, neither Declarant nor the directors and officers of the Association shall be required to prepare a capital reserve budget, set any other capital reserve contribution, or otherwise collect amounts for capital reserves.

Article VI.

Area of Common Responsibility

Section 1. Partition of Area of Common Responsibility. Ownership of the Area of Common Responsibility shall be by the Association. The Area of Common Responsibility shall remain undivided. No Owner or any other Person, but excluding the Declarant, shall bring any action for partition or division of the whole or any part of the Area of Common Responsibility without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

Section 2. Conveyance of Area of Common Responsibility by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement, or other property interest, which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall be Area of Common Responsibility to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section.

Article VII.
Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements located on the Area of Common Responsibility. Specifically, but not by way of limitation, the Association shall maintain: (a) all storm water detention or retention ponds and storm water drainage system, if and to the extent such ponds and storm water drainage systems are not maintained by a public entity or owners of neighboring property; (b) all walking trails/paths located on the Area of Common Responsibility; and (c) all sidewalks.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether located within or without the Community, where the Board has determined that such maintenance would benefit all Owners.

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 added to and become a part of the assessment obligation of the Owner and may become a lien against the Lot.

The Association shall perform all maintenance in a manner consistent with the Community Standard.

Section 2. Owner's Responsibility. The Lot, and all structures, driveway, landscaping, and other improvements located on or leading to a Lot shall be the sole responsibility of the Owner, who shall maintain said areas in a manner consistent with the Community Standard, Maintenance Standards (as more specifically set forth in Section 3 below) and this Declaration. Such maintenance shall include, but not be limited to, maintaining fencing in good repair, exterior painting as needed and maintenance of all vegetation and landscaping in good and presentable condition.

Section 3. Maintenance Standards. The Board of Directors or its designee may, but is not required to, prepare and adopt Maintenance Standards. The Maintenance Standards may contain general provisions applicable to all of the Community, as well as specific provisions which vary from one portion of the Community to another depending upon the location, unique characteristics, and intended use. The Board shall have sole and full authority to amend the Maintenance Standards from time to time, without the consent of the Owners.

In the discretion of the Board, such Maintenance Standards may be recorded in the Paulding County, Georgia records, in which event the recorded version, as it may unilaterally be amended from time to time by the Board by recordation of amendments thereto, shall control in the event of any dispute as to which version of the Maintenance Standards was in effect at any particular time.

All Owners and Occupants shall maintain the exterior portion of their Lots in accordance with the Maintenance Standards, if any.

Section 4. Minimum Standard for Lawn and Yard Care. All yard areas located on a Lot shall be maintained in a neat, clean and orderly condition, free of dead leaves, broken limbs, dead trees and other debris as necessary. All grassed areas in the front and side yards must be sodded with a type of sod approved by the NCC or MC, as applicable, or permitted in the Design Guidelines pursuant to Article XII, Section 2. Any change in sod type shall be approved by the MC. All lawns must be regularly cut (general grass height may not exceed six (6") inches) and maintained so that there are no noticeable weeds, bare spots or eroded areas. All non-grassed landscaped areas must be uniformly mulched with a type of mulch approved by the NCC or MC, as applicable, or permitted in the Design Guidelines and Maintenance Standards pursuant to Article XII, Section 2, and shall be maintained so that there are no noticeable weeds to insure an attractive Lot appearance. All shrubbery shall be maintained in a neat and attractive condition and shall be trimmed as needed to fulfill this requirement. The standards set forth herein are minimum standards and may be supplemented with additional, and more specific standards in the Design Guidelines and Maintenance Standards.

Section 5. Failure to Maintain. In the event that the Board of Directors determines that a Lot is not maintained in a manner consistent with the Community Standard, Maintenance Standards, if any, and this Declaration, except in an emergency situation, the Board of Directors shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall state the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten (10) days after receipt of the notice to complete the maintenance, repair, or replacement of lawn violations and thirty (30) days after receipt of the notice to complete the maintenance, repair, or replacement of all other violations. In the event that the maintenance, repair, or replacement is not capable of completion within the respective ten (10) day or thirty (30) day period, the Owner shall begin the work and shall complete it within a reasonable time. If any Owner does not comply, the Association may provide the maintenance, repair, or replacement at Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

Article VIII. Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions, which must be complied with by all Owners and Occupants of Lots. These use restrictions may only be amended in the manner provided in Article XV, Section 4, regarding amendment of this Declaration. In addition, the Board may, from time to time, without consent of the Owners, adopt, modify, or delete rules and regulations applicable to the Community. These rules shall be distributed to all Owners prior to the date that they are to become effective and after distribution shall be binding upon all Owners and Occupants of Lots until and unless overruled, canceled, or modified in a regular or special meeting by a Majority of the Total Association Vote and the consent of Declarant (so long as the Declarant has an option unilaterally to subject Additional Property to this Declaration as provided in Article XI). Notwithstanding the above, so long as Declarant owns any Lots or has the right to subject Additional Property to this Declaration as provided in Article XI, no rules and regulations, which affect the Declarant, may be adopted, modified, or deleted without the written consent of the affected Declarant or Approved Builder.

Section 2. Residential Use. Except as otherwise expressly permitted in this Declaration, each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in a Lot may conduct such ancillary business activities within the residence so long as (a) the existence or operation of the business activity is not apparent or detectable

by sight, sound, or smell from the exterior of the residence; (b) the business activity does not involve Persons coming onto the Community who do not reside in the Community or door-to-door solicitation of residents of the Community (other than deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services); (c) the business activity conforms to all zoning requirements for the Community; (d) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (e) the business activity is consistent with the character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board of Directors; and (f) the business activity does not result in a materially greater use of the Area of Common Responsibility or Association services.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) a license is required for the activity. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this Section.

Section 3. Building Type and Location. No building or residence shall be erected, altered, placed or permitted to remain on any Lot, which exceeds three (3) stories in height (excluding the roof). No building shall be located on any Lot nearer to the front Lot line or nearer to the side street line than the minimum building setback lines shown on the Survey and as required by the applicable zoning requirements.

Section 4. Exterior Painting or Redecorating. In order to maintain a well coordinated color scheme throughout the entire Community, any exterior painting or redecorating may be done only upon the approval of the NCC or MC, as applicable, as more specifically provided in Article XII of this Declaration. This includes any exterior alterations or modifications to an existing structure.

Section 5. Signs. No sign of any kind shall be erected by an Owner or Occupant of a Lot within the Community without the prior written consent of the MC, except as follows: (a) one (1) "For Sale" sign of a size not exceeding two (2) feet by two (2) feet, which sign must include a local phone number of a Person to whom inquiries concerning the property may be directed may be placed in any landscaped portion of a Lot; and (b) one (1) professionally lettered security decal consistent with the Community Standard may be placed in a window(s) of a residence or structure and/or one (1) professionally lettered security sign not exceeding eight (8) inches by twelve (12) inches may be placed in any landscaped portion of a Lot.

Section 6. Leasing. Lots may be leased for residential purposes only. "Leasing" for the purposes of this Section, is defined as regular, exclusive occupancy of a Lot by any Person other than the Owner; provided, however, "leasing" shall not include exclusive occupancy by the child, parent, or grandparent of an Owner. Occupancy by a roommate of an Owner shall not constitute "leasing". Leasing which is authorized hereunder shall be governed by the following provisions:

(a) General. Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less

than one(1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other Occupants of the Lot. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(b) Liability for Assessments, Use of Area of Common Responsibility, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(i) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance. The Owner shall cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any such violation. If the lessee, or another Person occupying the Lot, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with the Bylaws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs associated with the eviction shall be an assessment and lien against the Lot.

(ii) Use of Area of Common Responsibility. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Area of Common Responsibility, including, but not limited to, the use of any and all recreational facilities and other amenities.

(iii) Liability for Assessments. When a Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than sixty (60) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the

Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Section 7. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines adopted pursuant to the Declaration which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants of Lots and guests and invitees of Occupants or Owners. The Owner shall be responsible for insuring that the Occupant, and the guests, invitees and licensees of the Owner or the Occupant strictly comply with all provisions of the Declaration, Bylaws, and any rules and regulations adopted by the Board of Directors. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 8. Pets. An Owner or Occupant shall keep no more than a reasonable number of generally recognized household pets on any portion of the Community, as determined in the Board's sole discretion. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose or for the benefit of any Person not residing in such Owner's or Occupant's Lot. No dog run, kennel, dog house, or other similar structure for animals shall be erected, constructed, or installed on any Lot unless its design, location, and placement are approved by the NCC or MC, as applicable. Dogs must be kept on a leash and be under the physical control of a responsible Person at all times while on the Area of Common Responsibility. Feces left upon the Area of Common Responsibility by dogs must be removed by the owner of the dog or the Person responsible for the dog.

The Board may require that any pet, which, in the Board's opinion, endangers the health of any Owner or Occupant or creates a nuisance or unreasonable disturbance, be permanently removed from the Community upon seven (7) days written notice. If the Owner or Occupant fails to do so, the Board may remove the pet. Any pet, which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any community member, may be removed by the Board without prior notice to the Owner.

Any Owner or Occupant who keeps or maintains any pet in the Community 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 keeping or maintaining such pet in the Community.

Section 9. Number of Occupants. The maximum number of Occupants in a residence on a Lot shall be limited to two (2) people per bedroom. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

Section 10. Vehicles and Parking. The term "vehicles", as used in this Section, shall refer to vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles. No Owner or Occupant may keep or bring onto the Community more than a reasonable number of vehicles, at any time, as determined by the Board. All vehicles of an Owner or Occupant shall be parked inside of a garage located on a Lot. Notwithstanding the foregoing, a vehicle may be parked on a driveway located on a Lot only after the maximum number of vehicles that can be parked in a garage according to its design capacity has been parked in the garage; provided, however, a

vehicle shall not be parked on a driveway for more than twenty-four (24) consecutive hours unless prior written consent of the Board is first obtained. Owners and Occupants are prohibited from parking on yard areas, along the roadways of the Community, or on any exterior parking space located on the Common Property for any period of time. Notwithstanding the foregoing, the Board may, in its sole discretion, designate areas on which a parking pad for vehicle parking may be constructed, and a vehicle may be parked on such parking pad with the prior written approval of the NCC or MC, as applicable, in accordance with Article XII hereof. The doors of garages shall be kept closed at all times, except during times of entry and exit from the garage, or when someone is working in or around the garage.

Disabled and stored vehicles are prohibited from being parked on any portion of the Community, except in garages. For purposes hereof, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle of an Owner or Occupant shall be considered "stored" if it remains on the Community for fourteen (14) consecutive days or longer without prior written Board permission.

Boats, trailers, panel trucks, buses, trucks with a load capacity of one (1) ton or more, vans (excluding mini-vans or utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles) and recreational vehicles (RV's and motor homes) are also prohibited from being parked on the Community, except in garages or other areas, if any, that have been designated by the Board as parking areas for particular types of vehicles. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Community during normal business hours for the purpose of serving a Lot or the Area of Common Responsibility; provided, however, no such vehicle shall remain on any portion of the Community overnight for any purpose unless prior written consent of the Board is first obtained. The preceding sentence shall not apply to Declarant or an Approved Builder for so long as either party owns any property in the Community for development and/or sale. Motorized vehicles shall not be permitted on any portion of the Area of Common Responsibility except for public safety vehicles and vehicles authorized by the Board.

If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the Person or entity that will do the towing and the name and telephone number of a Person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked in a fire lane, is blocking another vehicle or access to a Lot, is obstructing the flow of traffic, is parked on any grassy area or the roadways, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed 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. Towing shall be conducted at the sole cost and expense of the violating Owner or Occupant, and all costs shall be added to and become part of the assessment obligation of the Owner and shall become a lien against the Lot. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

Section 11. Garages. No garage may be converted to permanent living space. All garages shall be maintained in such a manner that parking for two (2) motor vehicles is allowed and possible.

Section 12. Outbuildings. No structure of a temporary character, trailer, tent, shack, carport, garage, barn, or other outbuilding shall be erected by any Owner or Occupant on any portion of the Community, other than by Declarant, so long as the Declarant has an option unilaterally to subject Additional Property to this Declaration as provided in Article XI, at any time, either temporarily or permanently, without the written approval of the Board.

Section 13. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause a Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will discharge foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the surrounding properties. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device, except for devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law. However, any siren or device for security purposes shall contain a device, which causes it to automatically shut off within fifteen (15) minutes. All Owners and Occupants acknowledge and understand that the Declarant and Approved Builders will be renovating and developing certain portions of the Community and the Additional Property and no such construction associated therewith shall be deemed a nuisance or discomfort pursuant to the terms hereof.

Section 14. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities which might tend to cause disorderly, unsightly, or unkempt conditions, including without limitation, the changing of oil or the assembly and disassembly of motor vehicles and other mechanical devices, shall not be pursued or undertaken in any part of the Community except within garages located on Lots.

Section 15. Antennas and Satellite Dishes. Except as provided below, no satellite dish, antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Community, whether attached to a home or structure or otherwise. The following shall apply to all Lots:

(a) No transmission antenna, of any kind, may be erected anywhere on the Community without written approval of the Board of Directors or the NCC or MC, as applicable;

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

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

In the event of a transfer of the Lot which includes the satellite dish or antenna, the Grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the

Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

Section 16. Tree Removal. No trees, whether located on a Lot or the Area of Common Responsibility, having a diameter of six (6) inches or more and a height of more than eight (8) feet above the ground shall be removed without the express consent of the NCC or MC, as applicable, as appropriate, except for (a) diseased or dead trees; and (b) trees within ten (10) feet of a residence, driveway, or walkways constructed or to be constructed on a Lot. Notwithstanding anything to the contrary stated herein, in the event a diseased or dead tree located on the Common Property that was originally planted by the Declarant is removed by the Association, the Association shall replace such removed tree with one of the same species and similar size.

Section 17. Drainage. Drop-inlet basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of a Lot may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves and grants to the Association, a perpetual easement across the entire Community for the purpose of altering drainage and water flow, installing and/or removing temporary siltation ponds and for removing debris and siltation generally throughout the Community. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. No landscaping, fencing or wall is permitted that causes rainwater or surface water to be diverted to another Lot. Notwithstanding anything to the contrary contained herein, Declarant shall have no obligation to alter or rechannel drainage and water flow under any circumstances or install or remove temporary siltation ponds.

Section 18. Sight Distance at Intersections. Except during the period of initial construction, all property located at street intersections and at the intersections of streets and driveways shall be landscaped so as to permit safe sight across the corners.

Section 19. Garbage and Refuse Disposal. All garbage cans shall be located so as to be screened or concealed from view of neighboring Lots and the street on which the Lot fronts. Only on the day of garbage pick-up may the containers be left in the open. In no event may garbage containers be left out more than sixteen (16) consecutive hours. The above provisions in this Section are not applicable to construction debris, rubbish, trash, and garbage; provided, however, all such construction debris, rubbish, trash, and garbage shall be regularly removed and shall not be allowed to unreasonably accumulate.

Section 20. Clotheslines, Woodpiles, Etc. All woodpiles, swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be concealed from view of neighboring Lots and the street on which the Lot (on which the item is located) fronts. No outside clotheslines shall be erected or placed on any Lot. No laundry shall be hung on any Lot to dry.

Section 21. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots within the Community so long as the Declarant owns any Lot within the Community. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 22. Storage Buildings or Sheds. Declarant shall adopt three (3) approved designs for storage buildings or sheds for the Community. Such designs will become part of the approved Design Guidelines for the Community, as defined in Article XII, Section 3 of this Declaration. An Owner may

erect one (1) storage building or shed per Lot that meets one of the approved designs.

Section 23. Fences. An underground electric fence may be erected on a Lot; provided, however, the Owner and/or Occupant of such Lot shall assume sole responsibility for the maintenance and operation of such fence and for keeping pets within the confines of the fence. No such underground electric fence may be erected closer than fifteen feet (15') of a sidewalk or public right of way. Such Owner and/or Occupant hereby agrees to indemnify the Declarant, Association, and the Board of Directors for all costs and expenses associated with any claim arising out of a related to the use of an electric fence to control pets.

Except for underground electric fences permitted under this Section, 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 NCC or MC, as applicable. The NCC or MC, as applicable, may issue additional guidelines detailing acceptable fence styles or specifications. Notwithstanding anything to the contrary contained herein, no type of chain link fencing, barbed wire fencing, or chicken wire fencing, and no fencing in the front yard area shall be permitted. Applications shall be submitted in accordance with Article XII of this Declaration. The NCC or MC, as applicable, may require that all or part of the fencing be painted in order to preserve architectural harmony within the Community.

Section 24. Air Conditioning Units. No window air conditioning units may be installed. Condensing units for air conditioners shall only be installed in accordance with Design Guidelines as described in Article XII and shall only be located in the rear or along the side of a residence or structure constructed upon a Lot.

Section 25. Lighting. All exterior lights located on Lots must be approved by the NCC or MC, as applicable, except for (a) approved lighting originally installed on the Lot by Declarant; (b) one (1) decorative post light; and (c) reasonable seasonal decorative lights between October 1st and January 10th.

Section 26. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on a Lot except in the interior of a residence or other enclosed structure. Exterior sculpture, fountains, flags, and similar items must be approved by the NCC or MC, as applicable.

Section 27. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, and approved by the NCC or MC, as applicable.

Section 28. Swimming Pools. No above-ground swimming pool shall be erected, constructed, or installed on any Lot. No in-ground swimming pool or spa shall be erected, constructed, or installed on any Lot unless its design, location and placement are approved by the NCC or MC, as applicable.

Section 29. Standard Mailboxes. All residences in the Community shall have standard mailboxes and mail box posts conforming to postal regulations and the guidelines for such mailboxes adopted by the NCC or MC, as applicable. Any changes to mailboxes or mail posts must receive the prior written approval of the NCC or MC, as applicable.

Section 30. Playground Equipment. No playground equipment shall be erected, constructed, or installed on any Lot unless its location, design, and type are approved by the NCC or MC, as applicable.

Section 31. Driveways. Driveways shall be kept in good condition. Determination of the

condition of driveways shall be at the sole discretion of the Board. Owners shall promptly clean all large, noticeable oil spills or stains, and, if necessary, professionally repair any damage to the driveway.

Section 32. Temporary Structures. No structure of a temporary character, trailer, tent, shack, garage, barn, or other out-building shall be used on any Lot at any time as a residence either temporarily or permanently. No house trailers or mobile homes are permitted. Notwithstanding anything to the contrary herein, Declarant, or any of its assigns, may use a Lot for the operation of a sales or construction office as provided in Article XV, Section 12 of this Declaration.

Section 33. Use of Area of Common Responsibility Including Amenities. There shall be no obstruction of the Area of Common Responsibility, nor shall anything be kept on, parked on, stored on or removed from any part of the Area of Common Responsibility without the prior written consent of the Board, except as specifically provided herein. There shall be no gardening or landscaping on the Area of Common Responsibility by Owners or Occupants without the prior written consent of the Board. This Section shall not apply to the Declarant, so long as the Declarant owns a Lot for development and/or sale.

Section 34. Firearms and Fireworks. The display or discharge of firearms or fireworks on the Area of Common Responsibility is prohibited; provided, however, the display of lawful firearms on the Area of Common Responsibility is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Area of Common Responsibility to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. § 25-10-1, as amended.

Section 35. Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless the Board of Directors grants a permit for such activities, which may include limitations on the date, duration, and scope.

Section 36. Basketball Equipment. Portable basketball goals may only be kept on a Lot if they are stored in the interior of a building structure or in a location on the Lot not visible to other Owners when not in use. Basketball hoops, backboards, and poles shall not be permanently erected, constructed, or installed without the prior written approval of the NCC or MC, as applicable. All backboards shall be transparent and acrylic or such other color as approved by the NCC or MC, as applicable, and kept in a neat and clean condition (nets may not be torn or missing).

Article IX.

Insurance and Casualty Losses

Section 1. Insurance on Property Maintained by the Association.

(a) The Association's Board shall have the authority to obtain insurance for all insurable improvements on property maintained by the Association.

(b) The Board may obtain a public liability policy applicable to the property maintained by 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, and, may obtain directors' and officers' liability insurance.

(c) Premiums for all insurance obtained by the Association shall be a Common Expense. The policies may contain a reasonable deductible, and the amount thereof shall be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the benefit of the Association and its members. Such insurance shall be governed by the provisions hereinafter set forth:

(i) All policies shall be written with a company licensed to do business in Georgia.

(ii) Exclusive authority to adjust losses under the Association's policies shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related hereto.

(iii) The Board shall be required to make every reasonable effort to secure insurance policies that will provide: (A) a waiver of subrogation by the insurer as to any claims against the Associations, its officers, directors and manager, the Owners and their respective tenants, servants, agents, and guests; (B) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash; (C) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners; and (D) that no policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days prior written notice to the Association.

(e) In addition to the other insurance required by this Section, the Board shall obtain a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall be determined by the Board using its best business judgment.

Section 2. Repair and Reconstruction. In the event of damage to or destruction of all or any part of the improvements on the property maintained by the Association as a result of any event covered by the Association's insurance, unless one hundred percent (100%) of the Total Association Vote and the Declarant (so long as the Declarant has an option unilaterally to subject Additional Property to this Declaration as provided in Article XI) not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure.

(a) Cost Estimates. After a casualty causing damage to property maintained by the Association, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures, if any, to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(b) Source and Allocation of Proceeds. If insurance proceeds are not sufficient to defray the estimated costs of reconstruction and repair of the property maintained by the Association, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment in an amount necessary to cover the insufficiency shall be made against all of the members without the necessity of a vote of the members or compliance with Article V, Section 5 above. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be distributed equally to the Owners or credited to the next assessment chargeable to the Owners.

(c) Plans and Specifications. Any reconstruction or repair of the property maintained by the Association shall be substantially in accordance with the plans and specifications under which the Community was originally constructed, except where changes are necessary to comply with current applicable codes.

(d) Damage and Destruction to Improvements on Lots. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner within seventy-five (75) days after the damage or within the required period and shall be diligently and continuously pursued until their completion. Alternatively, the Owner may demolish and remove all damaged improvements on the Lot within seventy-five (75) days after such damage or destruction and maintain the property in a neat and clean condition consistent with the Community Standard.

Article X. Condemnation

Whenever all or any part of the Area of Common Responsibility shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Owners representing at least sixty-seven percent (67%) of the Total Association Vote and of the Declarant, as long as the Declarant owns any property described on Exhibit "A" or Exhibit "B") by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Area of Common Responsibility on which improvements have been constructed, then the Association shall restore or replace such improvements so taken on the remaining land included in the Area of Common Responsibility to the extent lands are available, unless within sixty (60) days after such taking the Declarant, so long as the Declarant owns any property described in Exhibit "A" or Exhibit "B" of this Declaration, and Owners representing at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the provisions in Article IX hereof regarding the disbursement of funds for the repair of casualty damage or destruction shall apply.

If the taking does not involve any improvements on the Area of Common Responsibility, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

Article XI. Annexation of Additional Property

Section 1. Annexation Without Approval. The Declarant shall have the unilateral right, privilege, and option, from time to time at any time until all property described on Exhibit "B," attached hereto, has been subjected to this Declaration or fifteen (15) years from the date of the recording of this Declaration, whichever is earlier, to subject to the provisions of this Declaration and the jurisdiction of the Association all or any portion of the Additional Property described in Exhibit "B." The Declarant shall have the unilateral right to transfer to any other Person the right, privilege, and option to annex Additional Property which is herein reserved to Declarant, provided that such transferee or assignee shall be the developer of at least a portion of the real property described in Exhibit "A" or Exhibit "B" and that such transfer is memorialized in a written, recorded instrument executed by the Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration annexing such Additional Property in the public records of Paulding County, Georgia. Such Supplemental Declaration shall not require the consent of other Owners, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Section 2. Annexation With Approval. Subject to the consent of the owner thereof, the Association may annex real property other than that described on Exhibit "B," and following the expiration of the right in Section 1, any property described on Exhibit "B," to the provisions of this Declaration and the jurisdiction of the Association. Such annexation shall require the affirmative vote of Owners representing a Majority of the votes of the Association represented at a meeting duly called for such purpose and the consent of the Declarant, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 1 of this Article.

Annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the public records of Paulding County, Georgia. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

Section 3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration unilaterally at any time so long as it holds an unexpired option to expand the Community pursuant to this Article XI, without prior notice and without the consent of any Person, for the purpose of removing certain portions of the Community then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community desired to be effected by the Declarant, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

Section 4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants, restrictions, and easements. Such additional covenants, restrictions, and easements shall be set forth in a Supplemental Declaration filed either concurrently with or after the annexation of the subject property.

Section 5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibit "A" or Exhibit "B."

Article XII. Architectural Standards

Section 1. General. No structure, including but not limited to, a residence, exterior animal containment facility, outbuilding (including but not limited to structures of temporary character, trailer, tent, shack, barn), guest cottage, detached garage, carport, playhouse or play equipment, fence, wall or swimming pool shall be placed, erected, installed, or maintained upon any Lot, and no construction or modification (which shall include staking, clearing, excavation, grading and other site work, exterior alteration or modification of existing improvements, and planting or removal of plants, trees, or shrubs other than as may be permitted in Article VIII, Section 16) shall take place except in strict compliance with this Article and until complete final plans and specifications for the proposed construction and/or modification showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location and floor plan have been

submitted to and approved by the appropriate committee pursuant to Section 2 below. For the purposes of this Section, a change in the paint color of a residence or other exterior redecorating shall be considered an exterior alteration. Notwithstanding the foregoing, nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of a residence located on a Lot, or to paint the interior of his residence any color desired; provided, however, modifications or alterations to the interior of screened porches, patios, and any other portion of a residence visible from outside the Lot shall be subject to approval. Notwithstanding any provision to the contrary contained herein, one (1) flag holder or bracket may be installed on the exterior of the dwelling on a Lot without prior approval of the NCC or MC for the sole display of one (1) American flag, which does not exceed twelve (12) feet in area.

All residences constructed on any portion of the Community shall be built in accordance with the plans and specifications submitted by an Owner, and which plans and specifications have been approved by the Board.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Area of Common Responsibility by or on behalf of the Association, and shall not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

Section 2. Lot Appearance Review. Responsibility for administration of the Design Guidelines, as defined in Section 3 below, and review of all applications for construction and modifications under this Article shall be handled by two (2) committees, as described in subsections (a) and (b) of this Section 2. The members of the committees need not be members of the Association or representatives of members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Board of Directors. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

(a) New Construction Committee. The New Construction Committee ("NCC") shall consist of at least three (3), but not more than five (5), persons, and shall have exclusive jurisdiction over all original construction on any portion of the Community. Until one hundred percent (100%) of the Community has been developed and conveyed to Owners in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC who shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC, who shall serve and may be removed at the discretion of the Board of Directors.

(b) Modifications Committee. The Modifications Committee ("MC") shall consist of at least three (3), but not more than five (5), persons, all of who shall be appointed by, and shall serve at the discretion of, the Board of Directors. Members of the MC may include architects or similar professionals who are not members of the Association. Until one hundred percent (100%) of the Community has been developed and conveyed to Owners in the normal course of development and sale, the MC will act in an advisory capacity to the NCC with the NCC approving all Community modifications. Thereafter, the MC shall have exclusive jurisdiction over modifications, additions or alterations made on or to existing structures on Lots. Notwithstanding the above, the NCC shall have the right to veto any action taken by the MC that the NCC determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the NCC.

(c) Declarant Control. Until such time as one hundred percent (100%) of the Lots of the Community have been sold, Declarant shall retain full control of the NCC and MC.

Section 3. Guidelines and Procedures. The Declarant shall prepare the initial design and construction guidelines and application and review procedures (the "Design Guidelines"). The Design Guidelines may contain general provisions applicable to all of the Community, as well as specific provisions which vary from one portion of the Community to another depending upon the location, unique characteristics, and intended use. The Design Guidelines may require that certain portions of certain Lots, where the configuration of such Lot makes it visible from the Common Property or another Lot, contain additional landscaping in any area of such Lot or impose additional requirements on such Lot in order to maintain the aesthetic appearance of the Community, or provide that certain types of improvements are not permissible on Lots where they cannot be effectively screened.

The NCC, acting on behalf of the Board of Directors, shall adopt such Design Guidelines at its initial organizational meeting and, thereafter shall have sole and full authority to amend them from time to time, without the consent of the Owners.

The NCC shall make the Design Guidelines available to Owners and Approved Builders, and all such Persons shall conduct their activities in strict accordance with such Design Guidelines. In the discretion of the Declarant, such Design Guidelines may be recorded in the Paulding County, Georgia records, in which event the recorded version, as it may unilaterally be amended from time to time by the NCC by recordation of amendments thereto, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

Any amendments to the Design Guidelines adopted from time to time by the NCC in accordance with this Section shall apply to construction and modifications commenced after the date of such amendment only, and shall not apply to require modifications to or removal of structures previously approved by the NCC or MC once the approved construction or modification has commenced.

The MC may promulgate detailed application and review procedures and design standards governing its area of responsibility and practice. Any such standards shall be consistent with those set forth in the Design Guidelines. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of such modifications, additions, or alterations, shall be submitted to the MC for approval as to quality of workmanship and design and as to harmony of external design with existing structures, and as to location in relation to surrounding structures, topography, and finishing grade elevation. The MC shall have the authority to approve or disapprove applications for similar or even identical modifications based upon, among other things, the visibility of the proposed modification from other Lots, and the streets, walkways and/or recreational areas located on the Community.

In the event that the NCC or MC fails to approve or to disapprove any application within fifty (50) days after submission of all information and materials reasonably requested, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the NCC pursuant to Section 6 below.

Section 4. DISCLAIMER. NEITHER THE DECLARANT, THE BOARD OF DIRECTORS NOR THE NCC OR MC SHALL BEAR ANY RESPONSIBILITY FOR ENSURING THE STRUCTURAL INTEGRITY OR SOUNDNESS OF APPROVED CONSTRUCTION OR MODIFICATIONS, OR FOR ENSURING COMPLIANCE WITH BUILDING CODES AND OTHER GOVERNMENTAL REQUIREMENTS. NEITHER THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, THE NCC OR MC OR MEMBER OF ANY OF

THE FOREGOING SHALL BE HELD LIABLE FOR ANY INJURY, DAMAGES OR LOSS ARISING OUT OF THE MANNER OR QUALITY OF APPROVED CONSTRUCTION ON OR MODIFICATIONS TO ANY LOT.

Section 5. No Waiver of Future Approvals. The approval of either the NCC or MC 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 Committee, 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 subsequently or additionally submitted for approval or consent.

Section 6. Variance. The NCC 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 NCC 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 7. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the land 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, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Special Assessment pursuant to Article V, Section 5 hereof.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded 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 NCC and MC.

Section 8. Commencement of Construction. All changes, modifications and improvements approved by the NCC or MC, as applicable, must be commenced within one (1) year from the date of approval. If not commenced within one (1) year from the date of such approval, then such approval shall be deemed revoked by the NCC or MC, as applicable, unless the NCC or MC, as applicable, gives a written extension for commencing the work. Except for the new construction of a residence and related improvements on a Lot which shall be completed in its entirety using best reasonable efforts within a time period established by the NCC or MC, as applicable, all work approved by the NCC or MC, as applicable, shall be completed in its entirety within ninety (90) days from the date of commencement, unless otherwise agreed in writing by the NCC or MC, as applicable. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement. Notwithstanding anything to the contrary stated herein or

the Design Guidelines, no changes, modifications, and improvements approved by the MC shall be commenced until the Owner conspicuously posts an approval permit and such permit shall remain conspicuously until all construction activities are completed. Said approval permit shall serve only to provide notice to the Community that the change, modification, and/or improvement being made to a Lot has been approved by the MC, and shall be in addition to, and not in lieu of, all necessary permits or approvals required by Paulding County or other governmental authorities.

Article XIII. 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 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 Mortgage 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 Mortgage 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 Mortgage 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 maintained by the Association; or

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

Section 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 Association easement areas.

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

Section 4. 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 5. VA/HUD Approval. During the Declarant Control Period, the following actions shall require the prior approval of the U.S. Department of Veterans Affairs ("VA") (so long as the VA is guaranteeing any Mortgage in the Community), and the U.S. Department of Housing and Urban Affairs ("HUD") (so long as HUD is insuring any Mortgage in the Community); annexation of Additional Property to the Community, except for annexation by Declarant in accordance with Article XI; mergers and consolidations; dissolution; and material amendment of the Declaration, Bylaws or Articles of Incorporation.

Section 6. 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 7. 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 XIV.

Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). The easement shall be five (5) feet, as measured from any point on the common boundary adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point. However, an easement for encroachment shall not exist if the willful conduct by an Owner, Occupants, or the Association caused the encroachment.

Section 2. Easements for Use and Enjoyment.

(a) Except as otherwise provided herein, every Owner of a Lot shall have a right and easement of entry and exit, use and enjoyment in and to the Area of Common Responsibility, which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

(i) The right of the Association to suspend the voting rights of an Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against his or her Lot that is hereby provided for remains unpaid; and, for a reasonable period of time for a violation of the Declaration, Bylaws, or rules and regulations;

(ii) The right of the Association to borrow money for the purpose of improving the Area of Common Responsibility, or for constructing, repairing, or improving any facilities located or to be located on the Area of Common Responsibility, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Area of Common Responsibility. However, the Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges reserved or established for the benefit of Declarant, any Lot or Owner, or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community (Any provision in this Declaration or in any Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights in the Mortgage by the holder of the Mortgage in the event of a default shall not cancel or terminate any rights, easements or privileges reserved or established in this Declaration for the benefit of Declarant, any Lot or Owner, or the holder of any

Mortgage, irrespective of when executed, given by Declarant or any Owner encumbering any Lot or other property located within the Community.);

(iii) The right of the Association to dedicate or transfer all or any portion of the Area of Common Responsibility subject to any conditions agreed on by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community) and the Owners representing at least two-thirds (2/3) of the Total Association Vote (other than Declarant so long as the consent of Declarant is required); and

(iv) The right of the Association, acting through its Board of Directors, and without a vote of the members, to dedicate or grant licenses, permits, easements and rights-of-way over, under and through the Area of Common Responsibility;

(v) All other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration or in any deed conveying Area of Common Responsibility to the Association; and

(vi) All encumbrances and other matters shown by the public records affecting title to the Area of Common Responsibility.

(b) Any Owner may delegate his or her right of use and enjoyment in and to the Area of Common Responsibility and facilities located thereon to the members of his or her family and his or her tenants and guests. An Owner shall be deemed to have made a delegation of all these rights to the Occupants of such Owner's Lot, if leased.

Section 3. Easements for Utilities. There is reserved to the Declarant and the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (a) all utilities serving the Community, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (b) water runoff and storm drainage systems, and (c) any other services such as, but not limited to, a master television antenna system, or cable television system which may be installed to serve the Community (hereinafter collectively referred to as the "Utilities"). It shall be expressly permissible for the Declarant, the Association, or the designee of either, to do or to authorize the installation, repair, replacement and/or maintenance of the wires, conduits, cables and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, the Declarant or Board, as applicable, shall have the right to grant such easement.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XV, Section 2, the Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. 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, and the entering party shall be responsible for any damage caused. The Board shall have the right, but not the obligation, to enter to cure any condition, which may increase the possibility of slope erosion, or other hazard if an Owner or Occupant does not cure the condition after request by the Board.

Section 5. Easement for Association Maintenance. Declarant expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article VII,

including, without limitation, an easement over Lots on which landscape easements, sign easements or utilities easements are located as shown on the Survey for maintenance of the easement areas. This maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect the property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 6. Easements for Maintenance and Repair. There shall be reciprocal appurtenant easements between adjacent Lots for the purpose of maintaining or repairing the improvements, including, without limitation, landscaping located on each Lot which easement shall extend to a distance of not more than five (5) feet as measured from any point on the common boundary between the Lots and along a line perpendicular to such boundary at such point. The easement shall be used only for such period of time as is reasonably necessary in order to complete the needed maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Lot over which this easement is exercised which is caused by the maintenance or repair work. The damaged portions of such Lot shall be restored to substantially the same condition as existed prior to damage.

Section 7. Easement for Street Signs. There is hereby reserved to the Declarant, the Association, and the designee of either, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all street signs.

Section 8. Public in General. The easements and rights created in this Article XIV 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, 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 are previously recorded in the Paulding County, Georgia 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 that, 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.

Section 9. Construction and Sale Period Easement. Notwithstanding any provisions contained in this Declaration, the Bylaws, Articles of Incorporation of the Association, use restrictions, rules and regulations, design guidelines, and any amendments thereto, so long as Declarant owns any property in the Community for development and/or sale, Declarant reserves an easement across all property in the Community for Declarant to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibit "A" and Exhibit "B" to this Declaration, including, but without limitation, (a) the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot; (b) the right to tie into any portion of the Community with driveways, parking areas and walkways; (c) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (d) the right to grant easements over, under, in or on the Community, including, without limitation, the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or

over the Community; (e) the right to carry on sales and promotional activities in the Community; (f) the right to erect and maintain signs; and (g) the right to construct and operate business offices, construction trailers, model residences, and sales offices. Declarant may use residences, offices, or other buildings owned or leased by Declarant as model residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended without the Declarant's express written consent until the Declarant's rights hereunder have terminated as hereinabove provided.

Section 10. General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded Survey(s) for the Community, as amended from time to time as well as the easements now or hereafter established by Declarant in this Declaration or by any other documents filed for record in the Office of the Clerk of Superior Court of Paulding County, Georgia.

Section 11. Easement for Drainage. There is hereby reserved to the Declarant and granted to the Association a blanket easement across the Community for creating and maintaining satisfactory storm water drainage in the Community; provided, however, such easement area shall not include any portion of the Community within the boundaries of any improvements within the Community owned by a party other than the Association. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. It is anticipated that increased storm water run off across downstream property will result from the construction of impervious surface within or adjacent to the Community. Neither the Declarant, any Approved Builder, the Association or any Owner constructing according to plans and specifications approved under Article XII hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction within the Community.

Section 12. Approved Builder. Approved Builder shall have the same easement rights as Declarant necessary for the construction and sales activities of Lots, including, without limitation, those easement rights granted to Declarant in Section XV, Section 12 hereof.

Article XV. General Provisions

Section 1. Enforcement. Each Owner and every Occupant of a Lot shall comply strictly with this Declaration, the Bylaws, the rules and regulations, as they may be lawfully amended or modified from time to time, and with any deed restrictions. The Board of Directors may impose fines or other sanctions, which shall be collected as provided for the collection of assessments. Fines shall be imposed pursuant to the procedure outlined in the Bylaws. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or by an aggrieved Owner in a proper case. Failure by the Association or any Owner to enforce any of the foregoing provisions shall not be a waiver of the right to enforce those provisions in the future.

Section 2. Self-Help. In addition to any other remedies, the Association or its duly authorized agent shall have the power to enter upon a Lot to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for the collection of assessments.

Section 3. Duration. The covenants, restrictions and easements of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent permitted by law. However, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected by the law shall run with and bind the land so long as permitted by the law, after which time the provisions shall be automatically extended for successive periods of twenty (20) years, unless a Majority of the Owners execute a document to terminate the covenants containing a legal description of the entire area affected by the covenant, a list of all Owners affected by the covenant and a description of the covenant to be terminated or such other requirement as provided in O.C.G.A. § 44-5-60. A written instrument reflecting any termination must be recorded no sooner than, but within two (2) years immediately preceding the beginning of a twenty (20) year renewal period. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance, agrees that provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if an amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule, or regulation or judicial determination with which it is in conflict; (b) if an amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if an amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable the lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; (d) if an amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee Mortgage loans on the Lots subject to this Declaration, however, any such amendment shall not adversely affect the title to any Owner's Lot unless the Owner consents to the amendment in writing; or (e) to submit the Community to the terms of the Georgia Property Owners' Association Act. Further, so long as Declarant has the right unilaterally to subject Additional Property to this Declaration as provided in Article XI, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owner, nor shall it adversely affect title to any Lot without the consent of the affected Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least sixty-seven percent (67%) of the Total Association Vote, plus the consent of the Declarant (so long as Declarant has an option unilaterally to subject Additional Property to this Declaration as provided in Article XI). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified in the amendment. No provision of this Declaration which reserves, grants, or exempts special rights or exemptions to the Declarant shall be amended without the Declarant's, prior written consent so long as the Declarant owns any property in the Community, or which is subject to annexation to the Community, primarily for development and/or sale.

Section 5. SECURITY. THE ASSOCIATION OR THE DECLARANT MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH 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 NEITHER

THE ASSOCIATION NOR THE DECLARANT IS A PROVIDER OF SECURITY AND NEITHER PARTY SHALL HAVE A DUTY TO PROVIDE SECURITY IN THE COMMUNITY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS IN THE COMMUNITY NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS IN THE COMMUNITY WILL NOT BE COMMITTED BY OTHER OWNERS OR THEIR TENANTS, GUESTS, LICENSEES, OR INVITEES. 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. NEITHER DECLARANT NOR THE ASSOCIATION SHALL BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR INEFFECTIVENESS OF SAFETY MEASURES UNDERTAKEN.

Section 6. 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) or more than twenty-one (21) days from the date of receipt of the notice of hearing by the Person requesting the hearing.

Section 7. 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.

Section 8. 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 9. 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 10. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 11. Indemnification. In accordance with the Georgia Nonprofit Corporation Code, and to the full extent allowed by Georgia law, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the

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

Section 12. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the Bylaws, Articles of Incorporation, rules and regulations, Design Guidelines, and any amendments, so long as there is development and construction related to the initial sale of residences constructed on Lots, it shall be expressly permissible for Declarant to maintain and carry on, upon such portion of the Community as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's development, construction, and sales activities related to property described on Exhibit "B" to this Declaration, including, but without limitation the following:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on, or in the Community;

(b) the right to tie into any portion of the Community with driveways, parking areas and walkways;

(c) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; and

(d) the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, residences, model residences, and sales offices. Declarant may use residences, offices, or other buildings owned or leased by Declarant as model residences and sales offices and may also use recreational facilities available for use by the Community as a sales office without charge.

Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense. Declarant may assign any of the rights granted herein to any Person, including, without limitation, Approved Builders. This Section shall not be amended without the Declarant's express written consent so long as the Declarant owns any property in the Community, or which is subject to annexation to the Community, primarily for development and/or sale.

Section 13. Contracts Executed During Declarant Control. All contracts or leases executed by or on behalf of the Association during the Declarant Control Period shall contain a termination clause permitting the Association to terminate the contract or lease at any time, without cause and without penalty, upon not more than ninety (90) days written notice.

Section 14. Financial Review. A review of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's reviewed financial statement at the annual meeting, by a Majority of the Association vote present, or represented by proxy, the Owners may require that the accounts of the Association be audited as a common

expense by a public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of an audited financial statement within ninety (90) days of the date of the request.

Section 15. Sale of Lots. A Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give written notice to the Board of Directors of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish to the Board as part of the notice (a) the name and address of the intended grantee; and (b) such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after receiving title to a Lot, the purchaser of the Lot shall give written notice to the Board of Directors of his or her ownership of the Lot. Upon failure of a Owner to give the required notice within the seven (7) day time period provided herein, the Board may levy fines against the Lot and the Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

Section 16. Agreements. Subject to the prior approval of Declarant (so long as the Declarant has an option to unilaterally subject Additional Property to this Declaration as provided in Article XI) all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 17. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate the right or privilege.

Section 18. Variances. Notwithstanding anything to the contrary contained in this Declaration, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community. The Board of Directors shall be responsible for considering and granting such variances, and shall be memorialized in writing to include the following information: (a) the nature of the variance; (b) the duration of the variance, if applicable; (c) the identity of the Owner(s) benefited by such variance; (d) the address or Lot number of affected property; and (e) the signature of at least (2) members of the Board. A record of each variance, to include individual board member votes and dissenting comments, shall be maintained with the Association's books and records.

Section 19. Disclosures. Each Owner and Occupant acknowledge the following:

- (a) The Community is located adjacent to thoroughfares that may be affected by traffic and noise from time to time and may be improved and/or widened in the future.
- (b) The natural light available to and views from the dwelling on a Lot may change over time due to, among other circumstances, additional development and the removal or addition of landscaping.
- (c) No representations are made regarding the zoning of adjacent property, or that the category

to which adjacent property is zoned may not change in the future.

(d) No representations are made regarding the schools that currently or may in the future serve the Community.

(e) Since in every community, there are conditions that different people may find objectionable, it is acknowledged that there may be conditions outside of the Community that an Owner or Occupant may find objectionable and that it shall be the sole responsibility of the Owners and Occupants to become acquainted with community conditions that could affect the Community.

(f) Declarant may be constructing portions of the Community and engaging in other construction activities related to the construction of Common Property and additional phases of the Community. Such construction activities may, from time to time, produce certain conditions in the Community, including, without limitation: (A) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (B) smoke; (C) noxious, toxic, or corrosive fumes or gases; (D) obnoxious odors; (E) dust, dirt or flying ash; (F) unusual fire or explosion hazards; (G) temporary interruption of utilities; and/or (H) other conditions that may threaten the security or safety of Persons on the Community. Notwithstanding the foregoing, all Owners and Occupants agree that such conditions on the Community resulting from renovation and construction activities shall not be deemed a nuisance and shall not cause Declarant and its agents to be deemed in violation of any provision of the Declaration.

(g) Declarant shall not be responsible for responding to or taking any affirmative action on behalf of the Association or an individual member of the Association to mitigate, alleviate, remedy or cure any off-site conditions that may directly impact the Community or any portion thereof, and such inaction by the Declarant shall not constitute a breach of fiduciary duty by the directors and officers of the Association that are appointed by the Declarant, pursuant to Article III, Part A, Section 2 of the Bylaws.

Section 20. Preparer. This Declaration was prepared by Seth G. Weissman and Katherine L. Harris, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia, 30326.

[SIGNATURES ON FOLLOWING PAGE]

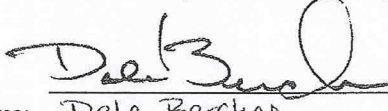
BK 2092PG0441

IN WITNESS WHEREOF, the undersigned, being the duly appointed officers of Declarant herein, have executed this instrument and affixed the corporate seal this 8th day of September, 2005.

DECLARANT:

TRATON INVESTMENTS, LLC,
a Georgia limited liability company

By: Traton of Georgia, LLC, its Manager

By:  [SEAL]
Name: Dale Bercher
Title: Member

Signed, sealed, and delivered this

8 day of September, 2005.

Rebecca Bercher

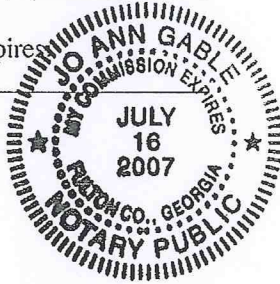
Witness

Jo Ann Gable

Notary Public

My Commission Expires

[NOTARY SEAL]



RECORDED 2-17 2006
TREVA W. SHELTON, CLERK
SUPERIOR COURT, PAULDING CO.

EXHIBIT "A"Property Submitted

ALL THAT TRACT OR PARCEL of land lying and being in Land Lots 683 and 686 of the 3rd District, 3rd Section, Paulding County, Georgia, and being comprised of 49.13 acres, more or less, as shown on that certain plat of survey prepared for United Community Bank, Traton Investments, L.L.C., and Fidelity National Title Insurance Company by Gaskins Surveying & Engineering Company, Christopher A. Evans, Georgia Registered Land Surveyor No. 2784, dated March 9, 2005, and being more particularly described as follows:

BEGINNING at a 1" rod located at the common corner of Land Lots 686, 687, 754, and 755, said District, Section, and County; running thence in a northerly direction along the westerly land lot line of Land Lot 686, said District, Section, and County, north 00 degrees 54 minutes 04 seconds east for a distance of 921.05 feet to a 1" flat bar found; thence continuing along said westerly land lot line of Land Lot 686, north 01 degrees 34 minutes 47 seconds east for a distance of 150.60 feet to a #4 rebar found; thence continuing along said westerly land lot line of Land Lot 686, north 01 degrees 34 minutes 47 seconds east for a distance of 284.60 feet to a point and corner; thence leaving said land lot line and running south 86 degrees 20 minutes 49 seconds east for a distance of 363.48 feet to a #4 rebar found and corner; running thence north 03 degrees 39 minutes 01 seconds east for a distance of 250.08 feet to a #4 rebar found and corner; running thence south 86 degrees 21 minutes 43 seconds east for a distance of 205.83 feet to a #4 rebar found and corner; running thence north 02 degrees 42 minutes 05 seconds east for a distance of 352.46 feet to a fence post with cap and corner; running thence south 82 degrees 06 minutes 41 seconds west for a distance of 247.80 feet to a point and corner; running thence north 07 degrees 52 minutes 59 seconds west for a distance of 49.99 feet to a fence post with cap and corner; running thence north 82 degrees 08 minutes 15 seconds east for a distance of 1089.80 feet to a 1" open top pipe found and corner on the easterly land lot line of Land Lot 683, said District, Section, and County; running thence in a southerly direction along said easterly land lot line of Land Lot 683, south 00 degrees 04 minutes 52 seconds east for a distance of 642.00 feet to a fence post with cap and corner; thence leaving said land lot line and running north 89 degrees 57 minutes 59 seconds west for a distance of 208.24 feet to a fence post with cap and corner; running thence south 00 degrees 00 minutes 23 seconds east for a distance of 399.81 feet to a #4 rebar found and corner; running thence north 88 degrees 52 minutes 58 seconds west for a distance of 660.69 feet to a fence post with cap and corner; running thence south 45 degrees 13 minutes 01 seconds east for a distance of 510.66 feet to a #4 rebar found; running thence south 45 degrees 12 minutes 14 seconds east for a distance of 421.94 feet to a fence post with cap and corner; running thence north 89 degrees 53 minutes 37 seconds east for a distance of 208.77 feet to a 44 rebar found and corner on the easterly land lot line of Land Lot 686, said District, Section, and County, running thence in a southerly direction along said easterly land lot line of Land Lot 686, south 01 degrees 15 minutes 43 seconds west for a distance of 389.76 feet to a #4 rebar found and corner at the common corner of Land Lots 685, 686, 755, and 756, said District, Section, and County; running thence in a westerly direction along the southerly land lot line of Land Lot 686, said District, Section, and County, south 89 degrees 25 minutes 35 seconds west for a distance of 1256.20 feet to a point; thence continuing along said southerly land lot line of Land Lot 686, north 89 degrees 29 minutes 46 seconds west for a distance of 192.49 feet to a 1" rod and the point of BEGINNING.

OK 2092PG0443

Exhibit A (Cont'd)

TOGETHER WITH all rights, benefits and privileges in favor of the foregoing lands as contained in that certain Declaration of Easements and Covenants recorded at Deed Book 1666, page 560, Paulding County, Georgia Records, as amended by that certain Reaffirmation and Amendment of Declaration of Easements and Covenants, dated on or about the date hereof and recorded or to be recorded in the aforesaid records.

BK2092PG0444

EXHIBIT "B"

Additional Property

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 682, 683, 685, 686, 687, 754, 755, and 756, Paulding County, Georgia.