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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
COVINGTON STATION

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Return to: Weissman, Nowack, Curry & Wilco, P.C.  
Two Midtown Plaza, 15th Floor  
1349 West Peachtree Street  
Atlanta, Georgia 30309  
Attn: CDC

STATE OF GEORGIA

COUNTY OF DEKALB

DECLARATION OF PROTECTIVE COVENANTS

FOR

COVINGTON STATION

THIS DECLARATION is made on the date set forth below by Dozier Development Company, L.L.C. a Georgia limited liability company ("Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Article II, Section 1 of this Declaration; and

WHEREAS, Declarant desires to subject the real property described in Article II, Section 1 to the provisions of this Declaration to create a residential community of townhomes and to provide for the subjecting of other real property to the provisions of 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. SECTION 44-3-70, ET SEQ. OR A PROPERTY OWNERS REGIME SUBJECT TO THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT, O.C.G.A. SECTION 44-3-220, ET SEQ.

NOW, THEREFORE, Declarant declares that, subject to the provisions of Article IX of this Declaration, the real property described in Article II, Section 1 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.

## Article I.

### Definitions

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A", attached and made a part of this Declaration.

## Article II.

### 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 "B", attached and made a part of this Declaration.

## Article III.

### Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee interest in any Lot that is subject to this Declaration shall automatically be a member in the Association. Membership shall not include Persons who hold a security interest only and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall go along with and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor one (1) office held for each Lot owned.

Section 2. Voting. Members shall be entitled to one (1) vote for each Lot owned. When more than one Person holds an ownership interest in any Lot, the vote for such Lot shall be cast as those Owners decide and instruct the Secretary prior to any meeting. If the Secretary is not instructed, the Lot's vote shall be suspended in the event more than one Owner of a Lot attempts to cast it.

## Article IV.

### Assessments

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

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed to the Lot, whether or not stated in the deed, covenants and agrees to pay to the Association: (a) common assessments or charges; (b) special assessments; and (c) specific assessments. All assessments, together with late charges, interest (not to exceed the maximum legal rate), costs, and reasonable attorney's fees actually incurred, shall be (a) a charge on the land and a continuing lien upon the Lot against which each assessment is made; and (b) the personal obligation of the Person who is the Owner of the Lot at the time the assessment becomes due. The grantee of each Owner shall be jointly and severally



liable for the portion of an assessment as is due and payable at the time of transfer of the Lot. However, the liability of a grantee for the unpaid assessments of an Owner shall not apply to any first Mortgage holder taking title through foreclosure proceedings or by deed in lieu of foreclosure, provided, however, any first mortgage holder who takes title through foreclosure proceedings or by deed in lieu of foreclosure shall be liable for all assessments due after the date of foreclosure.

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

Assessments shall be levied equally on all Lots within the Community, as applicable, and shall be paid in such manner and on such dates as are fixed by the Board of Directors. If the Board of Directors permits payments of the annual assessment in installments, upon ten (10) days' written notice, the Board may accelerate the annual assessment for delinquents.

Section 3. Computation of Annual Assessment. It shall be the duty of the Board, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated common expenses of the Association during the coming fiscal year. The budget shall include a capital contribution establishing a reserve fund in accordance with a budget separately prepared.

The common assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total revenue to the Association equal to the total budgeted common expenses, including reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year. So long as the Declarant owns any Lots in the Community, has a right to annex property, or seven (7) years from the date of recording of this Declaration, whichever comes first, on an annual basis, the 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 the Declarant in its sole discretion may decide. The payment of a subsidy shall under no circumstances obligate the Declarant to continue payment of a subsidy in the future. The Declarant's option to subsidize the assessment may be satisfied in the form of cash, or by "in kind" contributions of services or materials, or a combination of these.

The Board shall deliver or mail a copy of the common expense budget and notice of the amount of the assessment for each Lot to each Owner at least thirty (30) days prior to the beginning of the fiscal year. The budget and assessment shall become effective unless disapproved at a meeting by a majority of the total Association vote and the Declarant (so long as the Declarant owns any Lots in the Community, has authority to annex property, or seven (7) years from the date of recording of this Declaration, whichever comes first). There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Owners as provided in the Bylaws. The petition must be presented to the Board within ten (10) days of delivery of the notice of assessments.

Notwithstanding the above, in the event the proposed budget is disapproved or the Board fails to prepare and distribute the budget for any year then until such a budget is prepared and distributed, the budget in effect for the immediately preceding year shall continue for the current year.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special assessments must be approved by Owners holding at least two-thirds (2/3) of the votes present in person or by proxy at a duly called meeting held for such purpose and the Declarant (so long as the Declarant owns any Lots in the Community, has authority to annex property or seven (7) years from the date of recording of this Declaration, whichever comes first). Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Lien for Assessments. All assessments levied against any Lot, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall be secured by a lien on the Lot in favor of the Association. The Association shall have the right, but not the obligation to evidence the existence of the lien by filing a notice of lien in the DeKalb County, Georgia, records. The lien shall be superior to all other liens and encumbrances on the Lot, except for (a) liens for ad valorem taxes; or (b) liens for all sums unpaid on a first Mortgage or on any Mortgage to Declarant duly recorded in the DeKalb County, Georgia, records.

All Persons acquiring liens or encumbrances on any Lot after this Declaration has been recorded, other than as provided above, shall be deemed to consent that their liens or encumbrances shall be inferior to future liens for assessments, whether or not prior consent is specifically set forth in the instruments creating their liens or encumbrances.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments of assessments which are not paid when due shall be delinquent. Any assessment or installment delinquent for a period of more than fifteen (15) days shall incur a late charge in an amount as the Board may from time to time determine, which shall not exceed Ten Dollars (\$10.00) or ten percent (10%) of the assessment payment. The Association shall cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. If the assessment is not paid within thirty (30) days, a lien shall attach and, in addition, the lien shall include the late charge, interest at a rate not to exceed the highest rate allowed under Georgia law, and all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. The existence of the lien may, but is not required to be, evidenced by the filing of a notice of lien in the DeKalb County, Georgia, records. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the lien. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the Lot.

No Owner may waive or otherwise exempt himself or herself from liability for assessments, by abandoning the Lot or in any other manner. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and no reduction of any assessment shall be claimed or allowed by reason of (a) any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, (b) for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or (c) from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

All payments shall be applied first to costs and attorney's fees, then to late charges, then to interest and then to delinquent assessments.

Section 7. Date of Commencement of Assessments. Assessments shall commence as to a Lot on the first day of the month following the occupancy of the Lot for residential purposes. The Declarant or a builder or developer who purchases a Lot for the purpose of construction of a residence and resale of the Lot and residence shall not be responsible for the payment of any type of assessment except as provided herein; provided, however, assessments shall commence on Lots containing occupied residences that are owned by Declarant or any builder or developer on the first day of the month following the occupancy of the residence located on the Lot. Assessments shall be due and payable in a manner and on the schedule that the Board of Directors provides. Lots which have not been conveyed as provided above shall not be subject to assessment. The first annual common assessment shall be adjusted according to the number of months then remaining in that fiscal year.

Section 8. Specific Assessments. The Board shall have the power to specifically assess specific Lots 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 XIII, Section 1 and the costs of maintenance performed by the Association which the Owner is responsible for under Article V, Sections 1 and 2 shall be specific assessments.

Section 9. Initiation Fee. The first Owner of a Lot conveyed from the Declarant or an Approved Builder ("First Owner") shall pay to the Association at the time of acquisition of such Lot an initiation fee in the amount of One Hundred and Fifty Dollars (\$150.00). After the First Owner, any subsequent Owner, who acquires a Lot subject to mandatory membership in the Covington Station Community Association pursuant to the terms of this Declaration shall pay an initiation fee in the amount of One Hundred and Fifty Dollars (\$150.00) 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, has authority to annex property or seven (7) 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 or entity 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 Section 6 of this Article.

## Article V.

### Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair all Common Property. The Association shall also maintain and keep in good repair the Area of Common Responsibility which shall be deemed to include the following: (a) maintenance, repair, and replacement of any sign or landscape easements which are located on Lots within the Community; (b) maintenance of any detention ponds and fences around detention ponds, if any, located on Lots in the Community; (c) exterior cleaning and maintenance of vinyl siding on all buildings; (d) maintenance, repair, and replacement of the front entrance and guard house; (e) mowing of the front and side yards of all Lots in

the Community. The Association shall maintain and pay the expenses associated with any landscape and sign easements and islands in the Community. The Association shall also maintain all property outside of Lots located within the Community that was originally maintained by Declarant, if any.

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 shall become a lien against the Lot.

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

Section 2. Owner's Responsibility. Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping, and other improvements on the Lot shall be the sole responsibility of the Owner, who shall maintain the Lot in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance shall include, but not be limited to, the following: (a) maintenance of all improvements in good repair; (b) maintenance and replacement of all vegetation and landscaping in good and presentable condition except for that landscape maintenance performed by the Association as provided in Section 1 above; and (c) maintenance repair and replacement of all pipes, lines, conduits or other apparatus serving only the Lot, whether located within or without the boundaries of the Lot. In the event that the Board of Directors determines that a Lot is not maintained in a manner consistent with the Community-Wide Standard 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 thirty (30) days after receipt of the notice to complete the maintenance, repair, or replacement. In the event that the maintenance, repair, or replacement is not capable of completion within a 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.

Section 3. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall, fence or driveway built as a part of the original construction on the Units which shall serve and or separate any two adjoining Units shall constitute a party wall, party fence, or party driveway, as applicable. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding the party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall, fence or driveway shall be shared equally by the Owners who make use of the wall, fence or driveway.

(c) Damage and Destruction. If a party wall, fence or driveway is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall, fence or driveway may restore it. If other Owners thereafter use the a wall, fence or driveway, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

(e) Arbitration. In the event of any dispute arising concerning a party wall, fence, or driveway each party shall appoint one (1) arbitrator. Should any party refuse to appoint an arbitrator within ten days after written request by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators appointed shall appoint one (1) additional arbitrator. The decision by a majority of all three (3) arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

Section 4. Conveyance of Common Property 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 that is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall be Common Property 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 VI.

### 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 XIII, 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 eligible Association vote and the consent of Declarant (so long as the Declarant owns any Lots in the Community, has unilateral authority to annex property, or seven (7) years from the date of recording of this Declaration, whichever comes first). Notwithstanding the above, until such time as one hundred (100%) percent of the Community has been developed and conveyed to purchasers in the normal course of development and sale no rules and regulations which affect the Declarant or an Approved Builder may be adopted, modified, or deleted without the written consent of the affected Declarant or Approved Builder.

Section 2. Residential Use. 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 the residence on 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; and (e) the business activity is consistent with the residential 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 common area facilities 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. Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without the prior written consent of the Association, except as specifically provided herein.

Section 4. Impairment of Dwellings. No Owner shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the property in the Community or any structure created thereon, would reduce the value thereof, or would impair any easement or hereditaments thereto, without prior written consent of all Association members and their Mortgagees. No damage to or waste of the exterior of any building constructed upon any Lot shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

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 Architectural Control Committee except as follows: (a) one (1) "For Sale" or "For Rent" sign of a size not exceeding two (2) feet by three (3) 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-Wide Standard may be placed in a window(s) of a residence and/or one professionally lettered security sign may be placed in any landscaped portion of a Lot. No other signs may be located on any structure or on a vehicle on a Lot or on Association easement areas except as provided herein. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs on Association easement areas. This Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage. No advertising, directional or vendor signs shall be permitted within the Community except as authorized by the Declarant under Article XIII, Section 13 of this Declaration.

Section 6. Vehicles. No Owner or occupant may keep or bring into the Community more than two (2) vehicles per Lot at any time without prior written Board approval; provided, however, this provision

shall not prohibit an Owner or occupant from having guests or service vehicles park in the Community if otherwise in compliance with this Section.

The term "vehicles," as used in this provision, shall include, without limitation, motor homes, boats, trailers, motorcycles, mini-bikes, scooters, go-carts, all terrain vehicles, trucks, campers, buses, vans, and automobiles. All vehicles, including boats and boat trailers, shall be parked on paved parking areas located on a Lot. Parking in yards is prohibited. Visitors are encouraged to follow the same policy and park vehicles on paved parking areas on the Lot.

No vehicle may be left upon any portion of the Community, except in a paved parking area, for a period longer than seventy-two (72) hours if it is unlicensed or if it is in a condition so that it cannot operate on public streets. After the seventy-two (72) hour period, the inoperable vehicle shall be considered a nuisance and may be removed from the Community. No recreational vehicle, motor home, mobile home, towed vehicle, boat, trailer, bus, commercial vehicle, or vehicle with commercial writing on its exterior shall be temporarily kept or stored in the Community for any period in excess of twelve (12) hours in any fourteen (14) day period. Vehicles parked in violation of this provision shall be considered a nuisance and may be removed from the Community. Trucks with mounted campers which are an Owner's or occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. No eighteen wheel trucks or the cabs of these trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept or stored within the Community, and if so parked, kept, or stored shall be considered a nuisance and may be removed from the Community. Moving vans and service or delivery vehicles may be parked in the Community for such period of time as is reasonably necessary to provide service to residents in the Community.

**Section 7. Leasing.** Lots may be leased for residential purposes only. All leases shall have a minimum term of six (6) months and a copy of all leases shall be given to the Board of Directors by the Owner of the Lot within thirty (30) days of entering into the lease. All leases shall require, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions, and rules and regulations of the Association and shall also obligate the tenant to comply with these documents.

**Section 8. 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 9. Animals and Pets.** No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of a two (2) domestic pets including dogs, cats, or other usual and common household pets, as may be determined in the discretion of the Board. Notwithstanding the above, a reasonable number of generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each may be kept in a dwelling on a Lot. No pets shall be kept, bred or maintained for any commercial purpose. No structure for the housing, care or confinement of any animal or pet shall be constructed, placed or altered on any Lot unless plans are approved. Pet owners shall not allow pets to roam unattended. Dogs shall at all times whenever they are outside be on a leash of reasonable length (as determined by the Board) held by a responsible person except that dogs need not be leashed when within a fenced area or the lot in the rear of the dwelling. (Fences must be approved by the

Architectural Control Committee.). All Owners and occupants keeping pets within the Community shall comply with all applicable governmental ordinances and regulations. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law. If a pet leaves feces on any portion of the Community other than the pet owner's Lot, the pet owner will be responsible for its removal. If not removed immediately, a fine may be levied by the Board.

No pit bulldogs or other dogs determined in the sole discretion of the Board to be dangerous dogs and no pot bellied pigs may be brought onto or kept in the Community at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. A pet owner shall muzzle any pet which consistently barks or makes loud noises. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the sole discretion of the Board of Directors, must be permanently removed from the Community upon five (5) days' written notice by the Board of Directors. Any pet which, in the sole discretion of the Board, presents an immediate danger to the health, safety or property of any member of the Community may be removed by the Board without prior notice to the pet's owner.

Section 10. 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.

Section 11. 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.

Section 12. Antennas and Satellite Dishes. No transmission antenna, of any kind, may be erected anywhere in the Community without written approval of the Board of Directors or the Architectural Control Committee. No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) larger than one meter in diameter shall be placed, allowed, or maintained upon any portion of the Community, including a Lot. DBS and MMDS antennas one 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. Such items shall be installed in the least conspicuous location available on the Lot that permits reception of an acceptable signal. Except as provided by this Section, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors on any portion of the Community, whether attached to a home or structure or



otherwise; provided, however, that the Association shall have the right to erect, construct and maintain such devices.

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 13. Tree Removal. No trees 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 Architectural Control Committee, as appropriate, except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees or for safety reasons; and (c) trees within ten (10) feet of the residence or driveway.

Section 14. Drainage. Catch 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 a perpetual easement across all property in the Community for the purpose of altering drainage and water flow, 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.

Section 15. 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. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain at elevations above two feet (2') above the roadways and shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property line connecting them at points twenty-five feet (25') from the intersection of the street lines, or in the case of a rounded property corner line, from the intersection of the street property lines extended. The same sight limitations shall apply on any Lot within ten feet (10') of a street property line with a driveway.

Section 16. Garbage and Refuse Disposal. All garbage cans shall be located so as to be screened or concealed from view of 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 forty-eight (48) continuous hours. All construction debris, rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate.

Section 17. Clotheslines. No outside clotheslines shall be erected or placed on any Lot. No laundry shall be hung on any Lot to dry.

Section 18. 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 owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 19. Storage Buildings or Sheds. No storage buildings or sheds shall be permitted without the prior written consent of the Architectural Control Committee. Applications shall be

submitted in accordance with Article X of this Declaration. The Architectural Control Committee may require that all or part of the storage building be painted in order to preserve the architectural harmony within the Community.

Section 20. Fences. 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, except as may be installed by the Declarant or the Association, without the prior written consent of the Architectural Control Committee. The Architectural Control Committee may issue guidelines detailing acceptable fence styles or specifications. No type of chain link fencing shall be permitted except fences installed by the Declarant or the Association. Applications shall be submitted in accordance with Article X of this Declaration. The Architectural Control Committee may require that all or part of the fencing be painted in order to preserve architectural harmony within the Community.

Section 21. Air Conditioning Units. No window air conditioning units may be installed. Condensing units for air conditioners shall only be located in the rear or along the side of a residence constructed upon a Lot.

Section 22. Lighting. Except for seasonal decorative lights between Thanksgiving and January 15, all exterior lights must be approved by the Architectural Control Committee, as appropriate.

Section 23. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any Lot. Exterior sculpture, fountains, flags, benches, birdhouses and similar items may not be placed in the front or side yard on any Lot.

Section 24. 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 Architectural Control Committee, as appropriate.

Section 25. Swimming Pools and Spas. No above-ground or in-ground swimming pool shall be erected, constructed, or installed on any Lot. No spa or hot tub may be installed on any Lot unless its design, location and placement are approved by the Architectural Control Committee.

Section 26. 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 Architectural Control Committee. Mailboxes and mailbox posts must be of a type consistent with the character of other mailboxes and mailbox posts within the Community. Any changes to mailboxes or mailposts must receive the prior written approval of the Architectural Control Committee.

Section 27. Playground Equipment and Basketball Equipment. Any playground equipment on Lots shall be installed in the area between the rear of the dwelling and the rear Lot line. Basketball hoops and goals shall not be attached to the exterior portion of any house or other building structure constructed on a Lot or placed on any other portion of the Lot except as provided below. Notwithstanding the above, free standing basketball poles, goals and backboards may be erected within an enclosed fenced area in the rear of a dwelling on a Lot, provided the basketball equipment must be manufactured and not home-made and subject to prior written approval by the Architectural Control Committee.

Section 28. Window Treatments. Unless otherwise approved in writing by the Board of Directors, all windows which are part of a Lot shall have standard window treatments and any portion thereof visible from outside the dwelling shall be white or off-white in color or a color approved by the Board of Directors.

Section 29. Parking Pads. Parking pads must be kept in good condition. Any large, noticeable cracks or holes must be repaired promptly. In addition, all large, noticeable oil spills or stains must be cleaned promptly. Determination of the condition of pads shall be solely at the discretion of the Board.

Section 30. Temporary Structures. No structure of a temporary character, trailer, basement, 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 XIII, Section 14 of this Declaration.

Section 31. Lawn and Yard Care. All yards shall be maintained in a neat and orderly condition, which shall include removal of leaves, broken limbs, dead trees and other debris as necessary. All lawns not maintained by the Association as set forth in Article V of this Declaration must be regularly cut (general grass height may not exceed seven (7") inches) and maintained (no noticeable weed problem).

Section 32. Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Community without prior written Board consent. If so permitted, any such activities shall be subject to all reasonable conditions that the Board may impose.

## Article VII.

### Insurance and Casualty Losses

#### Section I. Insurance on Common Property.

(a) The Association's Board shall have the authority to obtain insurance for all insurable improvements on the Common Property and on other property with improvements maintained by the Association, if any.

(b) The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents in their capacities as such, 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 Association, 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 Paragraph, 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. Individual Insurance. Each Owner shall carry blanket all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. If reasonably available, the casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times and Owners shall provide a certificate of such required insurance to the Board of Directors, upon request. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner and the Mortgagee of such Owner.

Section 3. Damage and Destruction--Insured by Association.

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

(b) Repair and Reconstruction. The Board of Directors must proceed to repair or reconstruct any damage or destruction to property insured by the Association unless within sixty (60) days after the casualty, it obtains the agreement of at least seventy-five (75%) percent of the total Association vote, the Declarant (so long as the Declarant owns any Lots or five (5) years from the date of recording of this Declaration) to not repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is not sufficient to cover the cost of repair or reconstruction, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be retained by and for the benefit of the Association in an Association account.

In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 4. Damage and Destruction -- Insured by Owners. 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 destruction. However, where repairs cannot be completed within seventy-five (75) days, they shall begin within the required period and shall be diligently and continuously pursued until their completion.

**Article VIII.**

**Condemnation**

In the event of a taking by eminent domain of any portion of the Common Property or property over which the Association has an easement on which improvements have been constructed, then, unless within sixty (60) days after the taking, Owners holding at least seventy-five (75%) percent of the total Association vote other than Declarant and the Declarant (so long as the Declarant owns any Lots in the Community has the unilateral right to annex property, or seven (7) years from the date of recording of this Declaration, whichever comes first) otherwise agree, the Association shall restore or replace the improvements taken on any remaining land over which the Association retains an easement to the extent lands are available. The provisions of Article VII, Section 2, above, applicable to improvements on property maintained by the Association, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

**Article IX.**

**Annexation and Withdrawal of Property**

Section 1. Unilateral Annexation By Declarant.

(a) As the owner or, if not the owner, with the consent of the owner, Declarant shall have the unilateral right, privilege, and option from time to time at any time until seven (7) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "C", attached and made a part of this Declaration, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the DeKalb County, Georgia, records a Supplementary Declaration describing the property being annexed. Any annexation shall be effective upon the filing for record of a Supplementary Declaration unless a different effective date is provided in the Supplementary Declaration. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of then Owners are not adversely affected, the Declarant, may unilaterally amend this Declaration to reflect the different character of any annexed real property.

(b) The rights reserved to Declarant to subject additional land to the Declaration shall not impose any obligation upon Declarant to subject any of such additional land to this Declaration or to the jurisdiction of the Association. If such additional land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained in the Declaration upon the additional land.

Section 2. Other Annexation. Subject to the consent of the owner and the consent of the Declarant (so long as the Declarant has an option to subject additional property to this Declaration as provided above) upon the affirmative vote, or written consent, or any combination thereof, of Owners holding a Majority of the total Association vote, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the DeKalb County, Georgia, records a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided in the Supplementary Declaration.

Section 3. Withdrawal of Property. 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, 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 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.

**Article X.**

**Architectural Standards**

Section 1. Architectural Control Committee. No exterior construction, addition, erection, or alteration and no encroachment on the Common Property shall be made upon any part of the Community unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Control Committee. For purposes of this section, any exterior redecorating shall be considered an exterior alteration. However, no approval shall be required for any construction, alteration or addition made by the Declarant. Until one hundred (100%) percent of the Community has been developed and conveyed to purchasers in the normal course of development and sale, the Declarant shall have the right to appoint all members of the Architectural Control Committee. There shall be no surrender of this right prior to that time except in a

written instrument in recordable form executed by Declarant. After the Declarant's right to appoint has expired, the Board of Directors shall appoint the members of the Architectural Control Committee, or may adopt a resolution making the Board of Directors the Architectural Control Committee. The Board may employ for the Architectural Control Committee architects, engineers, or other Persons necessary to enable the Committee to perform its review. The Architectural Control Committee may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, who shall have full authority to act on behalf of the Committee for all matters delegated. The Architectural Control Committee may, in its discretion, from time to time establish, abolish or amend standards to govern the development of Lots and the design and construction of improvements. The text of such standards and amendments shall be available to each Owner. Such standards shall be binding upon all Owners. A review fee in a reasonable amount may be charged.

Notwithstanding the above, if prior to development of one hundred (100%) percent of the Community, the Declarant should relinquish its right to appoint all members of the Architectural Control Committee, then the requirements of this Article X shall no longer apply to Approved Builders.

The primary purpose of these architectural controls is to protect and preserve property values in the Community by maintaining architectural and aesthetic harmony and compatibility among the Lots and the structures on the Lots in the Community. The architectural controls and standards may be designed and applied to reflect that Lots within the Community are of varying sizes, topographies and locations, and that improvements and modifications suitable for one Lot may be inappropriate for another Lot. Therefore, the Architectural Control Committee is authorized to apply or adopt different standards for different Lots to reflect the varying sizes and layouts of Lots within the Community. Specifically, the Committee may, for example, allow an improvement, modification or change which cannot be seen from any street within the Community at any time during the year, including winter, but prohibit the same change if it can be seen from any street within the Community. The ACC or the Board, subject to this Article X, Section 1 may allow such encroachments on the Common Property as it deems acceptable.

Section 2. Guidelines and Procedures. The Declarant may prepare the initial design and development guidelines and application and review procedures (the "Design Guidelines") which shall be applicable to all construction activities within the Community. 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 Architectural Control Committee 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 Architectural Control Committee shall make the Design Guidelines available to Owners and builders who seek to engage in construction upon all of any portion of the Community 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 DeKalb County, Georgia records, in which event the recorded version, as it may unilaterally be amended from time to time by the Architectural Control Committee 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 Architectural Control Committee in accordance with this Section shall apply to construction and modifications approved after the date of such amendment only, and shall not apply to plans or specifications previously approved or require modifications to or removal of structures previously approved by the Architectural Control Committee.

In the event that the Architectural Control Committee fails to approve or to disapprove any application within thirty (30) 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 Architectural Control Committee pursuant to Section 5 of this Article.

The Architectural Control Committee shall be the only judge of the plans with regard to the requirements of this Article and may withhold approval for any reason, including purely aesthetic considerations. The Architectural Control Committee shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. If an Owner does not comply with this Section, the Board may record in the appropriate land records a notice of violation naming the violating Owner in addition to any other available remedies.

Section 3. Disclaimer. The Architectural Control Committee and the Board of Directors do not warrant or represent, that their decisions under this Article constitute, and their decisions shall not be interpreted as constituting, an approval as to compliance with any building code, regulation or ordinance, or any other code, regulation, ordinance or law, nor that their decisions under this Article reflect upon the structural integrity of any proposed alteration or improvement.

Section 4. No Waiver. The approval of the Architectural Control Committee of any proposals, plans and specifications, or drawings, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or other matters later submitted for approval or consent.

Section 5. Variances.

(a) The Architectural Control Committee 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. 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 the body of this Declaration, or (c) prevent the Committee 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.

(b) The architectural standards and their enforcement may vary from time to time. These variances shall not constitute a waiver by the Committee or the Board of the right to adopt and enforce architectural standards under this Article. No decision by the Committee or Board shall constitute a binding precedent with respect to subsequent decisions of the Committee or Board. However, nothing in this Article shall permit the Committee or the Board to enforce retroactively its architectural standards against a Lot Owner whose architectural change has been approved under the architectural standards of a previous Committee or Board.

Section 6. Special Requirements. Plans and specifications will not be approved unless the residence to be erected on the Lot complies with the minimum zoning requirements and special conditions



of DeKalb County, Georgia under the zoning classification for the Lot on the day building permits are purchased.

Section 7. Commencement of Construction. All improvements approved by the ACC hereunder must be commenced within one year from the date of approval. If not commenced within one year from the date of such approval, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. Additionally, except with written ACC approval otherwise, and except for delays caused by strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner, all work approved by the ACC hereunder shall be completed within 90 days of commencement.

Section 8. Enforcement. Any construction, alteration, or other work done in violation of this Paragraph, the Declaration, the By-Laws or the design standards shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the benefited Lot.

If any Owner or occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Property in violation of this Article X, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain on the Common Property without reimbursement to the Owner or occupant for any expense he or she may have incurred in making the change, alteration or construction.

In addition to the above, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the ACC. Furthermore, the Board shall have the authority to record in the DeKalb County land records notices of violation of the provisions of this Paragraph.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon property on which the Association has an easement in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

## Article XI.

### Mortgage 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 By-Laws, 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 holder") will be entitled to timely written notice of:

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

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

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

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

Section 2. Approval of Actions. Unless at least two-thirds (2/3) of the first Mortgagees or Lot Owners give their consent, the Association shall not:

(a) by act or omission seek to abandon or terminate the Community or the Association;

(b) change the pro rata interest or obligations of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(c) partition or subdivide any Lot;

(d) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility easements or rights-of-way for public purposes and the granting other easements for the benefit of the Association shall not be deemed a transfer within the meaning of this clause); or

(e) use hazard insurance proceeds for losses to the Common Property for other than the repair, replacement, or reconstruction of the Common Property.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Lot Owners where a larger percentage vote is otherwise required by the Association Legal Instruments for any of the actions contained in this Paragraph.

Section 3. Liability of Mortgagees. Where the Mortgage holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 4. 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 5. Notice to Association. Upon request, each Lot 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 6. 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 7. VA/HUD Approval. As long as the Declarant has the right to appoint and remove officers and directors of the Association, the following actions shall require the prior approval of the VA (so long as the VA is guaranteeing any Mortgage in the Community), and HUD (so long as HUD is insuring any Mortgage in the Community): annexation of additional property to the Community; mergers and consolidations; dissolution; and material amendment of the Declaration, Bylaws or Articles of Incorporation.

Section 8. 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 9. 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 XII.

### 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, tenant, or the Association caused the encroachment.

Section 2. Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

(a) although the Common Property is undeveloped and Declarant has not provided recreational facilities on the Common Property, in the event that the Association constructs any recreational facilities, the use and enjoyment of such facilities shall be subject to the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and

enjoyment of specific portions thereof at certain designated times by an Owner, his or her family, tenants, guests, and invitees;

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

(c) the right of the Association to borrow money as may be set forth in the Bylaws; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Community (Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Community.);

(d) the right of the Association to grant permits, licenses or easements across the Common Property, as authorized in this Declaration or the Bylaws; and

(e) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to Article XI, Section 2 and to any such conditions as may be agreed to by the members of the Association.

Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the occupants of his or her Lot, if leased.

Section 3. Access Easement. There is reserved to the Declarant, Approved Builders, the Association and the Lot Owners and occupants a five (5) foot access easement between buildings and to the rear of the buildings as more particularly shown on the plats for the Community.

Section 4. Easements for Utilities. There is reserved to the Declarant, Approved Builders, 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. It shall be expressly permissible for the Declarant, the Association, or the designee of either, to do or to authorize the installation, repairing, replacing, and maintaining 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 5. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XIII, 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 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 6. Easement for 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 V. 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.

### Article XIII.

#### 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 By-Laws. 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 Lot 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 fifty-one (51%) percent of the persons owning Lots 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 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 Paragraph.

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 Lot 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 owns any Lots in the Community, has authority to annex additional property, or seven (7) years from the date of recording of this Declaration, whichever comes first, 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 Lot Owner, nor shall it adversely affect title to any Lot without the consent of the affected Lot 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 (67%) percent of the total Association vote, plus the consent of the Declarant (so long as Declarant owns any Lots in the Community, has authority to annex additional property, or seven (7) years from the date of recording of this Declaration, whichever comes first). 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 or to any Approved Builder shall be amended without the Declarant's or Approved Builder's, prior written consent so long as the Declarant or Approved Builder, 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 may, but shall not be required to, provide measures or take actions which directly or indirectly improve safety in the Community. However, each Owner, for themselves and their tenants, guests, licensees, and invitees acknowledge and agree that the Association is not a provider of security and shall have no duty to provide security for the Community. It shall be the responsibility of each Owner to protect his or her person and property, and all responsibility to provide security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

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 five (5) nor 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. Preparer. This Declaration was prepared by Ashley R. Miller, Weissman, Nowack, Curry & Wilco, P.C., Two Midtown Plaza, 15th Floor, 1349 West Peachtree Street, Atlanta, Georgia, 30309.

Section 11. 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 12. 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 13. 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 and any Approved Builder to maintain and carry on, upon such portion of the Community as Declarant or any Approved Builder may deem necessary, such facilities and activities as in the sole opinion of Declarant or any Approved Builder may be required, convenient, or incidental to Declarant's or any Approved Builder'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;

(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 and any Approved Builder may use residences, offices, or other buildings owned or leased by Declarant or an Approved Builder 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. This Section shall not be amended without the Declarant's express written consent so long as the Declarant or an Approved Builder owns any property in the Community, or which is subject to annexation to the Community, primarily for development and/or sale.

Section 14. Contracts Executed During Declarant Control. All contracts or leases executed by or on behalf of the Association during the period in which the Declarant has the right to appoint the Directors and officers of the Association under the Bylaws 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 15. Disclosures. Each Owner and occupant acknowledge the following:

- (a) The Community is located adjacent to thoroughfares which could be improved or widened in the future.
- (b) The views from an Owner's Lot can change over time due to among other things, 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 being made regarding which schools may now or in the future serve the Lot.
- (e) Since in every neighborhood, there are conditions which different people may find objectionable, it is acknowledged that there may be conditions outside of the Property which an Owner or Occupant finds objectionable and that it shall be the sole responsibility of the Owners and occupants to become acquainted with neighborhood conditions which could affect the Lot.
- (f) No representations are made that dwellings are or will be soundproof or that sound may not be transmitted from one dwelling to another.
- (g) The floor plans and the dimensions and square footage calculations shown thereon are only approximations. Any Owner who is concerned about any representations regarding the floor plans should do his/her own investigation as to the dimensions, measurements and square footage of his/her dwelling.

Section 16. 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 17. Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

Section 18. Agreements. Subject to the prior approval of Declarant (so long as the Declarant owns any Lots in the Community, has authority to annex additional property or seven (7) years from the date of recording of this Declaration, whichever comes first) 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 19. 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 20. 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.

IN WITNESS WHEREOF, the undersigned, being the duly appointed officers of Declarant herein, have executed this instrument and affixed the corporate seal this 2nd day of October, 2001.

DOZIER DEVELOPMENT COMPANY, L.L.C.  
a Georgia Limited Liability Company

By: John Michelena  
Title: VP Operations

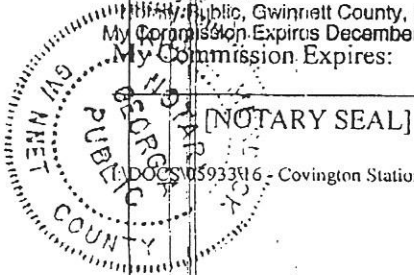


[CORPORATE SEAL]

Signed, sealed, and delivered this day of \_\_\_\_\_, 20\_\_\_\_.

Daniel H. Lyons  
Witness  
R. M. Murdock

Notary Public  
Notary Public, Gwinnett County, Georgia  
My Commission Expires December 27, 2002  
My Commission Expires:



[NOTARY SEAL]  
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EXHIBIT "A"

Definitions

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

(a) "Approved Builder" shall mean any builders or developers which are designated as Approved Builders by the Declarant in writing. Approved Builders shall continue to be Approved Builders for so long as they own at least one Lot for the purpose of construction of a residence and resale of the Lot and residence.

(b) "Area of Common Responsibility" shall mean the Common Property and those areas which by the terms of this Declaration or by contract or agreement with any other person or entity became the responsibility of the Association. Any public rights-of-way within or adjacent to the Property may be part of the Area of Common Responsibility.

(c) "Association" shall mean Covington Station Homeowner's Association, Inc., its successors and assigns.

(d) "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.

(e) "Bylaws" shall refer to the Bylaws of Covington Station Homeowner's Association, Inc., attached to this Declaration as Exhibit "C" and made a part of this Declaration.

(f) "Common Property" means any and all real and personal property and easements and other interests, together with the facilities and improvements located on the Property, now or in the future owned by the Association.

(g) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto.

(h) "Community-Wide 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-Wide Standard originally established by the Declarant.

(i) "Declarant" shall mean and refer to Dozier Development Company, L.L.C., 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 "B" hereto, 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 DeKalb County, Georgia records.

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

(j) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded or to be recorded in the DeKalb County, Georgia, records and which is subject to the terms of this Declaration.

(k) "Mortgage" means 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.

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

(m) "Owner" shall mean and refer to the record owner, whether one 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.

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

Exhibit "B"

Property Submitted

All that tract of land located in Land Lots 58 and 71 of the 16<sup>th</sup> district of Dekalb county, Georgia known as the Covington Station subdivision, Unit 1 of which final plat has been recorded at the Clerk of Superior Court records of Dekalb County of Georgia in Plat Book 122, page 113, filed and recorded on August 23, 2001.