



## WOODLAND BROOK

### GENERAL COVENANTS, USE RESTRICTIONS AND RULES (Condensed Version. Refer to specific covenant for more information)

6.01 Application. Covenants and restrictions apply to all lots and structures\*.

6.02 Maintenance. Exterior of all dwellings and structures will be maintained and painted; lawns mowed and watered; shrubs pruned and maintained to not obstruct views by motorists and or pedestrians. The ACC can direct homeowners to maintain their property.

6.03 Use of Lots. Lots will be used only for single family residences. No business allowed which result in customers or clients visiting the property, or which require deliveries. Certain business uses prohibited... including child care, beauty or barber shops.

6.04 Subdivision of property. No subdivision or splitting of lots unless approved by the ACC.

6.05 Erosion control. No activity allowed which could cause or lead to erosion unless approved by the ACC.

6.06 Landscaping. If a structure is altered or constructed (as permitted by the ACC), the ACC must also approve a landscaping plan. (Design Standard #1 may apply)

6.07 Tree removal. After closing, no tree greater than 4" in diameter may be cut without approval of ACC, except for dead or diseased trees, or trees needed to be removed to promote growth of other trees. (Design Standard #1 applies)

6.08 Signs. No signs of any kind without ACC approval except "for sale" signs of less than 4 square feet.

6.09 Setbacks. ACC may establish set-back requirements for structures. (Design Standard #2 applies to detached buildings and other structures i.e decks.)

6.10 Fences. No fences without approval of the ACC; and any fence approved must be in the back of the dwelling. (Design Standard # 3 applies)

6.11 Roads and driveways. No roads or driveways except as approved by the ACC.

6.12 Antennas. No large, ground mounted satellite dishes. No erection of other types of exterior antennas, without approval of the ACC, with the exception of 18" or smaller eave mounted satellite dish.

6.13 Vehicles. 24 hour limit on parking vehicles on street. No major repairs of vehicles on any lot except for in garages. Wrecked or inoperable vehicles to be removed from lot (or garaged) after ten (10) days. No vehicle may be parked on any yard.

6.14 Recreational Vehicles and Trailers. House trailers, mobile homes, motor homes, recreational vehicles, campers, buses, motor cycles, scooters, and trucks with camper top, trucks or commercial vehicles over 1 ton capacity, boats and trailers, can only be parked on lot for 48 hours. OK if put in enclosed space provided it is not visible to neighbors and streets.

6.15 Gardens and Play Equipment. Vegetable gardens and play equipment are to be located between rear of dwelling and rear lot line. Basketball goals as approved by the ACC. (Design Standard # 4 applies)

6.16 Animals and Pets. Only traditional domestic animals or pets on any property. No breeding or commercial use of animals. The ACC may order removed any pets which unreasonably disturb neighbors. No structures for animals without approval of the ACC.

6.17 Solid waste. No dumping or burning on any lot or common property. Except during construction, no storing of any building or waste materials on any property.

6.18 Nuisance. No owner shall use or store or allow property to become a nuisance.

6.19 Exterior Colors. All exterior colors must be traditional Williamsburg type colors. A change in exterior color requires approval of the ACC.

6.20 Air Conditioning Units. No window air conditioning units visible from the front of any lot or or any adjoining street.

6.21 Drainage. No obstruction or debris will be placed in any catch or drainage area or basin. No owner may obstruct any drainage structure or conveyance.

6.22 Site Distance at Intersections. No fence, wall, hedge or shrub which would create a traffic or sight problem. Safe sight distances across street corners will be maintained.

6.23 Clotheslines, Garbage Cans, Woodpiles, Etc. All clotheslines, garbage cans, woodpiles, and other similar items will be concealed from view of neighbors. OK to put garbage cans and rubbish cans at curb for pick-up for a reasonable period of time.

6.24. Guns. No firearm use, including BB and pellet guns.

6.25 Solar Devices. No solar devices on lot or structure without approval of the ACC.

6.26. **Swimming Pools.** ACC may approve in-ground pools. No above ground pools, and all pools must be enclosed by a fence. (Design Standard #5 applies to children's wading pools.)

6.27 **Decorative Appurtenances.** Decorative appurtenances (birdbaths, fountains, etc.) visible from street must be approved by the ACC. (Design Standard #6 also applies to decorative lights, flag pools, etc.)

6.28 **Window Treatments.** No foil or reflective materials of any kind on windows.

6.29 **Fuel or Water Tanks.** No fuel or water tanks on any property where they are visible from any street, road or lot.

6.30 **Doors and Windows.** No silver or brushed aluminum finished doors or windows of any kind, including sliding glass doors. (Design Standard #7 applies)

6.31 **Mailboxes.** All mailboxes must be approved by the ACC and must be constructed of brick/stucco to match house.

6.32 **Roofing.** Roofs shall be black charcoal, black, grey or a blend. Any other color must be approved by the ACC.

6.33 **Developer's Activities.** Developer may develop, build and market new homes as it usually does in the ordinary course of its business.

**\*\*Structure** means:

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

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



## WOODLAND BROOK

### ARCHITECTURAL CONTROL

- The Homeowners Association Board of Directors will create an Architectural Control Committee (ACC) with at least three members.
- Anyone who wants to build on a lot, or alter an existing structure, must first submit construction design and plans to the ACC for approval.
- The ACC will determine if the plans are in conformity with the harmony of existing exterior design and general quality standards of the subdivision and Development. No construction may commence until the ACC has approved the design/plans.
- If requested, the ACC will assist the homeowner with suggestions which, if possible and feasible, would make the proposal acceptable.
- The ACC may hold both regular scheduled and special meetings as needed. To conduct business a quorum is required, and a majority vote of the quorum is required for the ACC to take any official action.
- The ACC shall establish design standards and apply those standards to any proposal submitted. In giving approval to a proposal the ACC may place special requirements or conditions.
- Any one member of the ACC may be authorized to act on behalf of the ACC. If a homeowner is dissatisfied with the one member's decision an appeal may be made to the full ACC for reconsideration. A majority decision of the ACC is binding.
- Following submittal of any plans and specifications to the ACC a decision will be reached within 30 days. If no decision is reached within 30 days it will be deemed that the ACC has approved the submittal as proposed.
- The ACC or its agent has authority to enter (following reasonable notice) upon any subdivision property to determine if any installation, construction, alteration or maintenance of any structure, or use of any lot or structure is in accordance with the ACC design standards.
- If the ACC determines that there is a violation of the Architectural Control provisions, the ACC will provide the homeowner with written notice of the violation. If within 30 days following receipt of the notice the homeowner has not taken reasonable steps to remedy the violation, the Homeowners Association has the Right of Abatement.
- The ACC may impose and collect reasonable fees to cover costs of inspection to establish conformance with ACC design standards.

## COVENANT ENFORCEMENT PROCEDURES

Apparent covenant violations - as reported by any source - may be submitted to the ACC to be referred for appropriate action. The first action will be confirmation that a violation exists. If substantiated, the homeowner in violation will be contacted, the violation explained, and be requested to provide corrective action in a reasonable time period according to the following policy:

1. Upon recognition of a violation, a letter will be forwarded from the Board of Directors, advising the homeowner of the violation, stating the steps necessary to remedy the violation and a time period in which to either respond (in writing) and/or remedy the violation.
2. If after "due process", the violation can not be resolved by the Board of Directors, or if there is no response to the first letter, or the violation has not been remedied within the prescribed time period, a certified letter will be forwarded to the homeowner from the Board of Directors advising a new time frame in which to complete the required corrective action and/or respond. It will be noted in this letter that failure to comply will result in legal action.
3. As a third step, if there is no corrective action or completed corrective action, the particular violation will be forwarded to the Association Attorney. The homeowner will again be asked to remedy the violation and consequences for failure to take appropriate action will be documented. The cost of this legal letter will be charged to the homeowner. Failure to comply could result in any or all of the following sanctions:
  - \* suspension of the right to vote in Association matters.
  - \* suspension of the right to use the recreational facilities and/or common areas.
  - \* recordation of notice of covenant violation with the superior court.
  - \* correction of the violation by the Association with all costs charged to the homeowner, and/or,
  - \* filing of a lien for all fines and costs, including but not limited to legal fees, to correct the violation.
4. As a last resort, if the action is still outstanding, then it may be necessary for the Association to file a lawsuit in order to enforce the covenants.

CORRECTIVE DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
WOODLAND BROOK

THIS DECLARATION is made on the date hereinafter set forth by CANDOR HOMES, INC., a Georgia Corporation (hereinafter referred to as "Declarant").

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain real property located in Land Lot 167 of the 5th District, of Gwinnett County, Georgia, which property is more particularly described in Exhibit "A" attached hereto and made a part of this Declaration; and

WHEREAS, Declarant intends to develop on the real property described above a development to be known as Woodland Brook (hereinafter referred to as the "Development"); and

WHEREAS, Declarant has caused the Association (as hereinafter defined) to be formed as a nonprofit civic organization to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined);

NOW, THEREFORE, the Declarant hereby declares that all of the property described in Exhibit "A" shall be held, sold and conveyed subject to this Declaration of Covenants, Conditions and Restrictions, which is for the purpose of enhancing and protecting the desirability and attractiveness of said real property. Declarant further declares that this Declaration shall run with the title to said real property, and be binding on all parties having any right, title or interest in the described property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns, and to the benefit of the Association.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration of Covenants, Conditions and Restrictions, shall have the following meanings:

1.01 Additional Property. "Additional Property" means the additional property which may be added to the Property and made subject to this Declaration pursuant to Article X hereof. A

description of the Additional Property is set forth on Exhibits "B", "C" and "D" attached hereto and made a part hereof.

1.02 Association. "Association" means Woodland Brook Homeowners Association, Inc. (a nonprofit corporation organized under the Georgia Nonprofit Corporation Code), its successors and assigns.

1.03 Board. "Board" means the Board of Directors of the Association.

1.04 Bylaws. "Bylaws" means the Bylaws of the Association.

1.05 Common Property. "Common Property" means all real property (together with any and all improvements now or hereafter located thereon) and all personal property now or hereafter owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners.

1.06 Declarant. "Declarant" means Candor Homes, Inc., a Georgia Corporation, its successors and assigns. The term shall also be applied to any person, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof, which lawfully acquires the rights, privileges and options of Declarant in accordance with this Section 1.06. Should any of the Property of the Additional Property become subject to a first mortgage given by Declarant (as defined herein) as security for the repayment of a loan to improve the Property and/or Additional Property for development as part of this residential community, then all rights, privileges and options herein reserved to the Declarant, if held by the Mortgagor under said Development Loan shall inure to the benefit of the holder of such first mortgage upon its becoming the actual Owner of the Property and/or Additional Property then subject to such first mortgage through judicial foreclosure or sale made pursuant to any power of sale contained in such first mortgage or by conveyance of a deed in lieu of foreclosure. The Declarant as hereinabove defined, may transfer all of its rights, privileges and options as Declarant to a successor-in-title to all or some portion of the Property or the Additional Property, provided any such successor-in-title shall acquire for the purpose of development or sale all or some portion of such property, and provided further, that in a written instrument, such successor-in-title is expressly assigned all of Declarant's rights, privileges and options herein reserved to Declarant. Such an assignment may be included as a recital in any deed executed by Declarant which conveys any portion of the Property or the Additional Property.

1.07 Declaration. "Declaration" means the Declaration of Covenants, Conditions and Restriction for Woodland Brook.

1.08 Lot. "Lot" means any numbered parcel of land shown upon that plat of survey of Woodland Brook recorded in Plat Book       , Page       , Gwinnett County, Georgia Records, or as similarly shown on supplemental surveys of such tract or such additional tracts as may be added to the Property from time to time, as provided herein; provided however, that no portion of the Common Property shall ever be a lot except as provided for in Section 2.04.

1.09 Member. "Member" means any member of the Association.

1.10 Owner. "Owner" means the record owner (including Declarant) whether one or more persons or entities, of a fee simple title to any lot, provided, however, that where fee simple title has been transferred and is being held merely as security for repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.11 Property. "Property" means that certain real property (other than Common Property) hereinabove described together with such additional real property as the Declarant may acquire and subject to the provisions of this Declaration of Covenants, Conditions and Restrictions in accordance with the provisions of Article X thereof.

1.12 Restrictions. "Restrictions" means all covenants, restrictions, easements, liens and other obligations created or imposed by this Declaration.

1.13 Structure. "Structure" means:

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

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

ARTICLE II  
COMMON PROPERTY

2.01 Conveyance of Common Property.

(a) The Declarant may from time to time cause to be conveyed to the Association certain real property or grants of easements, as well as personal property, for the common use and enjoyment of the Owners (such real and personal property being hereinafter collectively referred to as "Common Property"). In addition, the Declarant may from time to time cause the conveyance of certain real property or grants of easements to the general public as may be required by governing authorities in accordance with this Declaration. The Association hereby covenants and agrees to accept all such conveyances of Common Property.

(b) It is contemplated by the Declarant that the Declarant will convey to the Association Common Property for scenic and natural area preservation. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.

(c) In addition to the property described in subsection (b) of this Section 2.01, the Declarant may convey to the Association in accordance with this Section 2.01 such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Property owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority.

2.02 Right of Enjoyment. Every Owner shall have a right and easement to use and enjoy Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to those items set forth in Section 2.03, which include suspension by the Association as provided in Sections 2.03(c) and 3.05.

2.03 Rights of the Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right of the Association acting through the Board to:

(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) charge reasonable fees in connection with the admission to and use of facilities or services; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;

(c) suspend the voting rights of any Member, pursuant to Section 3.05, and the right of enjoyment granted or permitted by Section 2.02;

(d) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(e) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof;

(f) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest, and or all of the Association's property, including Common Property and revenues from assessments, user fees and other sources;

(g) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority;

(h) to sell, lease or otherwise convey all or any part of its properties and interest therein; provided, however, that the Association shall not sell, encumber by security interest, convey, dedicate or transfer any Common Property or interest therein without the approval of two-thirds (2/3) of each class of Members.

2.04 Types of Common Property. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not, without a two-thirds (2/3) vote of each class of Members of the Association, be used for any different purpose or purposes without the prior written consent of the Declarant.

2.05 Entrance and Scenic Strip Landscaping Easements. It is contemplated that certain easements for the erection and maintenance of entrance monuments, subdivision signs, walls, fences, scenic strips and other structures intended to provide an attractive atmosphere or to provide privacy to Owners within the Development will be reserved by the Declarant and may set forth on plats of survey of the Development recorded in the County Records. Such easements shall be perpetual in duration and shall include the right to erect, maintain, repair, replace and re-erect any such structures within the easement areas, as well as the right to plant grass, plants, flowers, shrubs and trees to tend and garden the same, and to generally landscape the area within said easements to keep them clean, attractive and uniform in appearance for the benefit of all Owners within the Development. All Owners taking title to any Lot upon which such an easement lies will take title subject to the easement rights set forth herein, as well as such rights as may be set forth in the deed conveying such easements to the Association. Such easements shall be Common Property.

2.06 Encroachment Easement. If any buildings or other improvements initially constructed by Declarant on any of the Lots (including without limitation any eaves, roof overhangs, balconies, siding, porches, or other structures which may be attached to the walls and roof of such buildings) encroach onto or over or extend into the air space of any portion of the Common property, or, conversely, if any such improvements initially constructed on the Common Property encroach onto or over portions of any Lot, a valid easement for the encroachment and for the maintenance, repair and replacement thereof, shall exist so long as the encroachment exists.

2.07 Easement for Maintenance by the Association. There is hereby granted to the Association and its designated representatives an easement for access to each Lot for the purpose of exercising the maintenance responsibilities of the Association on the Lots.

## ARTICLE III

### THE HOMEOWNERS' ASSOCIATION

#### 3.01 Purposes, Powers and Duties of the Association.

The Association shall be formed as a nonprofit civic organization for the primary purpose of performing certain functions for the common good and general welfare of the people of the Development. To the extent necessary to carry out such purpose, the Association (a) shall have all of the powers of a corporation organized under the Georgia Nonprofit Corporation Code, and (b) shall have the power to exercise all of the rights, powers and privileges of the Association as set forth in this Declaration.

#### 3.02 Membership in the Association. Every Owner shall automatically be a Member of the Association and such membership shall terminate only as provided in this Declaration of Covenants, Conditions and Restrictions.

#### 3.03 Voting Rights. Subject to the following provisions of this Section 3.03, the Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. Every person who is an Owner, with the exception of the Declarant except as otherwise set forth herein, shall be a Class A Member and shall be entitled to one vote for each Lot owned. When more than one person is a Class A member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. In the event of disagreement among such persons and an attempt by two or more of them to cast the vote of such Lot, such persons shall not be recognized and the vote of such Lot shall not be counted. The membership of a Class A Member shall automatically terminate upon the Member's sale of his Lot. However, no termination of Class A membership shall affect such Member's obligation to pay assessments, fines or penalties as hereinafter provided for due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

(b) Class B. The Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and during its existence the Class B Member shall be entitled to vote on all matters and in all events. The Class B Member shall be entitled to three (3) votes for each Lot owned by it; provided, however, in no event shall the Class B Member have less than the total number of Class A votes plus one (1). The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (a) the expiration ten (10) years from the date of recording of this

Declaration; (b) the date as of which three-fourths (3/4) of the Lots which may be developed on the Property and on the Additional Property shall have been conveyed to an individual Owner or Owners for residential occupancy; or (c) the surrender by the Declarant of the authority to appoint and remove members of the Board of the Association by an express amendment to this Declaration executed and recorded by the Declarant; provided, however, that so long as any Mortgage of Declarant holds a security interest in any portion of the Property, as security for a Development Loan to Declarant, the Class B membership shall not terminate without the prior written consent of such Mortgagee. If at the time of termination of the Class B membership, Declarant still owns any Lots, then as to each Lot owned by Declarant, Declarant shall be deemed to be a Class A Member.

(c) The Development may be composed of Lots to be developed in phases containing unequal number of Lots. Each such phase will be platted of record in the office of the Clerk of the Superior Court of Gwinnett County in accordance with Article X of this Declaration. The Declarant shall notify the Association in writing when the final phase of the Development has been so platted of record. By acceptance of a deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of the subdivision plats covering such phases, the total votes outstanding in the Association will automatically increase based upon the number of Lots in the phases added and in accordance with the formula set forth in subsection (b) of this Section 3.03 and in no event shall Class B Membership cease and be converted to Class A Membership (as provided in subsection (b) of this Section 3.03) until after the Association receives the written notice provided for in the preceding sentence; provided, however, nothing contained herein shall obligate the Declarant to develop any proposed phase of the Development unless such phase is subject to this Declaration.

#### 3.04 Board of Directors and Officers.

(a) Board. The affairs of the Association shall be managed by a Board of Directors. The number of directors and the method of election of directors shall be as set forth in this Declaration and in the Bylaws of the Association. Except to the extent otherwise expressly required or authorized by the Georgia Nonprofit Corporation Code of this Declaration, the Association's Bylaws or Articles of Incorporation, the powers inherent in or expressly granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further consent or action on the part of the Members.

(b) Officers. The number of officers and the method of election of officers shall be as set forth in this Declaration and the Bylaws of the Association. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association,

officers of the Association shall be appointed by the Board until such time as Declarant no longer has the right to appoint members to the Board of Directors.

(c) Casting of Votes. The votes of the Members shall be cast under such rules and procedures as may be prescribed in this Declaration or in the Bylaws of the Association, as amended from time to time, or by law.

3.05 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02 by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Section 5.11, 6.02 or 8.02 hereof;

(b) shall be delinquent in the payment of any assessment, fine or penalty levied by the Association pursuant to the provisions of this Declaration; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property;

Any suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.05, the suspension may be for a period not to exceed 60 days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

3.06 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Georgia Nonprofit Corporation Code, the Articles of Incorporation of the Association, and the Bylaws of the Association, as each shall from time to time be in force and effect.

3.07 Control by Declarant and Appointment of the Board. Until such time as Declarant no longer has the right to appoint members to the Board, the Board of the Association shall consist of five (5) members. Notwithstanding any other language or provision to the contrary in this Declaration in the Articles of Incorporation, or in the Bylaws of the Association, the Declarant hereby retains the right to appoint all members to the Board. The rights of Declarant to appoint members of the Board also includes

the right to remove and replace appointees until such time as Declarant's rights to appoint members to the Board ceases. Declarant shall retain the right to appoint and remove members of the Board until such time as the first of the following events shall occur: (i) The expiration of ten (10) years from the date of the recording of this Declaration; (ii) the date upon which three-fourths (3/4) of the Lots which may be developed on the Property and on the Additional Property shall have been conveyed, by Declarant to an individual Owner or Owners for residential occupancy; or (iii) the surrender by Declarant of the authority to appoint and replace directors by an express amendment to this Declaration executed and recorded by Declarant. Upon the final expiration of all rights of Declarant to appoint and replace directors of the Association a special meeting of the Association shall be called. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board, and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association, any agreements or contracts executed by or on behalf of the Association during such period, which Declarant has in its possession. Each Owner by acceptance of the deed to or other conveyances of a Lot vests in Declarant such authority to appoint and replace directors and officers of the Association as provided in this Section.

3.08 Implied Rights. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law and any other right or privilege reasonable to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE IV

### ASSESSMENTS AND MAINTENANCE CHARGES

4.01 Covenant for Assessments and Creation of Lien and Personal Obligation. The Declarant, to the extent that Declarant is an Owner, hereby covenants and agrees, and each Owner, jointly and severally, for himself, his heirs, distributees, legal representative, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to pay to the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(b) to pay to the Association any special assessments for capital improvements and any fines, penalties or other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(c) that there is hereby created a continuing charge and lien upon all Lots owned by him against which all assessments, fines, penalties and other charges are made to secure payment of such items and any interest thereon as provided in Section 4.07 hereof and costs of collection including reasonable attorneys' fees;

(d) that such continuing charge and lien on such Lots binds such lots in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens, or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) the lien of any first mortgage. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer;

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot or Lots from liability for any assessment thereafter assessed;

(f) that all annual and special assessments (together with interest thereon as provided in Section 4.07 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot or Lots owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot or Lots as provided in Section 4.01(c) of this Declaration) a personal obligation which will survive any sale or transfer of the Lot or Lots owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.

4.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the people of the new community of the Development, including, but not limited to, and in addition to other purposes set forth in this Declaration, security, the acquisition, construction, improvement,

maintenance and equipping of Common Property, the enforcement of the Restriction contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the Association and the payment of all principal and interest when due on all debts owned by the Association.

4.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.04 Annual Assessment or Maintenance Charge.

(a) Subject to the terms of this Article, each Lot in the Property is hereby subjected to an annual assessment or maintenance charge for the purpose of creating a fund to be known as the "maintenance fund," which maintenance charge and assessment will be paid by the Owner or Owners of each Lot within the Property (and any area annexed under the jurisdiction of the Association). Payment of such assessments will be made in advance in monthly, quarterly or annual installments with the due dates being established by the Board of Directors.

(b) The annual maintenance charge and assessment will commence to each Lot on the first day of the month following the earlier to occur of the following events: (i) upon the occupancy of the Lot as a residence; or (ii) upon the conveyance of the Lot by Declarant to an Owner or tenant for residential occupancy.

(c) Beginning on the date this Declaration is executed through \_\_\_\_\_, the annual maintenance charge and assessment will not exceed \_\_\_\_\_ per annum (said rate of charge being the "maximum annual assessment" for 199\_\_\_\_). Beginning \_\_\_\_\_, and from year to year thereafter, the maximum annual assessment may be increased by the Board of Directors; however, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum annual assessment for the previous year without a vote of the membership, which shall require approval of two-thirds (2/3) of each class of Members present, in person or by proxy, at a meeting duly called for such purpose, with at least sixty percent (60%) of the Owners or other proxies present. If sixty percent (60%) of the Owners do not attend, a second meeting may be called and the quorum will be reduced to thirty percent (30%) of the Owners or their proxies. The annual assessment for each year shall be determined by the Board of Directors as the needs of the Development may in the judgment of the Directors require; however, the annual assessment

for each year shall not exceed the maximum annual assessment set for that year. If not increased as provided herein, the maximum annual assessment for each successive year shall equal the maximum annual assessment in effect for the previous year. In addition, if for any reason the Board of Directors fail to determine the annual assessment for any successive year, the annual assessment for the previous year shall continue for such successive year until a new annual assessment is determined by the Board of Directors.

(d) Assessments may be used by the Association to provide for, by way of clarification, and not limitation, any and/or all of the following as determined, from time to time, by the Board of Directors: normal, recurring maintenance of the Common Property (including but not limited to mowing, edging, watering, clipping, sweeping, pruning, raking and otherwise caring for the existing landscaping) and the acquisition and installation of capital improvements to the Common Property, such as sprinkler systems, provided that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common property; the cost of hazard and liability insurance for the Common property and the cost of such other insurance as the Association may deem necessary; the cost of water, electricity, street lights, and other utilities to the Common Property; payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions, and conditions affecting the Property to which said assessments apply; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; payment of ad valorem property taxes assessed against the Common Property; employment of security guards or watchmen, if determined necessary; caring for vacant lots; and doing any other thing or things necessary or desirable in the opinion of the Board or membership of the Association to keep the Property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that when and if presented to the Members the judgment of the majority of the Members of the Association shall also establish and maintain an adequate reserve fund for the period of maintenance, repair, and replacement of improvements to the Common Property.

(e) Unless required as a matter of law or as otherwise set forth in this Article, Declarant shall not, at any time, be subject to the annual maintenance charge and assessment; however, the Declarant hereby agrees that until such time as Declarant no longer has the right to appoint members to the Board of the Association, Declarant will pay to the Association any deficit amounts not covered by the income of the Association which are reasonably necessary to maintain the Common Property and the vacant Lots in a neat, attractive, and in addition, which such property is intended for recreational use, usable condition. In determining

whether such a deficit exists, paper expenses, such as depreciation shall not be taken into consideration. Any such deficit amount required to be paid by Declarant shall be treated as an assessment and subject to the provisions of Section 4.07; provided however, any lien for such an assessment shall apply only to those Lots owned by Declarant which are subject to the Declaration, and the amount thereof shall be divided equally among all such Lots; and, provided further, that in no event shall Declarant be required to pay any amounts, specifically including any deficit amount, which would exceed an amount equal to the number of Lots owned by Declarant and subject to the Declaration at the time Declarant becomes responsible for payment, or the time the deficit is incurred, multiplied by an amount equivalent to one-fourth (1/4) of the annual assessment which should have been paid or has become due and payable by any other Owner of a Lot from the time Declarant became responsible for such payments (including assessments), or the time the deficit was incurred (for purposes of this proviso, "the time the deficit is incurred" means the time in which the expense creating such deficit becomes a binding obligation upon the Association). Beginning on the first day of the next month following the expiration of Declarant's right to appoint members to the Board of the Association, Declarant shall be subject to an annual maintenance charge and assessment in an amount equal to one-fourth (1/4) of the full annual assessment being paid by all other Owners. Notwithstanding the preceding, the full annual maintenance charge and assessment will commence as to each Lot owned by Declarant or a builder upon its occupancy as a residence in accordance with Section 4.04(b). In addition and notwithstanding anything in the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution as reasonably determined by the Declarant.

4.05 Special Assessments for Working Capital Fund, Nonrecurring Maintenance, and Capital Improvements. In addition to the annual assessments authorized by this Article IV, the Association may levy:

(a) upon the first sale of each and every Lot to an Owner who will individually or through tenants or assigns occupy a Lot, a special assessment in the amount of \$50.00 shall be collected at the closing of such sale for the benefit of the Association. The aggregate fund established by such special assessment shall be maintained in a segregated account, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board; and

(b) in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part any Association expenses not covered by the annual budget, including, but not limited to, the cost of nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon any Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have been approved by two-thirds (2/3) vote of each class of Members of the Association who are present in person or by proxy at a meeting duly called for such purpose.

4.06 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action requiring vote under Sections 4.04 or 4.05 shall be sent to all Members, or delivered to their residence, not less than twenty-one (21) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) of all the votes of each class or membership shall constitute a quorum. If the required quorum is not present another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such meeting shall be held more than sixty (60) days following the preceding meeting.

4.07 Effect of Nonpayment of Assessments. If any assessment or installment is not paid within fifteen (15) days after the Due Date there shall be imposed a late or delinquency charge in the amount of the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due. Any assessment or installment, and any late charge connected therewith, which is not paid within thirty (30) days after the Due Date of the assessment shall bear interest (from the Due Date with respect to the assessment or installment, and the date such charge was imposed with respect to the late charge), at the rate of twelve percent (12%) per annum or at such rate as the Board may from time to time establish; provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. If any one or more installment of any assessment is not paid within thirty (30) days after the Due Date the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any assessment or installment on or before the date in which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence). Together with any delinquency charges, interest, and costs of collection, including court costs, the expenses of sale, any expense required for the protection and preservation of the Lot, and reasonable attorney's fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot.

enforceable in accordance with the provisions of this Declaration. In addition to the above, if any Owner has not paid any assessment or installment, or any late charges or expenses related thereto, within sixty (60) days after the Due Date of the assessment or installment, the Association shall have the right to notify any or all mortgagees having a security interest in such Owner's Lot or Lots that such Owner is in default in the performance of his obligations under these Restrictions, and of those actions taken or proposed to be taken by the Association as a result of the default.

4.08 Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid, setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the association and any bona fide purchaser of, or lender on, the Lot in question.

## ARTICLE V

### ARCHITECTURAL CONTROL

5.01 Architectural Control Committee - Creation and Composition. An Architectural Control Committee (the "ACC") shall be established consisting of at least three (3) individuals to be appointed by the Board of Directors.

5.02 Purpose, Powers and duties of the ACC. The purpose of the ACC is to review and approve any proposed installation construction or alteration of any Structure on any Lot. All plans shall be submitted to the ACC for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standards of the Development, and (ii) as to the location of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

5.03 Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC may, with the approval of the Board be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the ACC.

5.04 Operations of the ACC.

(a) Meetings. The ACC shall hold regular meetings as may be established by the ACC; provided, however, that during such time as Declarant has the right to appoint and replace members of the Board of Directors the frequency of regular meetings will be established by the Board. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make sure records and minutes available at reasonable places and times for inspection by Members of the Association and by the Secretary. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards, and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of plans and specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations, or approvals, which may include specified requirements or conditions, pursuant to the provisions of this Declaration.

(ii) Any one (1) member of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The action of said member with respect to the matters specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by the applicant to the ACC as provided in this paragraph (ii).

Written notice of the decision of the one member of the ACC shall, within five (5) working days thereof, be given to any applicant for an approval, permit or authorization. The applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon the filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

#### 5.05 Design Standards.

(a) The ACC shall from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purposes of:

(i) governing the form and content of plans and specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;

(ii) governing the procedure for such submission of plans and specification;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of Structures and all other matters that require approval by the ACC pursuant to this Declaration; and

(iv) assuring the conformity and harmony of external design and the general quality of the Development.

(b) The ACC may publish copies of its current Design Standards, in which case they shall be made readily available to Members and prospective Members of the Association and to all applicants seeking the ACC's approval.

5.06 Submission of Plans and Specification. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall have been submitted to and approved in writing by the ACC. Such plans and specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards.

5.07 Approval of Plans and Specification. Upon approval by the ACC of any plans and specification submitted pursuant to this Declaration, two (2) copies of such plans and specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with the Lot or Structure of any plans and specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

5.08 Disapproval of Plans and Specifications. The ACC shall have the right to disapprove any plans and specifications submitted pursuant to this Declaration for any of the following reasons:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards;

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards of the Development as set forth in the Design

Standards, or (ii) as to location, to be incompatible with topography, finished ground elevation and surrounding Structures. In any case in which the ACC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.09 Obligation to Act. The ACC shall take action on any plans and specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the plans and specifications and shall be returned to the applicant. Failure by ACC to take action within thirty (30) days of receipt of plans and specifications submitted for approval shall be deemed approval of such plans and specifications.

5.10 Inspection Rights. Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot or Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the plans and specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall have occurred, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the violation, then the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof.

5.12 Fees. The ACC may impose and collect a reasonable and appropriate fee to cover the cost of inspections performed pursuant to Section 5.10. The fee shall be established from time to time by the ACC and published in the Design Standards.

5.13 Disclaimer as to ACC Approval. Plans and specifications are not reviewed for engineering or structural design or quality of materials, and by approving such plans and specification neither the ACC, the members thereof, nor the Association assumes liability or responsibility therefor, nor for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employees, and agent of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval, or to any Owner of property affected by these Restrictions by reason of mistake in judgement, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications and every Owner agrees that he will not bring any action or suit against Declarant, the Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages and hereby releases, remises, quit-claims, and covenants not to sue for connection with any judgement, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

5.14 Declarant. The provisions contained in this Article, as well as all other architectural control provisions contained in the Development documents shall not apply to Declarant. This Section 5.14 may only be amended with the proper written consent to the Declarant.

## ARTICLE VI

### GENERAL COVENANTS, USE RESTRICTIONS AND RULES

6.01 Application. The covenants and restrictions contained in this Article VI shall pertain and apply to all Lots and to all Structures erected or placed thereon.

6.02 Maintenance. Except as provided for in Section 4.04(d) of this Declaration, each Owner shall keep and maintain each Lot, the exterior of the dwelling and all Structures owned by him, as well as all landscaping located thereon, in good condition and repair, including, but not limited to (i) the repairing and painting (or other appropriate external care) of raking and

otherwise caring for the dwelling and all other structures; (ii) the seeding, fertilizing and watering of all lawns and mowing, edging, clipping, sweeping, pruning, raking and otherwise caring for all lawns; (iii) the pruning and trimming of all trees, hedges and shrubbery not maintained by the Association so that the same are not obstructive of a view by motorist or pedestrians of street traffic; and (iv) the maintenance, repair and painting of all fences on the Lot. If, in the opinion of the ACC, any Owner shall fail to perform the duties imposed by this Section, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, then the Association shall have the Right to Abatement as provided in Section 8.02 hereof.

6.03 Use of Lots. Lots may be used for single family residence only and for no other purpose provided that Declarant may operate a Sales Office and/or Model Home Park and a construction trailer on a Lot or Lots designated by Declarant. No trade, business or profession which is prohibited by any applicable law or ordinance shall be conducted on any Lot. In no event shall any child care facility, beauty shop or barber shop be operated upon any Lot. No other trade, business or profession in which customers or clients frequently come to the place of business or in which there are frequent pickups or deliveries or other regular traffic shall be conducted or operated upon any lot, regardless of whether any of such activities are permitted by applicable laws and ordinances.

6.04 Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the ACC of plans and specifications for such split, division or subdivision; except, however, Declarant shall have the right without the consent of other Lot Owners to subdivide or resubdivide Lots to correct minor changes resulting from errors of survey in the platting of the subdivision.

6.05 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of plans and specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition or approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation.

6.06 Landscaping. No construction or alteration of any Structure shall take place without the written approval by the ACC of plans and specifications for the landscaping to accompany such construction or alteration.

6.07 Tree Removal. No tree having a diameter of four (4) inches or more measured from a point two (2) feet above ground level) which are left on the lot by Declarant at closing, shall be removed without the express written consent of the ACC, unless such removal is in conformity with approved landscaping plans and specification approved by the ACC, except for a) diseased or dead trees; b) trees needing to be removed to promote the growth of other trees.

6.08 Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, with the ACC's prior written approval of plans and specifications therefor, be installed, altered, or maintain on any Lot, or on any portion of a Structure visible from the exterior thereof except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign, such sign having a maximum face area of four square feet; provided, however, that if, at the time of any desired use of such sign, the Association is making "For Sale" or "For Rent" signs available for the use of Owners, the signs made available by the Association must be used;

(iii) directional signs for vehicular or pedestrian safety in accordance with plans and specifications approved by the ACC; and

(iv) such signs that the Declarant may deem necessary to advertise the Development and to promote the sale of Lots and homes.

6.09 Setbacks. In approving plans and specifications for any proposed Structure, the ACC may establish setback requirements for the location of such Structure. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

6.10 Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Development, including any Lot, without the prior

written consent of the ACC. No fence shall be erected on any Lot nearer to the street than the rear edge of the dwelling. Fencing visible from the street and paralleling the street must be of natural wood (welded wire mesh may be used behind split rail fencing). The ACC may issue guidelines detailing acceptable fence styles, specifications and landscaping plans, but in no event may an uncoated chain link fence be approved.

6.11 Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the ACC of plans and specifications for such roads and driveways.

6.12 Antennas. No exterior antennas of any kind shall be placed, allowed, or maintained upon any portion of the Development, including any Lot, without the prior written consent of the ACC. No free standing antennas whatsoever shall be placed on any Lot, including, without limitation, satellite dishes. However, the ACC reserves the right to (but shall not be obligated to) erect a master antenna, satellite dish or other similar master system for the benefit of the Development as a whole.

6.13 Vehicles. Subject to the provisions of Section 6.33, vehicles shall not be parked on any subdivision street for periods of more than twenty-four (24) continuous hours. No inoperable or junked motor vehicles shall be parked or stored upon any portion of the property for more than ten days except in an enclosed garage. No dismantling or major overhaul or repair of a motor vehicle (such as dismantling or removal of the engine or transmission or removal of the hood, any fender or any door) shall be performed upon any portion of the property except in an enclosed garage. No school busses or tractor trailer vehicles will be allowed to be parked on any lot or subdivision street.

6.14 Recreational Vehicles and Trailers. No house trailer, mobile home, motor home, recreational vehicle, camper, bus, motor cycle, scooter, truck with camper top, truck or commercial vehicle over one (1) ton capacity, or like equipment shall be permitted on any Lot on a permanent basis, but shall be allowed on a temporary basis not to exceed forty-eight (48) consecutive hours. Notwithstanding the foregoing, any such vehicle or equipment may be stored on a Lot, provided such vehicle or equipment is kept in an enclosed space and concealed from view by neighboring residences and streets. Boats on trailers shall be permitted under the provisions of 6.14 only.

6.15 Gardens and Play Equipment. Any vegetable garden, hammocks or play equipment must be located between the rear of the dwelling and rear lot line. This provision shall not, however, apply to basketball goals. Basketball goals may be installed after the type and location has been previously approved in writing by the ACC.

6.16 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 dogs, cats or other usual and common household pets in reasonable number, as determined by the ACC, provided however, those pets which, in the sole discretion of the ACC, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Development, may be removed by the ACC. No pets shall be kept, bred or maintained for any commercial purpose. Without prejudice to the ACC's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Development. No structure for the care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless plans and specifications for said structure have been approved by the ACC.

6.17 Solid Waste.

(a) No person shall dump or burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Property except Declarant during development and construction of the Development.

(b) Except for building materials employed during the course of construction of any Structure approved by the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept stored, or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards.

6.18 Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkept condition of his or her Lot. No lot shall be used in whole or in part, for the storage of any property or thing that will cause such 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 upon any Lot that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or

existence is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Development.

6.19 Exterior Colors. All colors must be traditional Williamsburg type colors.

6.20 Air Conditioning Unit. No window air conditioning units shall be placed in any dwelling so as to be visible from the front of any lot or any adjoining street.

6.21 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 of any Lot may obstruct or rechannel the drainage flows after installation of drainage swales, storm sewers or storm drains are located. Declarant reserves the right to prepare sloping banks, cut or fill on all streets and roads.

6.22 Site Distance at Intersections. All Lots at street intersections shall be so landscaped as to permit safe sight distance across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain at the corner of a Lot where this would create a traffic or sight problem.

6.23 Clothesline, Garbage Cans, Woodpiles, Etc.. All clotheslines, garbage cans, woodpiles, and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon; however, rubbish cans and garbage cans may be placed at the edge of a street or road for reasonable periods if required for collection and disposal of rubbish or garbage. Declarant, however, hereby expressly reserves the right to dispose of trash and rubbish as it ordinarily does in the ordinary course of its business.

6.24 Guns. The use of firearms in the Development is prohibited. The term "firearms" includes "B-B" guns, pellet guns, and small firearms of all types.

6.25 Solar Devices. No artificial or man-made device which is designed or used for collection of, or heating by, solar energy or other similar purposes shall be placed, allowed, or maintained upon any portion of the Development, including any Lot, without the prior written consent of the ACC.

6.26 Swimming Pools. All swimming pools must be approved by the ACC. No above ground pools are allowed. All pools must be enclosed by a fence.

6.27 Decorative Appurtenances. Any decorative appurtenance such as sculptures, bird baths, bird houses,

fountains, gazebos or other decorative embellishments which are visible from the street, must be approved by the ACC. No plastic animal decorations such as pink flamingos, etc. are permitted on any Lot.

6.28 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose.

6.29 Fuel or Water Tanks. No fuel tanks or water tanks shall be stored or maintained upon any lot in such a manner as to be visible from any public street or road or from any other lot, unless used by the Declarant, temporarily, in the ordinary course of developing the community; However, rubbish cans and garbage cans may be placed at the edge of a street or road for reasonable periods if required for collection and disposal of rubbish or garbage.

6.30 Doors and Windows. No silver or brushed aluminum finished doors or windows (including glass sliding doors) of any kind will be permitted.

6.31 Mailboxes. All mailbox structures must be approved by the ACC.

6.32 Roofing. Roofs shall be black charcoal black, gray, or a blend of these. Any other roof color must be approved by the ACC.

6.33 Developer's Activities. Nothing herein shall be construed to prohibit Declarant from developing, building and marketing new homes in the Development as it usually does in the ordinary course of its business.

## ARTICLE VII

### EASEMENTS, ZONING AND OTHER RESTRICTIONS

#### 7.01 Easements.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable

television and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of stormwater drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and to prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;

(iv) the planting or re-planting or hedges, shrubbery, bushes, trees, flowers and plants of any nature; and

(v) the erection, installation, construction and maintenance of fences, walls, monuments, signs, etc. along streets in, around and along, and at entrances to, the Development, and the right to landscape such areas, plant, re-plant and prune hedges, shrubbery, bushes, trees, flowers, grass and plants of any nature.

(b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Property unless such easement has been assigned by the Declarant to the Association.

(c) The Declarant hereby reserves for itself, its successors and assigns, across the initial phase of the Property, and across each portion of the Additional Property subsequently submitted to this Declaration by Annexation as provided in Article X hereof, perpetual easements appurtenant to all or any portion of the Additional Property not subject to this Declaration for the following uses and purposes:

(i) an easement for ingress and egress by vehicular and pedestrian traffic over (1) such drives, roadways, walkways and paths as are shown on the plat or plats recorded in connection with the initial phase of the Property and such portions of the Additional Property as are submitted to this Declaration, and (2) such drives, roadways, walkways and paths as may be constructed in the future; and

(ii) an easement for the purpose of installing, operating, maintaining and replacing wires, pipes, conduits and other structures and facilities necessary to the furnishing of gas, water, sewage, storm drainage, electricity, street lights, cable television, telephone, and other utilities and services, including the right to use in common with the Owners in the initial phase of the Property and portions of the Additional Property subsequently submitted to this Declaration, the wires, pipes, conduits, and other structures and facilities furnishing such utilities and services to such Owners.

(d) In addition to the above, the Declarant hereby grants a general easement in favor of utility, cable television and other such service companies across the initial phase of the Property, and across each portion of the Additional Property subsequently submitted to this Declaration by Annexation as provided in Article X hereof, to maintain, repair, replace and service wires, pipes, conduits, street lights and other structures and facilities provided for the benefit of the Owners.

(e) The easements created in this Article VII are in addition to any easements or rights created elsewhere in this Declaration or in other easements of record. The provisions of this Article VII may not be amended without the written consent of the Declarant, its successors and assigns.

7.02 Easement Area. The words "Easement Area" as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or grant of easement, or on any filed or recorded map or plat relating thereto, or as otherwise set forth in Section 7.01 and 7.05.

7.03 Entry. The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken by the same in an Easement Area pursuant to the provisions of Section 7.01 and 7.05.

7.04 Zoning and Private Restrictions. None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of

any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

## ARTICLE VIII

### ENFORCEMENT

8.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association and (iii) each Owner, his legal representatives, heirs, successors and assigns.

#### 8.02 Right of Abatement.

(a) Except where different notice provisions are provided in Section 5.11 and 6.02, in the event of a violation or breach of any Restriction contained in this Declaration the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of such written notice, then the Association shall have the Right of Abatement. If any assessment, interest, cost or charge required by this Declaration is not paid within sixty (60) days after such assessment is due or such charge is imposed, the Association shall have the right to notify any or all mortgagees that have a security interest in the Owner's Lot or Lots that such Owner is in default in the performance of his obligations under these Restrictions, and of those actions taken or proposed to be taken by the Association as a result of the default.

(b) The Right of Abatement, as used in this Section and Sections 5.11 and 6.02 hereof, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such actions are carried out in accordance with the provisions of this Section, and with the cost thereof, including the costs of collection and reasonable attorneys' fees, together with interest thereon at the lower of the highest rate permitted by law or 10% to be a binding personal obligation of such Owner enforceable in law, as well as a lien on

such Owner's Lot enforceable pursuant to the provisions of Section 8.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes for other public charges as are by applicable law made superior, (ii) the liens created by Section 8.04 hereof and (iii) any first mortgage on the Lot.

8.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by this Declaration; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

8.04 Collection of Assessments and Enforcement of Lien.

(a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and cost of collection, including reasonable attorneys' fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Lot or Lots subject to the lien at auction, at the usual place for conducting sales at the Court House in Gwinnett County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for Gwinnett County, Georgia are published, all other notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchases or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each

Owner hereby constitutes and appoints the Association and assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and that the conveyance to be made by the Association or assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Lot or Lots, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost or other charge due, together with all costs and expenses of sale and fifteen percent centum of the aggregate amount due of attorneys' fees, shall pay any excess to Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) Waiver. EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, WAIVES ANY OF THE STATE OF GEORGIA OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION AND OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHT.

8.05 No Waiver. The failure of the Declarant, the Association, or the Owner of any Lot, his or its respective legal representative, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

## ARTICLE IX

### DURATION AND AMENDMENT

#### 9.01 Duration and Perpetuities.

(a). The provisions of this Declaration shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law. Provided, however, so long as Georgia

law limits to twenty (20) years, the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land for a period of twenty (20) years from the date this Declaration is filed for record in the Office of the Clerk of the Superior Court of Gwinnett County after which time such provision shall be automatically extended, if permitted by law, for successive periods of ten (10) years, unless an instrument, signed by at least seventy-five percent (75%) of the then Owners of record and the holders of first mortgages on their Lots have been recorded in the Office of the Clerk of said Court, agreeing to terminate or change such provisions in whole or in part. Every purchaser or grantee of any interest in any portion of the Property, by acceptance of a deed or other conveyance thereof, thereby agrees that the provisions of these Covenants may be extended and renewed as provided in this section.

(b) If any of the covenants, conditions, restrictions, easements 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 survivor of these descendants of Her Majesty Queen Elizabeth II, the Queen of England, which are living as of the date this Declaration is executed.

9.02 Amendment. So long as Declarant owns at least one (1) Lot held primarily for sale, or has an unexpired option to add additional property to the Development, this Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to these Restrictions, (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to these Restrictions, or (iv) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable private mortgage insurance company to insure mortgage loans on the Lots subject to these Restrictions; provided any such amendment shall not adversely affect the title to any Owner's Lot, unless any such Owner so affected thereby shall consent thereto in writing. This Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five percent (75%) of the Owners; provided, however, such amendment by the Owners shall not be effective unless also signed by the Declarant, if the Declarant is the Owner of any real property subject to this Declaration; and

provided further, however, no amendment affecting the Declarant's right to add additional property shall be effective unless also signed by Declarant. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed for record in the Office of the Clerk of the Superior Court of Gwinnett County. The written consent thereto of any mortgage holder affected thereby shall also be filed with such amendment. Every purchaser or grantee of any interest in any real property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that these Restrictions may be amended as provided in this Section.

## ARTICLE X

### ANNEXATION

10.01 Additional Property. So long as Declarant owns at least one (1) lot held primarily for sale, or has an unexpired option to add Additional Property to the property Declarant may amend this Declaration unilaterally to include additional property in the definition of Additional Property.

10.02 Submission of Additional Property. Declarant shall have the option and right from time to time, without the necessity of consent by the Association, the Board or the Owners, but subject to Section 10.02 of this Article, to submit all or portions of the Additional Property to this Declaration and thereby to cause the Additional Property, or such portions thereof as may be submitted, to become part of the Property. This option may be exercised by the Declarant in accordance with the conditions and limitations set out in this Article, which are the only conditions and limitations on such right.

10.03 Conditions of Annexation. Any Annexation as permitted in Section 10.01 of this Article shall be in accordance with the following terms and conditions.

(a) The option to submit portions of the Annexation Property may be exercised at any time and from time to time until ten (10) years from the date this Declaration is recorded; provided however, that the Owners of Lots to which two-thirds of the Class A votes in the Association appertain, exclusive of any vote or votes appurtenant to Lots then owned by Declarant, may consent to the extension of such option by vote taken not more than one (1) year prior to the date upon which such option will expire.

(b) The legal description of the Additional Property is set forth in Exhibits "B", "C" and "D". Portions of the Additional Property may be added at different times, and there are no limitations fixing the boundaries of those portions or regulating the order in which any such portions may become part of the Property.

(c) All Lots created on portions of the Additional Property which are added to the Property will be restricted exclusively to residential use, in accordance with Article VI of this Declaration, unless otherwise used as Common Property.

(d) The option reserved by Section 10.01 of this Article may be exercised by the Declarant alone (without the consent of the Association or any Owner) by the execution by the Declarant of an amendment to this Declaration which shall be filed for record in the Office of the Clerk of the Superior Court of Gwinnett County, together with a plat of that portion of the Additional Property which is to become part of the Property by reason of such amendment. Such plat shall indicate the boundaries of that portion of the Additional Property which is to become part of the Property, the boundaries of all lots to be located therein, and an identifying number for each such Lot. Any such amendment shall expressly submit that portion of the Additional Property which is to become part of the Property, and upon the exercise, if any, of such option, the provisions of this Declaration shall be understood and construed as embracing all of the Property, including the initial phase and such portions of the Additional Property as have become part of the Property by annexation. Following recording of the plat, Declarant shall convey the Common property shown thereon to the Association by limited warranty deed, subject to matters or record.

(e) In addition to the procedure outlined in subparagraph (d) above, the option reserved by Section 10.01 of this Article may be exercised with respect to any portions of the Additional Property, notwithstanding that such Additional Property may be owned by persons, including any individual, individuals, corporations, partnerships or any other type of entity, other than Declarant. Declarant shall exercise this option by an amendment to this Declaration which shall be filed for record in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia, together with a plat of that portion of the Additional Property which is to become part of the Property by reason of such amendment. Such plat shall indicate the boundaries of that portion of the Additional Property which is to become part of the Property, the boundaries of all Lots to be located thereon, and an identifying number for such Lot. Any such amendment shall contain a statement consenting to the annexation of any such Additional Property, together with a reference to a Declaration, (citing the specific Deed Book and Page in which such Declaration is recorded) executed by the Owner or Owners thereof submitting such Additional

Property to this Declaration. Upon the exercise of the foregoing procedure, the provisions of this Declaration shall be understood and construed as embracing all of the Property including the initial phase and such portions of the Additional Property as have become part of the Property by annexation in this manner.

(f) From and after the date of annexation of any portion of the Additional Property, each Lot so added to the Property and the Owners thereof, shall have the same vote, shall share the same obligations and responsibilities, and shall have the same rights and privileges accorded every other Lot previously comprising part of the Property. Upon annexation of each portion of the Property, as herein provided, the Association shall be deemed to have assumed, automatically, and without the necessity of consent by the Association, the Board or any individual Owner, the covenants to maintain the Common Property and the other obligations imposed by this Declaration, as amended from time to time, with respect to that portion of the Additional Property which is then the subject of annexation.

(g) It is understood that if the Development is approved for funding of individual Lot loan by the Federal Housing Administration and/or the Veterans Administration, any variance from the plan of an Annexation initially approved by them may jeopardize future funding unless such variance is approved prior to implementation.

(h) Each Owner, by acceptance of a deed to a Lot in the Property, and the Association, shall be deemed to have approved annexation in the manner provided in this Article X.

## ARTICLE XI

### LEASES

11.01 Application. In order to assure a community of congenial Owners and thus protect the value of Lots within the Development, the leasing of a Lot, or any portion thereof, by any Owner (other than as provided herein for certain mortgagees and Declarant) shall be subject to the provisions contained in this Article so long as the Property is subject to the Restrictions.

11.02 Required Lease Provisions. All leases and lessees are subject to the provisions of the Declaration and Bylaws. No dwelling situated upon the Property shall be leased for transient or hotel purposes or in any event for a period less than six (6) months, except by Declarant in conjunction with a contract of sale. The Owner must make available to the tenant a copy of this Declaration. Any leases of a Lot, or a portion thereof, shall be deemed to contain the provisions of this Article whether or not

said provisions are expressly stated therein, and each Owner covenants and agrees that any lease of his Lot shall contain the language of said provisions, and further, that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Lot. Any lessee, by occupancy of a Lot, agrees to the applicability of this covenant and its incorporation as part of the lease along with the following provisions:

(a) In order to enforce those provisions made for the benefit of the Association, the Association may bring an action against Lessee for recovery of damages or for injunctive relief, or may impose any other sanctions authorized by the Declaration and Bylaws, as they may be amended from time to time, or which may be available at law or equity, including but not limited to, all remedies available to a landlord upon breach or default of a lease agreement by a lessee. Failure by the Association to enforce any of its rights shall in no event be deemed a waiver of the right to do so thereafter.

(b) Lessee shall comply strictly with all provisions of the Declaration, Bylaws, and with the administrative rules and regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee or any occupant or person living with lessee of any provisions of the Declaration, Bylaws, or rules and regulations adopted thereunder shall constitute a default under this lease. Lessee further acknowledges that the Association has the right to act on its own behalf, or where necessary on behalf of Lessor, as Lessor's attorney-in-fact, to seek any remedies which are available to a landlord upon breach or default of a lease agreement by Lessee.

The provisions of this Article shall not apply to any institutional mortgagors of any Lot which come into possession of such Lot as or result of a foreclosure sale or other judicial sale or as a result of any other proceeding in lieu of foreclosure.

## ARTICLE XII

### INSURANCE

12.01 Insurance Policies. At all time during the term of this Declaration, the Association, its successors and assigns, shall be required to keep any and all improvements located on the Common Property fully insured by a reputable insurance company authorized to transact business in the State of Georgia with (i)

fire, vandalism, malicious mischief and extended coverage insurance in an amount adequate to cover the cost or replacement of such improvements in the event of loss of any and/or all of such improvements, fixtures and contents thereof; and (ii) public liability insurance in such amounts as shall be determined by the Board of Directors as appropriate for the type of activities which shall be allowed on the Common Property. Any such policies of insurance shall require that the certificate holders and insured be given thirty (30) days prior written notice of any cancellation of such policies.

**12.02 Insurance Proceeds.**

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

(b) Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five (75%) of the total Association vote entitled to vote thereon, and, so long as the Declarant has the right to appoint and remove directors, the Declarant, otherwise agree. If, for any reason, either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair, or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred and twenty (120) days. No Mortgage shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

(c) If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the Association's Members, levy a special assessment. Additional assessments may be made in a 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 deposited for the benefit of the Association.

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

(e) The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder for maintenance of the damaged or destroyed property.

12.03 Other Insurance. In addition to the coverage described hereinabove, the Association shall obtain such additional amounts and typed of insurance as may be required from time to time, by either the Federal Home Loan Mortgage Corporation, Veterans Administration or Federal Housing Administration, their successors and assigns, for similar type residential subdivision communities.

### ARTICLE XIII

#### MISCELLANEOUS

13.01 Other Changes. Notwithstanding any other provisions herein which may be construed to the contrary, unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Declarant) of the individual Lots in the Development have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property owned, directly or indirectly, by such Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such common area or property by the Association shall not be deemed a transfer within the meaning of this clause);

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) fail to maintain fire and extended coverage on insurable Association Common Property, if any, on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurance value (based on current replacement cost);

(d) use hazard insurance proceeds for losses to any Association Common Property for other than the repair, replacement or reconstruction of such property.

13.02 Rights of First Mortgagees.

(a) First mortgagees of Lots in the Development may, jointly, or singly, pay taxes or other charges which are in default and which may or have become a charge against the Association's Common Property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Despite any other provision of this Declaration which may be interpreted otherwise, it is expressly intended that no Owner or any other party have priority over any rights of the first mortgagee of a Lot pursuant to its mortgage or security deed in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Association Common Property.

(b) In addition to the rights of mortgagees elsewhere provided, each first mortgagee of a Lot, upon request, shall (i) be entitled to written notice from the Association of any default in the performance of his obligations under the Development documents of an Owner which is not cured within sixty (60) days; (ii) be entitled to attend and observe all meetings of Owners, but not meetings of the Board; (iii) be furnished copies of annual financial reports made to the Owners; (iv) be entitled to inspect the financial books and records of the Association during reasonable business hours; and (v) be entitled to timely written notice of any proposed action which would require the consent of a specified percentage of eligible mortgagees.

13.03 Professional Management. Any agreement for professional management of the Association, or any other contract providing for services of the Declarant, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days written notice.

13.04 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

13.05 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

13.06 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

13.07 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

13.08 Notices. All notices, request, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the ACC, the Owner, or any other person, shall be in writing. All such writings shall be deposited in the United States Mail, with sufficient postage, and sent to the following addresses:

(a) Declarant: Candor Homes, Inc.  
3537 Chamblee Tucker Road  
Atlanta, GA 30341

(b) Owners: Each Owner's address as registered with the Association in accordance with the Bylaws.

Any written communication transmitted in accordance with this Section 13.08 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail.

13.09 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot acknowledges that Declarant shall have no such liability.

13.10 Amendment by Board. Should the Veterans Administration, Federal Housing Authority, 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.

13.11 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.

13.12 Approval of FHA or VA Required. So long as there is control by the Declarant of Woodland Brook development by the Declarant through the ownership of the Class B Membership, the following actions shall require the prior approval of the Federal Housing Administration and/or the Veterans Administration:

- (a) The annexation of additional properties to Woodland Brook (other than as set forth on Exhibits "B", "C" and "D" attached hereto);
- (b) the dedication of any Common Property to public use; and,
- (c) any subsequent amendment of this Declaration.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 1993.

CANDOR HOMES, INC.

By: \_\_\_\_\_  
Homer E. Wood, Jr., President