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**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND EASEMENTS
FOR
ROCKFERN PLACE**

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Exhibit "A" – Legal Description

Exhibit "B" - Bylaws

STATE OF GEORGIA

COUNTY OF GWINNETT

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND EASEMENTS
FOR
ROCKFERN PLACE**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR ROCKFERN PLACE (hereinafter "Declaration") is made this 3rd day of MARCH, 2022 by SOUTHSIDE LAND VENTURES, LLC, a Georgia limited liability company (hereinafter "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter the "Property"). Declarant intends by this Declaration to impose upon the Property mutually beneficial covenants, conditions, restrictions and easements under a general plan of improvement and development for the benefit of future owners of property within the residential community to be known as Rockfern Place. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property submitted to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easement, hereinafter set forth, which are for the purpose of protecting and preserving the Property, and which shall run with the Property submitted to this Declaration and which shall be binding on all parties having any right, title or interest in and to such Property, their heirs, successors, successors in title and assigns and which shall inure to the benefit of each such party.

ARTICLE I

DEFINITIONS

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

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

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

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

Section 4. “Builder” shall mean and refer to the Owner of a Unit (i) who is in the business of construction of residential dwellings; (ii) who owns such Unit for the purpose of constructing a residential dwelling thereon for sale to a third party; and (iii) who is designated by Declarant in writing as a Builder.

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

Section 6. “By-Laws” shall mean and refer to the By-Laws of the Association which govern the administration and operation of the Association, as such document may be amended from time to time. The By-Laws are attached hereto as Exhibit “B” and made a part hereof by this reference.

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

Section 8. “Common Area” shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or otherwise made available for the use and enjoyment of the Owners including easements. Nothing herein shall be construed so as to create any obligation for Declarant to convey any property or improvements to the Association as Common Area.

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

Section 10. “Community” shall mean and refer to the residential development by Declarant on the Property and known as Rockfern Place.

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

Section 12. “Conversion Date” shall have the meaning ascribed to it in Section 2(b) of Article IV of this Declaration.

Section 13. “Declarant” shall mean Southside Land Ventures, LLC, a Georgia limited liability company and its successors, successors in title and assigns, provided the instrument of conveyance to any such successor in title or assign must specifically designate such successor in title or assign as the “Declarant” hereunder. Upon the designation of a successor Declarant, all rights of the former Declarant in and to such status as “Declarant” hereunder shall cease, it being understood that as to all of the Property there shall only be one Person entitled to exercise the rights and powers of the “Declarant” hereunder at any time.

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

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

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

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

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

Section 19. “Majority” shall mean and refer to those eligible votes totaling more than fifty percent (50%) of the total eligible number.

Section 20. “Member” shall mean and refer to a Person that is a member of the Association as provided in this Declaration.

Section 21. “Mortgage” shall mean and refer to a deed to secure debt, deed of trust, mortgage or other similar instrument used for the purpose of conveying or encumbering real property as security for the payment of an obligation.

Section 22. “Mortgagee” shall mean and refer to the holder of a Mortgage.

Section 23. “Owner” shall mean and refer to the record Owner of any Unit which is part of the Property within the Community, but excluding (i) any Person holding an interest merely as security for the performance or satisfaction of any obligation; (ii) contract purchasers; and (iii) any governmental authority which holds title as a result of a dedication by Declarant. When the term Owner is used, it shall include all Builders, unless otherwise stated.

Section 24. “Person” shall mean and refer to any natural person, corporation, joint venture partnership (general or limited), association, trust or other legal entity.

Section 25. "Rules and Regulations" shall mean and refer to those rules and regulations promulgated by the Board of Directors of the Association pursuant to this Declaration and the By-Laws, as such rules and regulations may be amended from time to time.

Section 26. "Total Association Vote" shall mean and refer to the votes attributable to the entire membership of the Association as of the record date for such action, but specifically excluding the votes of any Owners whose voting rights have been suspended as provided herein.

Section 27. "Unit" shall mean and refer to any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes a single residential dwelling site, as shown on the subdivision plats(s) for the Community, recorded in the land records of Gwinnett County, Georgia. The residential dwelling located on each Unit shall be attached by one or more party wall(s) to one or more residential dwellings located on adjacent Units so that the boundary between such Units and the residential dwellings located thereon is a line running along the center of the party wall separating such residential dwellings.

The ownership of each Unit shall include, and there shall pass with the title to each Unit as an appurtenance thereto, whether or not separately described, all of the rights and interests of an Owner in and to the Common Area, together with membership in the Association, all as further provided herein.

ARTICLE II

DEVELOPMENT

Section 1. Development of Property. All of the Property and any right, title or interest therein shall be owned, held, leased, sold and conveyed by Declarant and any subsequent Owner of all or any part thereof, subject to this Declaration and the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration. All Units within the Property (i) shall be and are hereby restricted exclusively to single-family residential use, (ii) shall be developed and built upon only for attached single-family dwelling purposes, and (iii) shall be subject to the terms set forth in this Declaration. Until the Conversion Date, Declarant shall have the right, but not the obligation, to make improvements and changes to all Common Areas and to all Units owned by Declarant, including, without limitation, installation of any Improvements in and to the Common Area, changes in the location or boundaries of any Units owned by Declarant or of the Common Area, and installation of any water, sewer and other utility and drainage systems and facilities

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

Section 3. Designation of Units. Declarant shall have the unilateral right and power to subdivide all or any portion of the Property owned by Declarant into Units, without the joinder or consent of any other Person. The Declarant shall also have the unilateral right and power to combine one or more Units, without the joinder or consent of any other Person. Declarant shall exercise such right and power from time to time by causing an appropriate plat or plats to be prepared for the

Units or Units which Declarant desires to designate as such and by filing such plat or plats for public record in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia.

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

Section 5. Variances Associated with the Community Including a Unit. Neither the Association nor an Owner, other than Declarant, shall have a right to object to, oppose or challenge a variance being requested from Gwinnett County in connection with the construction of the Community including a Unit. By acceptance of a deed for a Unit, the Association and each Owner acknowledges he or she is waiving their right to object to, oppose or challenge any such variance being requested and waives any right to receive notification that a variance is being requested by the Declarant or a Builder in connection with the construction of the Community including a Unit.

ARTICLE III

PROPERTY RIGHTS

Section 1. General. Each Unit shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the provisions of this Declaration may be conveyed, transferred and encumbered the same as other real property. The ownership of each Unit shall include, and there shall pass with title to each such Unit as an appurtenance thereto whether or not separately described, all rights of a Member in the Association and all of the right and interest of use in and to the Common Area as set forth herein. The Declarant, the Association and their respective employees, Members, directors, officers, agents, successors and assigns shall have the right at all reasonable times to enter upon all parts of each easement area transferred pursuant to this Article III for any of the 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, provided the same are done in accordance with the provisions of this Declaration.

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

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

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

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

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

(e) the right of the Declarant or, after Buildout, the Association with the approval of Members representing a Majority of the Total Association Vote, to alter, change, close or otherwise modify any portion of the Common Area;

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

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

Section 3. Reserved Easements. Declarant hereby reserves, in addition to the other easements in this Declaration, the perpetual, alienable and transferable easement and right, for the benefit of

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

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

Section 5. Easement for Association Maintenance. Declarant hereby grants to the Association a perpetual easement across all Units as may be reasonably necessary for the maintenance required hereunder. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the Units, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Association or its contractors at their sole cost and expense. Except in an emergency situation, entry to the residential dwelling located on a Unit shall only be during reasonable hours and after notice to the Owner.

Section 6. Easement for Unit Owner Maintenance. Declarant hereby reserves for the benefit of each Unit reciprocal appurtenant easements between Units and an easement over adjacent Common Area for the purpose of maintaining or repairing Improvements located on each Unit which easement shall extend to a distance of five (5) feet as measured from any point on the common boundary between the Units. The easement shall be used only for such period of time as is reasonably necessary in order to complete the maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage to the Unit or Common Area over which this easement is exercised which arises out of such maintenance or repair work.

Section 7. Alterations to Units and Common Area. There is hereby reserved in and to Declarant the right to alter, modify or realign the boundaries or configuration of the Common Area or any Unit owned by Declarant including, but not limited to, the right to alter the size, shape, slope and terrain of such Units and the Common Area. Any such alteration shall be shown by an amendment to the plat depicting such Unit or Common Area which is recorded in the appropriate land records.

Section 8. Easements for Encroachment and Overhang. There is hereby reserved to the Declarant for the benefit of each Unit a reciprocal appurtenant easement for encroachment and

overhang between adjacent Units and between a Unit and adjacent Common area due to the original construction or the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than two (2) feet, as measured from any point on such common boundary; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, occupant, or the Association, other than the Declarant in the original construction of the Units.

Section 9. Easements During Construction and Sale Period. Notwithstanding any provision now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use restrictions, Rules and Regulations, architectural guidelines, and any amendments thereto, Declarant reserves easements across the Community to maintain and carry on, upon such portions of the Community as it may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for its development, construction, and sales activities related to the property hereby and hereafter subjected to this Declaration or for the development, construction or benefit of any neighboring property, including, but not limited to: (a) the right to place or authorize the placement of marketing and directional signs on Units or right-of-way(s) at street intersections within the Community; (b) the right of access, ingress, and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Unit; (c) the right to tie into any portion of the Community with streets, driveways, paths, parking areas, and walkways; (d) the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (e) the right to grant easements over, under, in or on the Community, including, without limitation, the Units, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; (f) the right to convert Units (with the consent of the Owner thereof) to Common Area and/or streets; (g) the right to construct recreational facilities, utilities and other improvements on the Common Area; (h) the right to carry on sales and promotional activities in the Community; (i) the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Declarant may use residential dwellings, offices, or other buildings it owns or leases as model residences and sales offices without charge. This Section shall not be amended without the written consent of Declarant until its rights hereunder have terminated as herein provided.

Section 10. Easement for Utilities – Association and Declarant. There is hereby reserved to the Declarant and granted to the Association a blanket easement upon, across, above, and under all property within the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to gas, water, sanitary sewer, telephone, and electricity, as well as storm drainage and any other service such as, but not limited to, a master television system, or security system which the Declarant or the Association might decide to have installed to serve the Community. Declarant, the Association or the designees of the foregoing, as the case may be, may install, repair, replace, and maintain or authorize the installation, repair, replacement, and maintenance of such wires, conduits, cables, and other equipment related to the providing of any utility or

service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document the Declarant or the Board shall have the right to grant such license or easement. Owners shall not remove, relocate, or interfere in any way with any previously installed utility lines and facilities.

Section 11. Easement for Utilities – Unit Owner. Declarant hereby establishes for the benefit of each Unit a nonexclusive easement for access to and installation, maintenance, repair, replacement, and use of all pipes, wires, cables, conduits, utility lines, flues, and ducts, serving such Unit and situated in, on, or under any other Unit or the Common Area. Certain utility meters and facilities may be installed on the end of a building containing multiple Units and utility lines serving other Units may run across, over, under, or through neighboring Units. Easements for all such utility lines are established by this Section 11 and Section 10 above. In the event any Owner desires access to another Unit to install, maintain, repair, or replace any utility pipe, wire, cable, conduit, line, flue, or duct, the Owner shall contact the Owner(s) of such other Unit(s) at least two (2) days in advance of the date that access is needed and attempt to agree on a convenient date and time for access by the Owner and the Owners contractors. Access in emergency situation shall be granted immediately upon request. Any Owner of a Units to which access is needed under this Section shall not unreasonably withhold, condition, or delay such access. Rights exercised pursuant to this easement shall be exercised with a minimum of interference to the quiet enjoyment of the affected Units, reasonable steps shall be taken to protect such Units and the personal property of the Owners and Occupants thereof, and damage shall be repaired by the Person causing damage thereto at its sole cost and expense.

Section 12. Easement for Emergency Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, the Bylaws, and Rules and Regulations, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable period of time after requested by the Association.

Section 13. Easement for Drainage. There is hereby reserved by the Declarant and granted to the Association an easement upon, across, above, and under all storm water drainage easement areas as shown on the recorded subdivision plat(s) for the Community for access, ingress, egress, installing, altering, repairing, replacing, and maintaining the storm water drainage system and related facilities serving the Community or any portion thereof. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. In addition, there is hereby reserved to the Declarant and granted to the Association a blanket easement across all Units for creating and maintaining satisfactory drainage in the Community, provided, however, such easement area shall not include any portion of a Unit within the outer perimeter of the residential dwelling located thereon. It is anticipated that increased storm water runoff across downstream Units will result from the construction of impervious surface within or adjacent to the Community. Neither the Declarant, the Association, nor any Builder shall have any liability to any Owner due to increased

flow or increased velocity of surface water resulting from approved construction within the Community.

Section 14. Easement for Private Streets, Alleys, and Sidewalks. Declarant hereby grants, conveys, declares, creates, imposes, and establishes a perpetual, non-exclusive right-of-way easement for vehicular and pedestrian access, ingress, and egress over and across the private streets, alleys, and sidewalks located within the Community. At such time as one or more subdivision plats for the property submitted to this Declaration are recorded in the real estate records of the Office of the Clerk of Superior Court of Gwinnett County, Georgia, any reference to the private streets and alleys shall then and thereafter mean a reference to the private streets and alleys as actually constructed and depicted on the recorded subdivision plat. The right-of-way easement herein granted shall permit joint usage of such easement by: (a) Owners and occupants of Units; (b) the legal representatives, successors, and assigns of Owners; and (c) invitees and licensees of Owners and occupants of Units. Declarant expressly reserves for itself, its successors, and assigns, all rights and privileges incident to the ownership of the fee simple estate of any right-of-way easement areas which are not inconsistent with the rights and privileges herein granted, including, without limitation, the right to maintain one or more proprietary signs on the easement area and the right to grant additional non-exclusive easements to third parties, over, under, and across the easement area. Declarant hereby reserves for the benefit of itself and grants to the Association the perpetual non-exclusive right and easement upon, over, and across those utility easement areas, private streets and access drives for the installation, maintenance, and use of such private streets, alleys, sidewalks, grading for proper drainage of said private streets and access drives, and related activities and improvements.

ARTICLE IV

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Person who is the record Owner of a fee or undivided interest in a Unit that is subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Unit. The rights and privileges of membership, including the right to hold office, may be exercised by a Member or the spouse of a Member, but in no event shall more than one (1) Person representing a single membership hold office at the same time. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of officers and directors appointed by the Declarant.

Section 2. Voting. The Association shall have two classes of voting Members, Class A and Class B.

(a) **Class A.** Class A Members shall be all Owners with the exception of the Class B Member, if any. On any issue brought before the Members, Class A Members shall be entitled to cast one vote for each Unit in which they hold the interest required for membership by Section 1, above. When more than one person holds an interest in any Unit, the vote for such Unit shall be

exercised as those Owners themselves determine and if one of such multiple Owners exercises the vote without opposition by any other of such multiple Owners at the time such vote is exercised, the vote shall be as so exercised. In the event that more than one of such multiple Owners seeks to exercise the vote, the vote appurtenant to such Unit shall be suspended.

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

- (i) ninety (90) days after Buildout; or
- (ii) the date on which the Declarant, in its sole discretion, chooses to terminate the Class B membership by filing of record with the Clerk of the Superior Court of Gwinnett County, Georgia a written notice of such termination.

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

Section 3. Declarant Control. Notwithstanding any other provision to the contrary in this Declaration, the Articles of Incorporation or By-Laws, Declarant retains the authority and right to appoint and remove any member of the Board of Directors and any officer of the Association until the Conversion Date. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that the Declarant shall have the authority to appoint and remove members of the Board of Directors and officers of the Association in accordance with the foregoing provision of this Section.

ARTICLE V

ASSOCIATION POWERS AND RESPONSIBILITIES

A. IN GENERAL.

Section 1. Common Area. The Association, subject to the rights, easements and privileges set forth in this Declaration, shall be responsible for the management and control of the Common Area and all improvements thereon and shall keep the Common Area in good repair and in a clean and attractive condition. The Association and not the Declarant shall have the obligation and responsibility to purchase any personal property deemed necessary or desirable for use with the Common Area, and to maintain, repair and replace all of the foregoing, as the Board deems necessary and appropriate. The Association shall maintain, operate and preserve the Common Area for the good and benefit of the Community and the holders of easements herein provided for or contemplated. The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible real or personal property.

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

Section 3. Rules and Regulations. The Association, acting through its Board of Directors, may promulgate Rules and Regulations governing the use and occupancy of the Units and the Common Area, and all improvements located thereon, and governing the operation of the Community. The Rules and Regulations shall not, however, diminish, alter or affect the rights of use, easements, permits, privileges or licenses provided to Declarant or its successor and assigns. Copies of all Rules and Regulations and any changes thereto, must be furnished by the Association to all Owners prior to their effective date. The Rules and Regulations shall be binding upon all Owners and their families, tenants, guests, licensees, invitees and agents. The Owner of each Unit shall be responsible for the conduct of his or her family members, tenants, guests, licensees, invitees and agents and shall ensure that all of the foregoing individuals comply with the terms of this Declaration, the By-Laws and Rules and Regulations.

Section 4. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, Articles of Incorporation or Rules and Regulations of the Association, and every other right and privilege reasonably necessary to be implied from the existence of any such right or privilege or reasonably necessary to effectuate any such right or privilege. To the extent not otherwise required by Georgia law, this Declaration, the By-Laws or the Articles of Incorporation, the powers granted to the Association shall be exercised by the Board of Directors, acting through the duly elected officers of the Association, without any consent or action on the part of the Members.

B. MAINTENANCE.

Section 1. Association Responsibility. The Association shall maintain and keep in good repair the Common Area, which shall include, without limitation, the maintenance, repair, and replacement of: (a) all landscaping and improvements situated thereon; (b) all entry features and entry area landscaping serving the Community, including, without limitation, any signage, entry features, or entry area landscaping and any irrigation and/or lighting system provided to such entry features; (c) the exterior of a residential dwelling located on a Unit as provided in Section 2(a) below; (d) landscaping on a Unit as provided in Section 3(a) below; (e) sidewalks, whether located on a Unit or Common Area; (f) all storm water detention/retention ponds, any gate, fence, or other enclosure surrounding said storm water detention/retention ponds and all storm water drainage facilities serving the Community if and to the extent such facilities are not maintained by a governmental entity or third party; (g) retaining walls, perimeter walls, and perimeter fencing in the Community, if any; (h) all pipes, wires, conduits, utility lines, plumbing, and water

and sanitary sewer pipes or facilities that serve more than one Unit, if and to the extent the same are not maintained on an ongoing basis by a governmental entity; (i) the Community recreational facilities; (j) the centralized mail kiosk; (k) the private Community streets; (l) any structures constructed on the Common Area; and (m) the removal of graffiti therefrom within seventy two (72) hours of the Association becoming aware of the same.

Section 2. Exterior Unit Maintenance.

(a) By the Association. The Association shall maintain and keep in good repair the exterior portions of all residential dwellings located on Units. Such maintenance shall include only the following: (a) exterior surfaces of garage doors; (b) the roof decking and shingles or other roofing materials on the dwellings; (c) the downspouts and gutters, if any; and (d) painting and/or pressure washing the exterior building surfaces of the residential dwellings and any deck which is attached to a residential dwelling. All such maintenance shall be performed on a schedule determined by the Board of Directors in its sole discretion. Notwithstanding the foregoing, the Association shall not be responsible for waterproofing foundations either above or below grade.

(b) By the Unit Owner. Except for maintenance performed on or to a Unit by the Association pursuant to Section 2(a) hereof, all Unit maintenance shall be the sole responsibility of the Owner thereof, who shall maintain such Unit consistent with the Community-Wide Standard and this Declaration. Such obligation shall include, without limitation, the following: (A) prompt removal of all litter, trash, refuse, and waste, (B) complying with all governmental health and police requirements; (C) repairing exterior damage to the Unit; (D) maintaining, repairing, and replacing all steps, stoops, decks (whether enclosed or not), patios (whether enclosed or not), and patio surfaces and landscaping within the patios, planters, courtyards, if any; provided, however, the Association shall be responsible for painting and/or staining decks as provided above; (E) HVAC or similar equipment; (F) all doors, including screen and storm doors, hinges, and frames, and door frames and hardware which are a part of the entry system; (G) hose bibs contained in the exterior walls of a Unit; (H) lighting fixtures attached to and serving a Unit; (I) window screens, window frames and glass; (J) foundations and footings, including waterproofing, either above or below grade; (K) except as otherwise specifically provided herein, any pipe(s), wire(s), conduit(s), utility lines, plumbing and sanitary sewer and water lines which serve only the Unit, regardless of whether said pipe(s), wire(s), conduit(s), utility lines, plumbing and sanitary sewer and water lines are located within or outside of a Unit's boundaries; and (L) all driveways and walkways which exclusively serve a Unit.

Section 3. Unit Lawn and Landscape Maintenance.

(a) By the Association. Lawn and landscaping maintenance provided on a Unit by the Association shall include, but not be limited to, the following: (i) lawn mowing on a regular basis; (ii) tree and shrub pruning and weeding, as applicable; (iii) monitoring plants, shrubs, and lawns for insects and disease; (iv) installing pine straw on a schedule determined by the Board in its sole discretion; and (v) such other landscaping on a Unit as may be determined by the Board to be in the best interest of the Community.

The Board of Directors may promulgate rules setting forth the extent to which the Association will provide landscaping maintenance and may assume responsibility for providing additional landscaping maintenance as long as all Units are maintained to the same standard. The Board of Directors may authorize the officers of the Association to enter into contracts with any Person or Persons to perform landscaping maintenance hereunder on behalf of the Association.

(b) By the Unit Owner. Each Owner of a Unit shall be responsible for all Unit landscaping and landscaping maintenance which is not provided by the Association as provided above. If an Owner encloses any part of his or her Unit with a fence or otherwise, such Owner shall be responsible for all lawn and landscaping maintenance within such enclosed area and shall maintain such enclosed area as set forth herein.

Section 4. Failure of Owner to Maintain. In the event the Board of Directors determines that (i) any Owner has failed or refused to properly discharge his obligations with regard to the maintenance and repair for which he is responsible hereunder, or (ii) the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused by the willful or negligent act of an Owner or his family, tenants, guests, licensees or invitees, the Association, except in the event of an emergency situation, may give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement, at such Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary and shall give the Owner ten (10) days within which to complete such maintenance, repair or replacement, or, in the event such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work within such ten (10) day period and to complete such work within a reasonable time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement at the sole cost and expense of the Owner, and all costs and expenses incurred by the Association shall become part of the assessment for which such Owner is personally liable and shall become a lien against such Owner's Unit.

Section 5. Party Walls. Each wall built as part of the original construction of the Units which serves and separates any two (2) adjoining Units constitutes a party wall and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions apply thereto. The cost of repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in equal proportions. If a party wall is destroyed or damaged by fire or other casualty, then any Owner who is benefited by the wall may restore it, and the other Owner who is benefited by the wall shall contribute one-half (1/2) of the cost of restoration, without prejudice, however, to the right of any Owner to call for a larger contribution from any other Owner under any rule of law regarding liability for negligent or willful acts or omissions. All such repair or rebuilding shall be done within a reasonable time, and in such workmanlike manner with materials comparable to those used in the original wall and shall conform in all respects to the laws or ordinances regulating the construction of buildings in force at the time of such repair or reconstruction. Whenever any such wall or any portion thereof shall be rebuilt, it shall be erected in the same location and on the same line and be of the same size as the original wall.

C. COMMON AREA.

Section 1. Conveyance of Common Area by Declarant to Association; No Implied Rights.

Declarant may transfer or convey to the Association, at any time and from time to time, any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be acceptance by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be Common Area to be used and, if and as provided in Paragraph B, Section 1 hereof, maintained by the Association for the benefit of its Members. Until the Conversion Date, Declarant may, upon written notice to the Association, require the Association to reconvey to Declarant all or any portion of the Common Area, improved or unimproved, at no charge to Declarant, without a vote of the Members of the Association, if all or a portion of the Common Area is: (a) found by Declarant to have been conveyed in error, (b) needed by Declarant to make adjustments in property boundary lines, or (c) reasonably determined by Declarant to be needed by Declarant due to changes on the overall scheme of development for the Community. The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept/make on behalf of the Association any such conveyance and reconveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds, necessary or convenient to effectuate and document any such conveyances and reconveyances, and all acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. The Declarant may reserve, by lease, license, easement, or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant may reasonably require so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements, or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements, or licenses are conveyed by the Declarant to the Association or the Owners, as the case may be, by an instrument recorded in the Office of the Clerk of Superior Court of Gwinnett County, Georgia.

Section 2. Partition. The Common Area shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of: (a) all Owners of all portions of the property located within the Community; and (b) all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Units.

Section 3. Condemnation. If all or any part of the Common Area shall be taken (or conveyed in lieu of and under the threat of condemnation) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association. If the taking involves a portion of the Common Area on which improvements have been constructed and the taking occurs prior to the Conversion Date, the Declarant shall have the right, in its sole discretion, to decide whether the Association shall restore or replace such improvements on the remaining Common Area. If the taking involves a portion of the Common Area on which improvements have been constructed and such taking occurs after the Conversion

Date, then the Association shall, if possible, restore or replace such improvements so taken on the remaining Common Area unless seventy five percent (75%) of the Members of the Association vote at a meeting duly called not to restore or replace such improvements and, until Buildout, the Declarant likewise agrees not to restore or replace such improvements. If the improvements are to be repaired or restored, the funds received by the Association shall be disbursed in the same manner as funds are disbursed for casualty damage or destruction as provided above. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such awarded funds or remaking funds shall be deposited to the benefit of the Association.

Section 4. Limitation of Liability. Owners, occupants, and their guests shall use the Common Area and all portions of the Community not contained within a Unit, including, without limitation, the Community recreational facilities, at their own risk and assume sole responsibility for their personal belongings used or stored thereon. All Owners and occupants shall have an affirmative duty and responsibility to inspect the Common Area, including, without limitation, the Community recreational facilities, for any defects, perils, or other unsafe conditions relating to the use and enjoyment thereof. The Association, the Declarant and their respective officers, directors, employees, representatives, and agents shall not be held liable for: (a) personal injury to any person occurring on the Common Area; or (b) loss or damage to personal property, by theft or otherwise, used or stored on the Common Area or on any other portion of the Community.

In addition to the foregoing, the Association, the Declarant, and their respective officers, directors, employees, representatives, and agents shall not be liable for any injury or damage to any person or property (a) caused by the elements, (b) resulting from any rain or surface water which may leak or flow from any portion of the Common Area, or (c) caused by the failure of the Association to maintain the Common Area, unless such failure is caused by the willful misconduct or gross negligence of the Association. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for the inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or governmental authority, it being acknowledged by each Owner that the obligation to pay assessments pursuant to this Declaration is a separate and independent covenant on the part of each Owner.

D. INSURANCE AND CASUALTY LOSS.

Section 1. Insurance. The Board of Directors shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Area or required to be maintained by the Association. Insurance obtained and maintained by the Association shall cover loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of the insured improvements. Alternatively, the Association may obtain "all risk" coverage in like amounts. Notwithstanding anything to the contrary herein, nothing in this Section 1 shall be construed as

obligating the Association to obtain or maintain insurance on a Unit or an Owner's or occupant's personal property.

The Board of Directors shall obtain a public liability policy applicable to the Common Area covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its Members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million and NO/100 Dollars (\$1,000,000.00). Policies may contain a reasonable deductible as determined by the Board of Directors.

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

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

Premiums for all insurance obtained by the Association shall be a Common Expense of the Association.

Section 2. Insurance Obtained by Owners. By virtue of taking title to a Unit subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide insurance for any portion of the Units and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall obtain and maintain the following: (a) all risk insurance on the Unit, which shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy; (b) liability policy covering damage or injury occurring on a Unit; and (c) insurance covering an Owner's or occupant's personal property. The policies required hereunder shall be in effect at all times. Upon request by the Board of Directors, an Owner shall furnish a copy of such insurance policy to the Association. In the event that any Owner fails to obtain insurance as required herein, the Association may purchase such insurance on behalf of the Owner and assess the cost thereof to the Owner.

Section 3. Damage and Destruction.

(a) **In General.** Immediately after the damage or destruction by fire or other casualty of all or any part of the Common Area covered by insurance written in the name of the Association, the Board of Directors shall proceed with the filing and adjustment of all claims arising under such insurance and shall obtain reliable and detailed estimates of the cost of repair

or reconstruction of the damaged or destroyed property. Repair or reconstruction means repairing and restoring the property to substantially the same condition in which it existed prior to the fire or other casualty, allowing for any changes or improvements necessary to comply with applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Declarant and after the Conversion Date, at least seventy five percent (75%) of the Total Association Vote, shall decide within sixty (60) days after the casualty not to repair or reconstruct. If reliable and detailed estimates of the cost of the repair or reconstruction or if the amount of insurance proceeds available as a result of such damage or destruction is not available within such sixty (60) day period, then the period shall be extended until such information shall be made available; provided, however, that such extension shall not exceed beyond sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed. If the damage or destruction for which the insurance proceeds are paid are not sufficient to defray the cost of the required repair or reconstruction, and if the Board determines that the funds in the capital reserve accounts are not sufficient to cover such insurance deficiency, then the Board of Directors shall, without the necessity of a vote of the Association's Members, levy a special assessment against all Owners, in an equal amount, and such special assessment shall be used to complete the required repair or reconstruction. In the event that it should be determined that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the Common Area affected by such damage or destruction shall be restored to its natural state and maintained as an undeveloped portion of the Common Area.

Section 4. Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of a Unit shall be repaired or reconstructed by the Owner thereof in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article VIII of this Declaration. Said repair or reconstruction shall be completed within seventy-five (75) days after such damage or destruction occurred or, where repairs cannot be completed within seventy-five (75) days, such repair or reconstruction shall be completed within a reasonable period of time thereafter. Alternatively, the Owner of the Unit may elect to demolish all improvements on the Unit and remove all debris and ruins therefrom within seventy-five (75) days after such damage or destruction occurred and thereafter maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard and this Declaration. The Owner shall pay all costs which are not covered by insurance proceeds.

ARTICLE VI

ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Unilateral Annexation by Declarant. As the owner thereof or, if not the owner, with the written consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time until the Conversion Date to subject other property owned by the Declarant (hereinafter "Additional Property") to the provisions of this Declaration and the jurisdiction of the Association by filing of record an amendment to this Declaration describing the Additional Property being annexed. Any such annexation shall be effective upon the filing of

record of such amendment to the Declaration, unless otherwise provided therein. Any property so annexed into the Community shall thereafter be a part of the Property for all purposes under this Declaration. The Declarant may unilaterally amend this Declaration to reflect the different character of any Additional Property so annexed. The rights reserved unto Declarant to subject Additional Property to this Declaration shall not impose any obligation upon Declarant to subject any Additional Property to this Declaration or to the jurisdiction of the Association.

Section 2. Other Annexation. Subject to the consent of the owner thereof and, until the Conversion Date has occurred, with the consent of the Declarant, upon the affirmative vote or written consent of Members representing a Majority of the Total Association Vote, the Association may annex real property to the provisions of this Declaration to become a part of the Common Area and the jurisdiction of the Association by filing of record an amendment to the Declaration describing the property being annexed. Any such amendment to the Declaration shall be signed by the president and the secretary of the Association, and any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein.

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

ARTICLE VII

ASSESSMENTS

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

Section 2. Creation of Lien and Personal Obligation for Assessments. Each Owner of a Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, in accordance with the provisions hereof, from and after the commencement date established in Section 10, below, (a) general assessments; (b) special assessments established as herein provided; (c) specific assessments against any particular Unit established pursuant to the terms of this Declaration; and (d) transfer assessments imposed in accordance with this Declaration. All such assessments, together with late charges, simple interest at the rate of eighteen percent (18%) per annum, costs of collection and reasonable attorney's fees actually incurred in an amount not less than fifteen percent (15%) of the assessments and interest due and owing, shall be a charge on and a continuing lien against each Unit against which each assessment is made. Each such assessment, together with the late fees, interests, court costs and attorney's fees, shall also be the personal obligation of the person

who was the Owner of such Unit at the time the assessment became due and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, any First Mortgagee who obtains title to a Unit pursuant to the remedies provided in a First Mortgage will not be liable for any unpaid assessments which accrued prior to the acquisition of title to the Unit by the Mortgagee. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for Owners who are delinquent in the payment of such assessments. Unless otherwise provided by the Board, assessments shall be paid in annual installments.

Section 3. Computation of General Assessments. It shall be the duty of the Board to prepare a budget covering the estimated cost of operating the Association during the coming year. The budget may include a capital reserve contribution in accordance with a capital budget that may be separately prepared by the Board. The Board shall cause a copy of the budget and the general assessment to be levied therefrom to be mailed to each Member at least thirty (30) days prior to the date on which the budget will become effective. The budget and general assessment established therefrom shall be and become effective unless a written statement of disapproval executed by Members representing at least a Majority of the total Association vote is delivered to the Board no later than seven (7) days prior to the effective date of the proposed budget. In the event that the membership disapproves the proposed budget or the Board fails for any reason to so determine the budget for the succeeding year, then and until such time as a budget shall have been determined, the budget and assessments in effect for the current year shall continue for the succeeding year.

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

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

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

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

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

Section 6. Transfer Assessments. Upon each and every transfer or conveyance of a Unit upon which a residential dwelling has been constructed, the transferee or grantee becoming the Owner of the Unit at each such conveyance shall be obligated to pay to the Association, in addition to all other assessments levied under this Declaration, simultaneously upon such conveyance a nonrefundable assessment in an amount to be determined by the Board of Directors, but in no event more than the then current annual assessment (hereinafter, the "Transfer Assessment"). All Transfer Assessments collected by the Association shall be deposited by the Association into the Association's general operating account and the use thereof shall be at the discretion of the Board of Directors. Notwithstanding anything to the contrary in this Section 7 to the contrary, the Transfer Assessment shall not apply to the sale of a Unit to a relocation company that resells the same Unit within six (6) months from the date of its acquisition of the Unit or to any transfer of a Unit by the Owner thereof to his or her spouse or children for estate planning purposes, both exceptions being subject to review and approval by the Board of Directors in its sole and exclusive discretion.

Section 7. Foreclosure Administration Fee. It is recognized that foreclosures of mortgages on Units create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the Gwinnett County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Unit. Pursuant to this Declaration, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Units. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any Person who acquires a Unit at a foreclosure sale of the mortgage on such Unit, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee in the amount equal to the then current annual assessment of the Association at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Gwinnett County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

Section 8. Lien for Assessments. All assessments assessed against any Unit pursuant to this Declaration, together with late charges, interests, costs and attorney's fees as provided herein, shall be secured by a lien on such Unit in favor of the Association. Such lien shall be superior to all other liens and encumbrances except for the lien for ad valorem taxes, the lien of any First Mortgage covering the Unit, and the lien of any Mortgage recorded prior to the recording of this Declaration. The recording of this Declaration shall constitute record notice of the existence of the lien and the priority of the lien. All Persons acquiring liens or encumbrances after this Declaration shall have been recorded shall be deemed to consent that such liens and encumbrances, except as otherwise provided herein, shall be inferior to the lien created by this Declaration.

Section 9. Nonpayment of Assessments. Any assessment levied pursuant to this Declaration which is not paid within ten (10) days after it is due shall be delinquent and shall also include a late charge in an amount equal to the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the assessment or installment not paid when due, accrue simple interest at the rate of eighteen percent (18%) per annum, and include all costs of collection including reasonable attorney's fees in an amount not less than fifteen percent (15%) of the principal and interest due. Not less than ten (10) days after notice is sent by certified mail, return receipt requested, to the delinquent Owner at the address of the Unit, or at such other address designated in writing by such Owner, the lien in favor of the Association may be foreclosed by the Association by suit, judgment and foreclosure in the same manner as other liens for the improvement of real property. The notice shall specify the amount of the assessment then due and payable together with all late charges, interest and costs of collection, including attorney's fees. The Association shall have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, encumber and convey such Unit.

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

Section 10. Commencement of Assessments. All assessments shall commence as to a Unit after the recording of the plat depicting such Unit; provided that Units owned by the Declarant or a Builder shall not be subject to any assessments unless and until (i) a residential dwelling is constructed on the Unit owned by the Declarant or a Builder and such residential dwelling is occupied, or (ii) title to the Unit is transferred to a Person other than the Declarant or a Builder. Until the Conversion Date, the Declarant may, but shall not be obligated to, pay in cash or in kind the difference between the amount of general assessment assessed on all Unit each fiscal year and the amount of actual expenditures required to operate the Association during each fiscal year, exclusive of any capital reserve contributions ("Budget Shortfall"). Declarant shall also have the right, but not the obligation, to fund the Budget Shortfall in the form of a loan to the Association on terms determined by the Declarant in its sole discretion which shall be documented in the form of a promissory note signed by the Association in favor of Declarant.

Section 11. Fiscal Year. The fiscal year of the Association shall begin on January 1 of each year and shall end on December 31 of the same year.

ARTICLE VIII

ARCHITECTURAL STANDARDS

Section 1. Creation of Design Review Board. There shall be established and maintained a Design Review Board ("DRB") consisting of at least three (3) and not more than five members,

who need not be Members of the Association. Until the Conversion Date, Declarant shall appoint each member of the DRB and all members of the DRB may be removed by the Declarant with or without cause. After the Conversion Date, the Board shall have the exclusive right and authority at any time, and from time to time, to appoint and remove members of the DRB with or without cause.

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

Section 3. Modifications Committee. The Declarant may, but shall not be obligated to, form a modifications committee of not less than three (3) nor more than five (5) members (hereinafter "Modifications Committee"), who shall be Members of the Association or their spouses. The Modifications Committee shall have the authority of the DRB, and the DRB shall relinquish such authority, concerning the erection, construction, placement, alteration, remodeling, or maintenance of any Improvement on any Unit owned by Persons other than Declarant, affiliates of Declarant or Builders. Declarant shall evidence the formation of a Modifications Committee by filing of record with the Clerk of the Superior Court of Gwinnett County, Georgia a written notice that a Modifications Committee for the Association has been formed. The Modifications Committee shall be governed by and shall act consistent with all of the rights, obligations, terms, provisions and guidelines concerning and applicable to the DRB set forth in this Article. After the Conversion Date, the Modifications Committee shall automatically terminate and cease to exist, and all of the rights and powers granted to the Modifications Committee hereunder shall automatically revert back to the DRB.

Section 4. Plans and Specifications.

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

Units), drainage, utility service systems and lighting; (vii) extent and quality of landscaped areas; or (viii) compliance with the Community-Wide Standard.

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

(c) Should the DRB fail either to approve or disapprove the Plans within forty five (45) days after submission in accordance with the terms of this Declaration, it shall be conclusively presumed that the DRB has approved the Plans to the extent the Plans do not directly contradict this Declaration or any published Design Guidelines. Approval of any Plans with regard to a Unit shall not be deemed to be a waiver of the DRB's right, in its discretion, to disapprove similar plans and specifications, or any features or elements included therein, for any other Unit.

(d) If construction has not commenced within one (1) year from the date the Plans are approved, then the approval given pursuant to this Article shall be deemed to be automatically revoked by the DRB, unless the DRB extends the time for commencing construction. In any event, all work covered by such approval shall be completed within three (3) months of the commencement thereof, except for such period of time as completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, critical material shortages or other intervening forces beyond the control of the Owner, unless the DRB extends the time for completion.

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

Section 6. Compliance with Law. All Improvements, including residential dwellings, constructed, erected, placed, altered, remodeled, maintained or permitted on any Unit shall comply with any and all applicable federal, state, county and municipal zoning and building

restrictions, including, but not limited to, grading, clearing, construction of impervious surfaces, building and other construction rules and regulations.

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

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

ARTICLE IX

MORTGAGEE PROVISIONS

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

Section 1. Notice of Action. An institutional holder, insurer or guarantor of a First Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer or guarantor and identity specifically the Unit encumbered by the First Mortgage, thereby becoming an "eligible holder") will be entitled to timely written notice of: (a) any condemnation loss or casualty loss which affects a material portion of the Community or which affects a portion of the Unit on which there is a First Mortgage held, insured or guaranteed by such eligible holder; any delinquency in the payment of assessments or charges owed by an Owner of a Unit subject to the First Mortgage of the eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, the Association may, without request from such eligible holder, provide notice of such delinquency to such First Mortgage; (c) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or (d) any proposed action which would require the consent of a specified percentage of eligible holders.

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

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

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

ARTICLE X

USE RESTRICTIONS

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

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

Section 3. Gardens. No gardens other than decorative landscape beds installed by a Builder or approved in writing by the DRB may be planted or maintained on any Unit.

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

Section 5. Decks, Patios, Porches, and Balconies. No laundry, garments, towels, or objects other than potted plants, grills, and patio furniture shall be placed on a deck, patio, porch, or balcony, except as may be authorized in writing by the DRB or permitted under the Rules and Regulations. No deck, patio, or porch shall be enclosed without the prior written approval of the DRB. The use of grills and other like equipment, including, without limitation, smokers, shall only be permitted in accordance with applicable municipal, county, and state ordinances and laws and fire codes. No outdoor grills are permitted to be used indoors or inside any garage area.

Section 6. Signs. Except for signs placed in the Community by Declarant or affiliates of Declarant, no signs, including "For Sale" signs, billboards, posters or advertising devices of any

character shall be erected, permitted or maintained on any Unit or on the Common Area without the express written consent of the Board of Directors. Notwithstanding the foregoing, the Owner of each Unit may place one "For Sale" or "For Rent" sign on his Unit; provided, however, the Board of Directors has the right to regulate the size and design of the sign to ensure consistency with the Community-Wide Standard. Declarant hereby reserves the right to construct and maintain such signs, billboards and advertising devices as is determined by Declarant to be necessary in connection with the development, marketing and sale of Units in the Community.

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

Section 8. Animals and Pets. No animals, pets, livestock, birds or poultry of any kind shall be raised, bred or kept on any Unit, except that dogs, cats and other usual household pets may be kept by an Owner on his respective Unit provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health of or unreasonably disturb Owners of Unit within the Community. The Board of Directors shall have the right to adopt reasonable Rules and Regulations governing animals and pets kept by Owners of Units in the Community, including the right to prohibit animals of a certain size, weight or type. No structure for the care, housing or confinement of any pet or animal shall be constructed or maintained on any part of the Common Area, and any such structures maintained on a Unit must be approved by the DRB pursuant to Article VIII of this Declaration. Pets and animals shall be on a leash at all times when walked or exercised in any portion of the Community, except on the Owner's Unit. No pet or animal shall be permitted to leave its excrement on any portion of the Common Area or on any Unit and the Owner of such animal or pet shall immediately remove such excrement. In the event an animal or pet is deemed by the Board of Directors to be a nuisance or to be kept in violation of this Declaration, the Board of Directors shall have the right to require the Owner of such animal or pet to remove such animal or pet from the Community. The animal control authority shall be permitted to enter the Community to patrol and remove all pets and animals which are in violation of such animal control regulations or this Declaration. All animals and pets shall be registered, licensed and inoculated as required by law.

Section 9. Garbage Cans, Wood Piles, Etc. All garbage cans, wood piles, and related equipment and other similar items shall be located or screened so as to be concealed from view from the streets and neighboring Units. All rubbish, trash and garbage shall be regularly removed from each Unit and shall not be allowed to accumulate thereon. Trash, garbage or other rubbish

shall be kept in sanitary containers with covers or lids, which sanitary containers shall be removed from the front of each Unit promptly after pickup by the local garbage service. Exterior clotheslines are expressly prohibited on any Unit. The Declarant expressly reserves the right to allow Builders to dump, bury and/or burn construction debris and trees on any Unit as needed for efficient construction; otherwise, no dumping or burning of debris or trees is permitted on any Unit.

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

Section 11. Heating of Units in Colder Months. In order to prevent water pipes from breaking during colder months of the year resulting in damage to Units, the thermostats within all Units shall be maintained with the heat operating at a minimum of fifty (50) degrees Fahrenheit when the temperature is forecasted to or does reach thirty two (32) degrees Fahrenheit or below. Owners shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. If the heating equipment is not working, the Owner shall take reasonable steps to keep the Unit heated sufficiently to prevent water pipes from breaking until such time as the heating equipment is repaired.

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

Section 13. Impairment of Units and Easements. No Owner shall take any action that will impair the structural soundness of any Unit or dwelling or other Improvement thereon, or any easement or other interest in real property, nor allow any condition to exist which will materially and/or adversely affect the Common Area, the other Units, or their Owners or Occupants.

Section 14. Parking. All boats, buses, recreational vehicles, motorcycles, mopeds, all-terrain vehicles, scooters, mini bikes, go-carts, motor homes, mobile homes, trailers and campers kept or maintained in the Community for periods longer than twenty-four (24) hours must be kept in an enclosed garage. All automobiles, vans and trucks shall be parked within enclosed garages to the extent that garage space is available and, if not, such automobiles, vans and trucks shall be parked on the driveways of Units, and not on the Common Area, including, but not limited to, the private Community Streets. Garages shall not be used for storage or in any manner so that they become unavailable for parking automobiles and other transportation vehicles and devices therein.

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

If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Rules and Regulations, the Board or agent of the Association may cause the

vehicle to be towed or booted, subject to compliance with applicable law, including any notice required thereby. The notice may be a general notice by signage or may be placed on the vehicle, if and as allowed under applicable law, as the case may be. If a vehicle is parked in a fire lane, is blocking another vehicle, is obstructing the flow of traffic, is parked on any landscaped area or otherwise creates a hazardous condition, the Board or agent of the Association may have the vehicle towed immediately, subject to compliance with applicable law. If a vehicle is towed or booted in accordance with this provision and applicable law, neither the Association nor any office or agent of the Association shall be liable to any person for any claim of damage as a result of the towing or booting activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Notwithstanding anything to the contrary herein, the Declarant and its respective agents, subcontractors, and assigns shall have the right, during regular business hours, to park vehicles on any and all streets within the Community as needed in order to facilitate the construction, development, maintenance, and build out of the Community.

Section 15. Antennas or Similar Equipment. No exterior antenna, receiving dish, or similar apparatus of any kind for receiving and/or transmitting audio or video signals shall be placed, allowed, or maintained upon any portion of the Community, including any Unit, unless approved by the DRB in accordance with Article VIII hereof; provided, however, no such approval shall be necessary to install the following on a Unit: (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services or antennas designed to receive or transmit fixed wireless signals via satellite, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services or antennas designed to receive or transmit fixed wireless signals other than via satellite that are one meter or less in diameter or diagonal measurement; or (c) antennas that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennas on the rear of the Unit unless such installation: (x) imposes unreasonable delay or prevents the use of the antennas; (y) unreasonably increases the cost of installation; or (z) an acceptable quality signal cannot otherwise be obtained.

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

Section 17. Drainage. Natural drainage of streets, Units, or driveways of Units shall not be impaired by any Owner. No Owner shall obstruct or re-channel the drainage flow of water after location and installation of catch basins, berms, drainage areas, drainage swales, storm sewer or storm drain systems.

Section 18. Unsightly or Unkempt Conditions. It shall be the responsibility of each Owner to prevent any unclean, unhealthy, unsightly or unkempt condition from existing on or within his or her Unit. Any item such as outside patio furniture or other articles that can be viewed from the streets within the Community, Common Area, or other Units shall be maintained in a neat and attractive condition as determined by the Board. The pursuit of hobbies or other activities, including, but not limited to, assembly, disassembly and repair of motor vehicles or other

mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken on any part of the Community other than in an enclosed garage.

Section 19. Fences. No fence may be installed or constructed upon any Unit without the prior written approval of the DRB in accordance with Article VIII above.

Section 20. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted in the Community except within a residential dwelling on a Unit. Exterior sculptures, fountains, flags and similar items must be approved by the DRB in accordance with Article VIII, above.

Section 21. Traffic Regulations. All vehicular traffic on any private street in the Community shall be subject to the provisions of state and local laws concerning the operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including, without limitation, imposing reasonable safety measures and speed limits. The Association shall be entitled to enforce the same by establishing such enforcement procedures as it deems appropriate, including levying and collecting fines for the violation thereof. In the event of a conflict between the provisions of state and local laws and rules and regulations promulgated by the Association, the more restrictive provision shall control.

Section 22. Leasing. Units may be leased for residential purposes only. All leases shall be in writing. Units may be leased only in their entirety; no fraction or portion of a Unit may be leased without the Board's prior written approval. Unless otherwise provided by the Board, all leases shall have a minimum term of one (1) year. The Owner must provide the lessee with copies of the Declaration, Bylaws, and Rules and Regulations of the Association and the lease shall provide that the Owner has made available to the lessee copies of the Declaration, Bylaws, and Rules and Regulations. Each Owner covenants and agrees that any lease of a Unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by the existence of this covenant, and the lessee, by occupancy of the Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(a) **Compliance with Declaration, Bylaws, and Rules and Regulations.** Lessee shall abide by and comply with all provisions of the Declaration, Bylaws, and Rules and Regulations and shall control the conduct of all other occupants and guests of the leased Unit in order to ensure such compliance. Owner agrees to cause all occupants of his or her Unit to comply with the Declaration, Bylaws, and Rules and Regulations and is responsible for all violations thereof by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, Bylaws, and Rules and Regulations. In the event that the lessee or any Person living with the lessee violates the Declaration, Bylaws, or Rules and Regulations for which a fine is imposed. Notice of the violation shall be given to the Owner, and such fine may be assessed against the Owner in accordance with the provisions contained herein. Unpaid fines shall constitute a lien against the Unit.

(b) **Notice.** Within ten (10) days after executing a lease agreement for the lease of a Unit, the Owner shall provide the Board with the following information: (i) a copy of the fully

executed lease agreement; (ii) the name of the lessee and all other occupants of the Unit; (iii) the telephone number of the lessee, (iv) the Owner's off-site address and telephone number; and (v) such other information as the Board may reasonably require.

(c) **Use of Common Property.** The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use and enjoy the Common Property.

(d) **Liability for Assessments; Assignment of Rent.** If an Owner who is leasing his or her Unit fails to pay any general, special, or specific assessment or any other charge owed to the Association for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid general, special, and specific assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to the Owner. If lessee fails to comply with the Board's request to pay assessment or any other charges owed to the Association, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The foregoing provision shall not be construed to release the Owner from any obligation, including the obligation to pay assessments, for which he or she would otherwise be responsible.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Enforcement. Every Owner and every occupant of any Unit, and their respective families, guests, invitees, licensees, successors and assigns, shall comply with this Declaration, the By-Laws and the Rules and Regulations of the Association, as they now exist and may be amended from time to time. Except as otherwise provided herein, the Association shall send written notice of any violation to the violating Owner, who shall have ten (10) days from the date of the notice (in the event of an emergency, as determined by the Board of Directors, only reasonable notice is required) to correct and cure the violation and comply with this Declaration, the By-Laws or the Rules and Regulations. Any lack of such compliance shall entitle the Board of Directors to impose and assess fines and other sanctions against the Owner of the Unit, which shall be collected as provided herein for the collection of assessments. Furthermore, any lack of such compliance shall authorize the Board of Directors to temporarily suspend voting rights and the rights of use of the Common Areas; provided, however, no such suspension shall deny an Owner or any occupant of a Unit access to the Unit owned or occupied. Additionally, any lack of such compliance shall authorize the Board of Directors to institute legal action against the Owner and occupant of a Unit to recover damages as a result of such party's action or for injunctive relief, or both, which action shall be maintainable by the Board of Directors on behalf of the Association or, in a proper case, by any aggrieved Owner. Failure by the Board of Directors or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board of Directors shall have the right to record in the appropriate land records

a notice of violation of the Declaration, the By-Laws, or the Rules and Regulations, and assess the cost of the recording and removing of such notice against the Owner responsible for the violation of such documents.

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

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

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any portion of the Property subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on any portion of the Property subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Unit unless any such Owner shall consent thereto in writing. Further, until the Conversion Date, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially and adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to the Unit of any Owner without the consent of the affected Owner. After the Conversion Date, the Board without a vote of the Members may amend this Declaration for the sole purpose of electing to be governed by and to comply with the provisions of the Georgia Property Owners Association Act, O.G.C.A. §44-3-220 et. seq.

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

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

Section 5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid. If the application of any provision of this Declaration shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application and, to this end, the provisions of this Declaration are declared to be severable.

Section 6. Captions. The captions of each Article and Section hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 7. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 8. Indemnification. In accordance with Section 14-3-850, et seq., of the Georgia Nonprofit Corporation Code, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the name of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association, against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be liable as Members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right of indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain

adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is available at reasonable cost, as determined in the sole discretion of the Board.

Section 9. Contracts Executed During Declarant Control. All contracts or leases executed by or on behalf of the Association prior to the Conversion Date shall contain, or shall be deemed to contain, a termination clause pertaining to the Association to terminate the contract or lease at any time, without cause and without penalty, upon not more than ninety (90) days written notice.

Section 10. Books and Records. The books and records of the Association shall be available to the Members for inspection and copying in accordance with Section 14-3-1602 of the Georgia Nonprofit Corporation Code.

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

Section 11. Financial Statements. Financial statements reflecting the accounts of the Association shall be compiled annually in such a manner as the Board may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Members representing a Majority of the Total Association Vote, and until the Conversion Date, with the consent of the Declarant, may require that financial statements of the Association be audited as an Association expense by a certified public accountant. Upon written request of an institutional holder of a First Mortgage, such holder, upon payment of the costs associated therewith, shall be entitled to receive financial statements within ninety (90) days of the date of the request.

Section 12. Notice of Purchase. Upon acquisition of an interest in the Property, the acquiring Owner shall notify the Board in writing of the name of the acquiring Owner and such other information as the Board may reasonably require.

Section 13. Estoppel Certificates. Upon the request of any Member, the Board or its designee shall furnish a written certificate signed by an officer or agent of the Association regarding unpaid assessments levied against that Member's Unit and any violations of the Declaration, By-Laws, or Rules and Regulations, by an Owner or occupant of such Owner's Unit. Such certificate shall bind the Association with respect to the foregoing matters. The Association may require the advance payment of a processing fee established by the Board from time to time.

Section 14. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community, except that no such agreements shall be binding as to the Declarant until Buildout without the written consent of the Declarant.

Section 15. Implied Rights. The Association may exercise any right or privilege given to it expressly by the Declaration, the By-Laws, the Articles of Incorporation, or the Rules and Regulations and every other right or privilege reasonably to be implied from the existence of any

such right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 16. Variances. Notwithstanding anything to the contrary contained herein, until Buildout, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration or the By-Laws, except the provisions of Article VII of this Declaration regarding assessments, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 17. Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control.

Section 18. Security. ALL OWNERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANT, THE ASSOCIATION, THE BOARD AND THE DRB DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANT, THE ASSOCIATION, THE BOARD AND DRB ARE NOT INSURERS AND THAT EACH OWNER, OCCUPANT, GUEST, LICENSEE, AND INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT DECLARANT, THE ASSOCIATION, THE BOARD, AND DRB HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

Section 19. Gender and Grammar. The singular whenever used herein shall be construed to mean and include the plural, when applicable, and vice versa, and the use of the masculine or neuter pronoun shall include the feminine, when applicable, and vice versa, wherever the context requires or permits.

Section 20. Interpretation. In all cases, the provisions set forth in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant, or the Board after the Conversion Date, will best evidence the intent of the general plan of the Community. The provisions hereof are to be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective.

Section 21. Entry Gate System. Each Owner, by accepting a deed to a Unit, shall be deemed to acknowledge and agree to the following with respect to the Community entry gate system:

(a) The board of Directors, with the consent of the Declarant, shall determine when the Community entry gate system will be operational.

(b) Nether the Declarant, the Association, nor their respective officers, directors, members, partners, representatives, or agents shall be responsible for the security of Owners, occupants or their family members, guests, invitees, or property. NEITHER THE DECLARANT, THE ASSOCIATION NOR ANY OWNER OR OCCUPANT GURANTEES OR ASSURES TO ANY OTHER OWNER OR OCCUPANT NOR ANY PTHER PATY WHOMSOEVER THAT THE COMMUNITY ENTRY GATE SYSTEM WILL IN ANY MANNER WHATSOEVER PROVIDE PERSONAL PROTECTION OR SECURITY TO ANY OWNER OR OCCUPANT, THEIR PERSONAL PROPERTY OR TO GUESTS OR INVITEES, OR TO ANY OTHER PERSON, AND EACH OWNER, BY THE ACCEPTANCE OF A DEED TO A UNIT, SHALL HAVE ASSUMED THE ENTORE RISK AS BETWEEN SUCH OWNER AND DECLARANT OR THE ASSOCIATION, AS APPLICABLE, FOR ANY LOSS OR DAMAGE TO PERSON OR PROPERTY WITHIN THE COMMUNITY ARISING FROM ANY DEFICIENCY, FAILURE, OR DEFECT IN THE COMMUNITY ENTRY GATE SYSTEM OR OTHERWISE.

(c) All governmental authorities shall have access to the Community for law enforcement, safety, and emergency purposes. Each Owner shall look solely to the applicable governmental authority for the provision of law enforcement and police protection.

(d) The Community entry gate system is not indented to replace or to serve in lieu of individual alarm systems or other measures designed to provide security to a Unit. Each Owner is encouraged to install personal security devices upon such Owner's Unit to the same extent that would be prudent if the Community entry gate system did not exist.

(e) The Community entry gate system will be installed based upon the representations of vendors regarding the operation and performance capabilities of the components thereof.

(f) DECLARANT DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AND MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER REGARDING THE COMMUNITY ENTRY GATE SYSTEM, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR THE PURPOSES FOR WHICH IT WAS DESIGNED. Declarant does not guarantee that the Community entry gate system will avert or prevent occurrences or consequences which the Community entry gate system is designed to avert or prevent.

(g) The Community entry gate system shall be owned, operated, and maintained by the Association at its sole cost and expense and the costs associated therewith shall be included in the general assessment as provided in Article VII, Section 3 hereof. Declarant shall not be required to operate or maintain the Community entry gate system.

(h) Each Owner shall use the Community entry gate system in the proper manner and within the rules and regulations relating thereto as may be adopted from time to time by the Board of Directors.

Section 22. Disclosures Regarding Private Streets. The Association is responsible for maintaining the private Community streets, sidewalks, street signs, any street medians and islands located along such private streets and any landscaping adjacent thereto. The costs associated with such maintenance shall be included in the general assessment as provided in Article VII, Section 3 hereof.

IN WITNESS WHEREOF, the undersigned have executed this instrument under seal as the date first above written.


DECLARANT:

SOUTHSIDE LAND VENTURES, LLC,
a Georgia limited liability company
by its sole member:

RICHARDSON COMPANIES, INC.,
a Georgia Corporation

By: 
A. Mark Richardson, President

Signed, sealed and delivered
in the presence of:


Witness


Notary Public

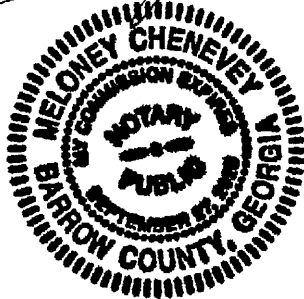


EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 188 of the 6th Land District, Gwinnett County, Georgia and being more particularly described as follows:

To find **THE POINT OF BEGINNING**, begin at the intersection formed by the Southwesterly Right-of-Way of Sandune Drive (50' R/W) and the Southeasterly Right-of-Way of Singleton Road (80' R/W), THENCE leaving said intersection, North 08 degrees 13 minutes 36 seconds West for a distance of 332.76 feet to a 2" Square Axle Found, said point being **THE POINT OF BEGINNING**.

THENCE from said point as thus established, South 29 degrees 34 minutes 50 seconds East for a distance of 658.00 feet to a Point; THENCE South 55 degrees 49 minutes 13 seconds West for a distance of 396.50 feet to a Point on the Northerly Right-of-Way of Harbins Road (80' R/W); THENCE traveling along the Northwesterly Right-of-Way of Harbins Road the following five (5) courses and distances, North 74 degrees 30 minutes 23 seconds West for a distance of 18.74 feet to a Point; THENCE along a curve to the right having a radius of 997.45 feet and arc length of 287.28 feet being subtended by a chord of North 65 degrees 10 minutes 26 seconds West for a distance of 286.29 feet to a Point; THENCE North 56 degrees 48 minutes 50 seconds West for a distance of 200.98 feet to a Point; THENCE along a curve to the right having a radius of 638.47 feet and arc length of 200.38 feet being subtended by a chord of North 46 degrees 53 minutes 07 seconds West for a distance of 199.56 feet to a Point; Thence with a compound curve to the right having a radius of 638.47 feet and arc length of 2.77 feet being subtended by a chord of North 37 degrees 45 minutes 46 seconds West for a distance of 2.77 feet to a Point; THENCE leaving said Right-of-Way, North 51 degrees 47 minutes 36 seconds East for a distance of 192.44 feet to an Axle Found; THENCE North 55 degrees 50 minutes 57 seconds East for a distance of 538.26 feet to a Point, said Point being **THE POINT OF BEGINNING**.

Said property contains 8.999 Acres.

TOGETHER WITH:

All that tract or parcel of land lying and being in Land Lot 188 of the 6th Land District, Gwinnett County, Georgia and being more particularly described as follows:

To find **THE POINT OF BEGINNING**, begin at the intersection formed by the Southwesterly Right-of-Way of Sandune Drive (50' R/W) and the Southeasterly Right-of-Way of Singleton Road (80' R/W), THENCE leaving said intersection, North 08 degrees 13 minutes 36 seconds West for a distance of 332.76 feet to a 2" Square Axle Found; THENCE South 29 degrees 34 minutes 50 seconds East for a distance of 658.00 feet to a Point, said point being **THE POINT OF BEGINNING**.

THENCE from said point as thus established, South 29 degrees 34 minutes 50 seconds East for a distance of 286.84 feet to a Point; THENCE South 60 degrees 33 minutes 13 seconds West for a distance of 220.73 feet to a Point on the Northerly Right-of-Way of Harbins Road (80' R/W); THENCE traveling along the Northwesterly Right-of-Way of Harbins Road the following two (2) courses and distances along a curve to the left having a radius of 456.95 feet and arc

length of 227.40 feet being subtended by a chord of North 60 degrees 02 minutes 47 seconds West for a distance of 225.06 feet to a Point; THENCE North 74 degrees 30 minutes 23 seconds West for a distance of 85.51 feet to a Point; THENCE leaving said Right-of-Way, North 55 degrees 49 minutes 13 seconds East for a distance of 396.50 feet to a Point, said Point being **THE POINT OF BEGINNING.**

Said property contains 1.841 Acres.

EXHIBIT "B"

BY-LAWS

OF

ROCKFERN PLACE HOMEOWNERS ASSOCIATION, INC.

BY-LAWS
OF
ROCKFERN PLACE HOMEOWNERS ASSOCIATION, INC.

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BY-LAWS

OF

ROCKFERN PLACE HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND DEFINITIONS

Section 1. Name. The name of the Association shall be Rockfern Place Homeowners Association, Inc. (hereinafter the "Association").

Section 2. Definitions. The words used in these By-Laws shall have the same meaning as set forth in said Declaration of Covenants, Conditions, Restrictions, and Easements for Rockfern Place (hereinafter the "Declaration").

ARTICLE II

ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as may be designated by the Board of Directors in Gwinnett County, Georgia or as convenient thereto as is possible and practical.

Section 2. Annual Meetings. Annual meetings shall be set by the Board of Directors from time to time at any time, date and place agreed upon by the Board of Directors. If the day for the annual meeting is inadvertently set for a legal holiday, the meeting will be held at the same hour on the first day following such legal holiday (excluding Saturday and Sunday).

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of the Board of Directors or, after Buildout, by a petition signed by at least twenty-five (25%) percent of the total votes of the Association. No business shall be transacted at a special meeting except as stated in the notice.

Section 4. Notice of Meetings. Written notice of each annual and special meeting of the Members shall be given by or at the direction of the Secretary or any person or persons authorized to call a meeting by mailing a copy of such notice, postage prepaid, at least ten (10) days, but not more than thirty (30) days, before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of the notice. The notice shall state the time, date and place where such meeting is to be held and, in the case of a special meeting, the purpose of the special meeting.

Section 5. Waiver of Notice. Waiver of notice of meeting of the Members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date, and place thereof, unless such member specifically objects to holding the meeting or transacting business at the meeting, at the beginning of the meeting. Attendance at a meeting shall also be deemed waiver of the objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. If the new date, time, and place is announced at the original meeting before adjournment, then notice need not be given of the new date, time or place. If a quorum is present, any business which might have been transacted at the meeting originally called may be transacted at the adjourned meeting.

Section 7. Voting. The voting rights of the Members shall be as set forth in the Declaration and Articles of Incorporation, which voting rights are specifically incorporated herein. Unless otherwise required by the Declaration, the affirmative vote of a Majority of the votes cast at a meeting at which a quorum is present shall be the act of the Membership.

Section 8. Proxies. At all meetings of Members, each member may vote in Person or by proxy, as further may be limited by the terms of the Declaration. All proxies shall be in writing and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable. Each proxy shall automatically cease upon a member's criteria for Membership ceasing to exist or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member, or of written revocation. No proxy shall be valid after eleven (11) months from the date of its execution, unless otherwise provided in the proxy.

Section 9. Quorum. Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by proxy of at least twenty percent (20%) of the total votes existing in the Association shall constitute a quorum at all meetings of the Association. In the event a 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 quorum required at the first meeting. Any provision in the Declaration concerning quorum is specifically incorporated herein.

Section 10. Conduct of Meetings. The President shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting as well as a record of all transactions occurring thereat.

Section 11. Record Date. The Association may establish such record dates for Membership as may be authorized by the Georgia Nonprofit Corporation Act or applicable Georgia law.

Section 12. Action by Written Ballot. Any action to be taken at any annual, regular or special

meeting of Members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of any action shall be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirement; state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of Members filed in the permanent records of the Association.

Section 13. Action by Written Consent. Any action to be taken at any annual, regular or special meeting of the Members may be taken without a meeting if one (1) or more consents, in writing, setting forth the action so taken, shall be signed and dated by Members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first Member signs and consent. Such action shall be approved when the Secretary receives a sufficient number of such consents. Such action shall be approved when the Secretary receives a sufficient number of such consents. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives notice of the approval to all Members who did not sign a consent. Each consent shall be included in the minutes of meetings of Members filed in the permanent records of the Association. No Consent shall be valid unless: (1) the consenting Member has been furnished the same material that, pursuant to the Georgia Nonprofit Corporation Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the Members for action; or (2) the written consent contains an express waiver of the right to receive the material otherwise required to be furnished.

ARTICLE III

BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

Section 1. Governing Body Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the directors shall be Members or spouses of Members; provided, however, that no person and his or her spouse may serve on the Board at the same time. Directors do not have to reside in the Community.

Section 2. Directors During Declarant Control. The initial directors shall be selected by the Declarant, acting in its sole discretion, and shall serve at the pleasure of the Declarant so long as the Class "B" Membership exists as set forth in the Declaration. The Directors selected by the

Declarant need not be Members of the Association nor residents in the Community. The number of directors serving on the Declarant appointed Board shall be determined by the Declarant.

Section 3. Election and Term of Office. Not later than ninety (90) days after the Class "B" Membership terminates, as provided in the Declaration, the Association shall call a special meeting of the Members at which the Owners shall elect three (3) directors. The term of two (2) directors shall be fixed at two (2) years and the term of one (1) director shall be fixed at one (1) year. After the expiration of the initial term of office of each director, all directors shall be elected to serve for terms of two (2) years. Members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 4. Nominations of Directors. Nominations for election to the Board of Directors shall be made by any Member prior to and at the meeting at which directors shall be elected. A nominating committee may be appointed by the Board of Directors which shall seek out nominations of candidates for election to the Board of Directors.

Section 5. Vacancies. After the termination of the Class "B" Membership, any vacancy in the Board of Directors arising from the resignation of a director may be filled for the unexpired term by a majority of the remaining directors then in office.

Section 6. Removal of Directors. Upon the termination of the Class "B" Membership, at any regular or special meeting of the Association duly called, any one or more of the Members of the Board of Directors may be removed, with or without cause, by a majority of the Members authorized to vote for directors and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

B. Meetings.

Section 7. Organization Meeting. The first meeting of the Members of the Board of Directors following each annual meeting of the Membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 8. Regular Meeting. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of the time and place of each regular meeting shall be given by the secretary either personally or by telephone or by mail not less than seven (7) days or no more than thirty (30) days before such regular meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President on his own motion or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. Notice of any special meeting shall be given by the secretary personally or by telephone or by mail at least twenty-four (24) hours before such meeting.

Section 10. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly

held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice. The waiver of notice need not specify the purpose of the meeting. A director's attendance at or participation in a meeting waives any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Section 11. Quorum; Vote Required for Action. At all meetings of the Board of Directors, the presence of a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors in attendance at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, so long as any action taken is approved by at least a majority of all of the directors.

Section 12. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by a majority vote of the total vote of the Association at a regular or special meeting of the Association.

Section 13. Telephone and Similar Meetings. Directors may participate in and hold a meeting by means of telephone or similar communication whereby all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute the presence in person at the meeting except where a director participates in the meeting for the express purpose of objecting to the transaction of any business on the grounds that a meeting is not lawfully called or convened.

Section 14. Executive Session. By the majority vote of the directors at a meeting at which a quorum is present, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a sensitive nature.

Section 15. Action Without a Formal Meeting. Any action to be taken at a meeting of the Board or any action that may be taken at a meeting of the Board may be taken without a meeting if such action is evidenced by written consents, setting forth the action so taken, signed by at least a majority of the directors; provided that such action is taken in accordance with the Georgia Non-Profit Corporation Code.

Section 16. Adjournments. A meeting of the Board of Directors, whether or not a quorum is present, may be adjourned by a majority of the directors present, to reconvene at a specific time and place. It shall not be necessary to give notice of the reconvened meeting or of the business to be transacted, other than by announcement at the meeting which was adjourned. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting which was adjourned.

C. Powers and Duties.

Section 17. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the

Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Members.

Section 18. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents, at a compensation established by the Board of Directors, to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these. By-Laws. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year. The Board shall use reasonable efforts to enter into a management contract that permits termination by either party, without cause and without termination fee, on ninety (90) days' or less written notice.

ARTICLE IV

OFFICERS

Section 1. Officers. The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer. The Board of Directors may elect such other officers' including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person. The President, Secretary, Vice President and Treasurer shall be elected from among the Members of the Board of Directors.

Section 2. Election, Term of Office, and Vacancies. The Officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by a majority vote of the Board of Directors, a quorum being present, whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget, as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

Section 5. **Resignation.** Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

ARTICLE V

COMMITTEES

Section 1. **General.** Committees to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present are hereby authorized. Such committees shall perform such duties and have such powers as may be provided in the resolution. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Section 2. **Term of Appointment.** Each member of a committee shall continue to serve until the next annual meeting of the Board of Directors and until his successor is appointed, unless the committee shall be sooner terminated or unless the member shall be removed from such committee or shall resign. Each member of a committee may be removed with or without cause by the Board of Directors at any time.

Section 3. **Vacancies.** Vacancies in the membership of any committee may be filled by appointments made in the same manner as the original appointments.

Section 4. **Quorum.** Unless otherwise provided in the resolution of the Board of Directors designating a committee, the presence of a majority of the committee members shall constitute a quorum. The act of a majority of the members of a committee shall be the act of the committee.

Section 5. **Rules.** Each committee may adopt rules for its own operation so long as such rules are approved by the Board of Directors and are not inconsistent with the Declaration, the By-Laws or the rules adopted by the Board of Directors.

ARTICLE VI

MISCELLANEOUS

Section 1. **Indemnification.** Indemnification of officers, directors, agents, employees and committee Members of the Association shall be as set forth in Declaration.

Section 2. **Deposits.** All funds of the Association shall be deposited from time to time in bank accounts or other depositories of the Association as the Board of Directors may select.

Section 3. **Conflicts.** If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

Section 4. Books and Records. The Association shall keep correct and complete books and records of the Association and its accounts and shall keep minutes of all proceedings of the Board of Directors and committees having any authority of the Board of Directors. The books and records of the Association shall be available for inspection by Members in accordance with the Declaration.

Section 5. Notices. Except as otherwise set forth herein, all notices under these Bylaws or the Declaration shall be in writing, and shall be addressed to a Member at the address of his or her Unit and to the Declarant and to the Association at the addresses of their respective registered agents on file with the Secretary of State of the State of Georgia. Any Member may designate a different address, including an electronic mail address, for notice to such Member by giving written notice to the Association. Members shall keep the Association advised of their current address and telephone number(s) where they can be contacted. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, or issued electronically in accordance with Chapter 12 of Title 10 of the Official Code of Georgia Annotated, the "Uniform Electronic Transactions Act." The time period in which a response to any such notice must be given or any action taken with respect thereto, shall commence to run on the date of personal delivery or date of receipt shown on the return receipt. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice sent.

Section 6. Amendment. These By-Laws may be amended only by the affirmative vote or written consent of a majority of the Members of the Board of Directors of the Association after the Conversion Date. Prior to the Conversion Date, these By-Laws may be unilaterally amended by the Declarant.

Section 7. Tax-Exempt Status. The affairs of the Association at all times shall be conducted in such a manner as assure the Association's status as an organization qualified for exemption from taxation pursuant to Section 528 of the Internal Revenue Code remains unaffected.

Section 8. Construction. Whenever the context so requires, the masculine gender shall include the feminine and neuter gender, and singular shall include the plural, and vice versa. If any provision of these By-Laws shall be invalid or unenforceable, such invalidity or unenforceability shall not affect the remaining provisions of these By-Laws.

Section 9. Headings. The Article and Section headings herein contained are for convenience of reference only and shall not be deemed to impart substantive meaning to any provision of these By-Laws.

Section 10. Dissolution – Gwinnett County Requirement. In addition to the requirements of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the Association may not be dissolved without the prior written consent of the Gwinnett County Board of Commissioners.