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Chatham, Ga. Clerk Superior Court
Tammie Mosley Clerk Superior Court

Participant ID(s): 3639644106,

RETURN TO:

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BK 1999 PG 719 - 742

STATE OF GEORGIA)
)
COUNTY OF CHATHAM)

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
HERB RIVER BLUFF**

THIS DECLARATION of Covenants, Conditions and Restrictions for Herb River Bluff (hereinafter the "Declaration"), is made and entered into this 1st day of July, 2020, by GODLEY STATION WEST, LLC a Georgia limited liability company (hereinafter called "Developer" or "Declarant").

WITNESSETH:

WHEREAS, Developer is the owner of the real property described in Exhibit A of this Declaration; and

WHEREAS, said real property is generally known as Herb River Bluff, and Developer desires to create thereon a planned community; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values and amenities in said community and for the maintenance of the property and the improvements thereon, and to this end desires to subject the property described on Exhibit A, together with such additions as may hereafter be made thereto as provided in Article III, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, for the efficient preservation of the values and amenities in said community, the Developer has incorporated under the laws of the State of Georgia Herb River Bluff Homeowners Association, Inc. as a non-profit corporation and hereby delegates and assigns to it the powers of owning, maintaining and administering the community properties and facilities, administering and enforcing the terms and provisions contained herein, collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents of Herb River Bluff.

NOW, THEREFORE, in consideration of the foregoing and of the covenants and agreements hereinafter made, the Developer declares that the real property described in Exhibit "A" and such additions thereto as may hereafter be made pursuant to Article III hereof, is and shall be held, developed, transferred, sold, conveyed, occupied and used subject to this Declaration and the

covenants, conditions and restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I
DEFINITIONS

Section 1. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions herein set forth in this document, as may from time to time be amended.

Section 2. "Association" shall mean and refer to Herb River Bluff Homeowners Association, Inc., its successors and assigns.

Section 3. "Developer" shall mean and refer to Godley Station West, LLC, a Georgia limited liability company, and its successors and assigns, together with any successor to all or substantially all of the business of developing the property. All rights of the Developer, as Developer, hereinafter set forth, shall cease 180 days after it no longer owns and no longer has an interest in developing the Property.

Section 4. "Builder" shall mean a person or entity to which Developer has sold an unimproved lot or lots for the purpose of constructing a residential dwelling thereon.

Section 5. The "Property" shall mean and refer to the real property described on Exhibit A which has hereby become subject to this Declaration, together with such other real property as may from time to time be annexed to said property under the provisions of Article III hereof.

Section 6. "Common Area" shall mean and refer to those areas of land, together with improvements thereon, now or hereafter conveyed to the Association, or as shown on any recorded subdivision map of the Property and improvements thereto which are intended to be dedicated to the common use and enjoyment of the Association. Without limiting the generality of the foregoing, the following shall be Common Area: lagoons, open spaces and green spaces, buffers, easements, private drives, streets or roads, stormwater detention ponds and development identification signs, together with improvements erected or maintained upon any of the foregoing. Notwithstanding anything contained herein to the contrary, Developer may alter and adjust Common Area property lines for development purposes during the Class "B" Control Period, and the Association shall be required to execute and deliver such corrective instruments as are necessary for such alterations and adjustments.

Section 7. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common area.

Section 8. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Property, but excluding those having such interest as security for the performance of an obligation.

Section 9. "Member" shall mean and refer to Members of the Association and shall include any Owner and the Developer.

Section 10. "Development" shall mean Herb River Bluff, Chatham County, Georgia, a multi-unit townhome development.

Section 11. "Unit" shall mean a completed fee simple townhome constructed on an

individual Lot.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, developed, transferred, sold, conveyed, used and occupied subject to this Declaration is located in Chatham County, Georgia, and more particularly described on Exhibit A attached hereto and by reference made a part hereof.

Section 2. Additions to Existing Property. The Developer shall have the right to subject to this Declaration any or all of the additional Property described on Exhibit B attached hereto and by reference made a part hereof, provided that not more than twenty (20) years have elapsed since the filing of this Declaration and not more than ten (10) years have elapsed since the last supplementary declaration which subjects any additional Property to this Declaration. Notwithstanding any other provisions contained herein, the Declarant reserves the right to submit to this Declaration undescribed adjacent additional land.

ARTICLE III

COMMON AREA

Section 1. Obligation of the Association. The Association, subject to the provisions of this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto) and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with standards set by the Architectural Review Board.

Section 2. Easement of Enjoyment and Easement of Ingress and Egress. Subject to the provisions herein, every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, and every Member shall have a right of enjoyment in the Common Area. Each Owner has a non-exclusive easement for ingress and egress over the Common Area to the extent necessary to provide access to the Lot and for utilities serving that Lot. This right of access for ingress and egress cannot be suspended for violations of the terms and provisions of the Declaration or for non-payment of assessments.

Section 3. Extent of Easements. The easements of enjoyment and easements of ingress and egress created herein shall be subject to the following:

(a) The right of the Association to establish reasonable rules and regulations governing the use of the Common Areas and the personal conduct of Owners, occupants and guests thereon and to charge reasonable admission or other fees for special or extraordinary uses of the Common Areas;

(b) The right of the Association to suspend the right of a Member to vote on any Association matter for any period during which any assessment against said Member remains unpaid for more than thirty (30) days after notice;

(c) The right of the Association to suspend the right of a Member to use any

recreational facilities for any period during which any assessment against said Member remains unpaid for more than thirty (30) days after notice;

(d) The right of the Association to suspend the right of a member or anyone in his household to use the recreational facilities for a period not to exceed sixty (60) days for any infraction of this Declaration;

(e) The right of the Association to encumber any or all of the Common Area as may be authorized herein, or in the Articles of Incorporation, or as granted to non-profit corporations under Georgia law (A lender's rights, in the event of default upon any encumbrance on the Common Areas, are limited to, after taking possession of such Common Areas, charging reasonable admission and other fees as a condition of continued enjoyment by Members, and, if necessary, to a wider range of users. Upon satisfaction of the encumbrance, such Common Areas are returned to the Association with full restoration of Members' rights.);

(f) The right of the Association to dedicate or transfer all or any part of the Common Area owned by it to any public agency, authority, or utility for such purposes and subject to such conditions as are authorized by the Articles of Incorporation, this Declaration, or by Georgia law;

(g) The right of the Association, acting through the Board of Directors, without Member, mortgagee and agency approvals unless provided otherwise herein, to grant easements across the Common Areas for any purpose not inconsistent with the use of those areas by Members;

(h) The following rights are reserved by the Declarant:

(i) The right to use portions of the Common Areas for sales and marketing purposes;

(ii) The right to reserve or grant easements across the Common Areas for development purposes;

(iii) The right to grant, terminate, or vacate easements across Common Areas for limited purposes such as installation and maintenance of utilities, storm water management, or provisions of services to units.

Section 4. Delegation of Use. A Member's rights of enjoyment to the Common Area and facilities shall extend to the members of his or her family and to his or her guests, subject to such general regulations as may be established from time to time by the Association.

Section 5. Title to Common Area. Title to the Common Area shall be conveyed by the Developer as follows:

(a) Contemporaneously herewith, the Developer has set aside and dedicated Common Area located within the Property. These parcels, together with the improvements located thereon, shall be conveyed to the Association, free and clear of all liens and financial encumbrances.

(b) Other Common Area shall be conveyed by the Developer to the Association, free and clear of all liens and financial encumbrances, as shall be provided in supplementary declarations relating to such future facilities.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

(a) Class A Members shall be all Owners, with the exception of the Developer, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

(b) The Class B Member shall be the Developer. Until the Class "B" Control Period is terminated, the Class "B" Member shall have one vote, plus one vote for each vote held by Class "A" Members. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(i) When one hundred percent (100%) of the total number of Lots planned in the master plan have been conveyed to Owners other than the Developer or a Builder; or

(ii) At such time as twenty (20) years have elapsed since the filing of this Declaration or ten (10) years have elapsed since the filing of the last supplementary declaration which subjects any additional property to this Declaration, whichever last occurs.

Section 3. The affairs of the Association shall initially be managed by a Board of Directors as follows:

(a) During the Class B membership, the Board of Directors will consist of at least one (1) Director who shall be appointed by Declarant. After the Class B membership, the Board of Directors will consist of five (5) Directors elected by the Members. Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes will be elected. Cumulative voting is not permitted.

(b) Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association.

(c) In the event of death, resignation, or removal of a Director, his successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his predecessor.

Section 4. The Association shall have the right and may choose, in its sole discretion, to exercise its right to: (i) administer, maintain, care for and to repair and restore the exterior of the Lots and, in the Association's sole discretion, if chosen, also the improvements located on the Lots; (ii) establish, levy and collect assessments as herein provided; (iii) engage contractors, vendors, employees or agents as it deems necessary to carry out all rights, duties and responsibilities; (iv) make payment to contractors, vendors, employees or agents for services provided in carrying out the purposes of the Association; (v) enforce this Declaration; and (vi)

perform all rights, duties and responsibilities set forth in the Declaration, Articles and Bylaws of the Association.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Developer, for each Lot owned within the property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Annual assessments or charges, and
- (b) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs and attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Property at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors-in-title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be exclusively used to promote the recreation, health, safety and welfare of the residents of the Property and for the improvement and maintenance of the Common Area and to meet the expenses of the Association, which shall adopt an annual operating budget. The Board of Directors is expressly authorized to levy assessments on behalf of the Association in particular for: (1) the improvement, maintenance, repair, and reconstruction of any Common Areas of the Association; (2) If the Association chooses to do so in its sole discretion, general maintenance of the exterior of the Lots and improvements thereon, including, but not limited to, painting, pressure washing, and roof replacements of the residential units, also including landscaping and irrigation. Damaged exteriors shall be the responsibility of the Owner; (3) the procurement and maintenance of insurance for all Common Area in accordance with this Declaration; (4) the employment of attorneys to represent the Association when necessary; and (5) the provision of adequate reserved for the replacement of capital improvements, including, without limiting the generality of the foregoing, roofs, paving, and any other major expenses for which the Association is responsible; (6) provision of extermination services; (7) payment of costs for shared services that benefit the property; (8) such other needs as may arise.

Section 3. Reserves. Once the Class "B" Control Period has expired, the Association may establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of the improvements to those portions of the Property which the Association may be obligated to maintain, and for unusual and unforeseen expenses of the Association. Such reserve

fund is to be established, insofar as is practicable, out of annual assessments for common expense. Further, the reserve fund may be applied to operational deficits provided adequate reserves are maintained.

Section 4. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Thousand and no/100 (\$3,000.00) Dollars per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than Fifteen (15%) Percent above the maximum assessment for the previous year without a vote of the Membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by a majority vote of the Members obligated to pay such assessment or with the written approval of Members entitled to cast a majority of the total number of authorized votes of Members obligated to pay such assessment.

(c) Certain fixed costs, anticipated or unanticipated, or increases therein, for insurance, taxes, recycling or waste disposal may be passed through to the Members by permitting an automatic increase in the maximum assessment which reflects those increases. The Board of Directors is expressly authorized to obtain appropriate insurance coverage on behalf of the Association.

(d) Notwithstanding the provisions contained herein with respect to the maximum annual assessment, a one-time fee equal to One Thousand and No/100 Dollars (\$1,000.00) for each Lot shall be assessed for a working capital fund for the Association's operation. Each Lot's share of the working capital fund shall be collected and transferred to the Association at the time of closing of the initial sale of each Lot and maintained in a segregated account for the use and benefit of the Association. Amounts paid into the working capital fund are not to be construed as advance payment of regular assessments. (The purpose of the fund is to insure that the Association will have cash available to meet expenditures, or to acquire additional equipment or services deemed necessary or desirable.) Additionally, the Association is authorized to charge a reasonable transfer fee of a \$150 or such other amount as the Association may determine.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of the capital improvements upon the Common Areas, including fixtures of personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the vote of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all members not less than twenty-one (21) days or more than sixty (60) days in

advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast Sixty Seven (67%) Percent of all the votes of each class of Membership shall constitute a quorum. In the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subject meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual basis or as determined by the board.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot upon the conveyance of each Lot by the Developer to an Owner other than a Builder. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within ten (10) days after the due date, together with interest (computed from its due date at a rate of 15% per annum or such other rate as the Board may establish, subject to the limitations of Georgia law), late charges as determined by Board resolution, costs, and attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the rate of Fifteen Percent (15%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Default By Association: Upon default by the Association in payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Areas, which default shall continue for a period of six (6) months, each

Owner of a Lots shall become personally obligate to pay the jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of Lots in the Properties. If the sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the Owner, his or her heirs, devisees, personal representatives, and assigns. The taxing or assessing jurisdiction may either bring an action at law against the Owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the Owner.

Section 12. Exempt Property. The following Property subject to this Declaration shall be exempt from the assessments, charges and liens created herein:

- (a) All properties to the extent of any easement or any interest therein dedicated and accepted by the local public authority and devoted to public use;
- (b) All Common Areas;
- (c) All properties exempt from taxation by State and Local governments upon the terms and to the extent of such legal exemption;

Section 13. Exemption for Assessments for Property Owned by Developer or Builders. The Developer and Builders may be exempt from annual assessments on unoccupied Lots only during the Class B membership provided and for so long as Developer and Builders shall fund all Association operating deficits. A Lot initially occupied or conveyed to an Owner, other than the Developer or Builder shall be fully assessed. The obligation to fund budget deficits is a lien against all the land owned by the Developer and Builders, as appropriate, included within the Property.

ARTICLE VI

ARCHITECTURAL CONTROL

Section 1. The Architectural Review Board. An Architectural Review Board consisting of one (1) or more persons shall be appointed by the Developer. At such time as the Developer no longer has an interest in developing the Property, the Board of Directors of the Association, or an architectural committee shall be composed of three (3) or more representatives to be filled by a majority vote of the remaining members of the Board.

Section 2. Purpose. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Property and of the improvements thereon in such a manner as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. The Architectural Review Board shall promulgate standards and guidelines appropriate to the character of each increment, phase, or parcel of the Property. Such standards and guidelines shall be generally distributed among the Members.

Section 3. Conditions. No improvements, landscaping, alterations, changes, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any Property or the improvements located thereon from its natural or improved state existing on the date such Property was first conveyed in fee by the Developer or Builder to an Owner or to the Association shall be made or done without the prior written approval of the Architectural

Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, satellite dish or signage shall be commenced, erected, maintained, improved, altered, made, or done without the prior written approval of the Architectural Review Board.

Section 4. Procedures. In the event the Board fails to approve, modify, or disapprove in writing an application within sixty (60) days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. At least a majority of the Members of the Architectural Review Board, either in person or by telephone conference call, shall constitute a quorum. A majority vote of the Members of the Architectural Review Board shall be required for Review Board action.

ARTICLE VII USE OF PROPERTY

Section 1. Protective Covenants.

(a) Rules and Regulations for the Common Areas. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Property and the Common Areas. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

(b) Nuisances. No nuisance shall be permitted to exist or operate upon any Property so as to be detrimental to any other Property in the vicinity thereof or to its occupants. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Examples of such offensive activities shall include, but not be limited to, the origination or emission of any loud or disturbing noise or vibration; the maintenance of an auto repair site, the maintenance of unsightly outdoor storage of personal property (including toys, motorcycles, or other motor vehicles, tricycles, bicycles, wood piles or other miscellaneous items) on porches, patios, terraces or yards; or similar unsightly activity not in keeping with the aesthetic character and high level of appearance of the community. Child and adult day care, garage sales, and outdoor clothes lines are expressly prohibited under this section. Amateur radio and marine base station antennas are prohibited.

(c) Restriction on Further Subdivision. No Lot shall be further subdivided or separated into smaller Lots by any Owner except Developer; provided that this prohibition shall not prohibit deeds of correction, deeds to resolve boundary line disputes and similar corrective instruments.

(d) Minimum Square Footages. The minimum square footage of a dwelling (heated) located on any Lot in the Subdivision shall be 1200 square feet.

(e) Other Restrictions. The Architectural Review Board shall adopt general rules regarding the use of the Property, including but not limited rules to regulate animals, satellite dishes, antennas, signs, parking, storage and use of recreational vehicles, storage and use of machinery, trash containers, planting, maintenance and removal of vegetation on the Property. Without limiting the

generality of the foregoing, the following restrictions shall apply to the Property:

(i) No roof vents will be installed on the front side (street side) of any residence, and all roof vents shall be painted a color to match the color of the roof.

(ii) Local ordinances shall be followed with regards to pets.

(iii) All Lots shall only be used for single-family residential purposes.

(iv) Leasing- Lots and improvements thereon may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval, in its sole discretion. All leases must be for an initial term of not less than twelve (12) months, except with written Board approval in its sole discretion. All leases shall require the tenants to comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other occupants and guests of the leased Lot to comply with this Declaration. "Short-term" and Vacation rentals are not permitted in this community.

(f) Exceptions. The Architectural Review Board may alter or issue variances from any covenant or requirement expressed or implied by this Article or set forth in any restrictive covenants promulgated pursuant to this Declaration or any supplementary declaration. The issuance of a variance by the Architectural Review Board will not operate to set any precedent or otherwise preclude or negate the power and authority of the Architectural Review Board as set forth herein.

(g) Parking of Vehicles and Use of Property. No commercial vehicle, house trailer, boat, boat trailer, camper, tent, shed, or any other such vehicle, trailer, vessel or temporary structure shall be permitted to be parked or placed within the Properties except within area(s) which may be specifically designed for such purposes by the Association; provided however, commercial vehicles, temporary buildings and other structures shall be permitted during the construction period by the Developer or Builders or as a temporary real estate sales office or construction office of the Developer or Builders. All parking shall be on driveways or in garages and not on any landscaped or lawn area. No parking is permitted on the streets within the Property except for temporary loading and unloading. No garage, outbuilding, or other appurtenant structure shall be used for residential purposes, either temporarily or permanently, nor shall any portion of the Property (except as expressly stated in the proceeding sentence) be used except for residential purposes and for purposes incidental or necessary thereto. Home offices shall be allowed provided it does not create any traffic other than Owners and occupants within the Property. "Residential purposes" means residing in a Lot for any period of time.

(h) Signs and Visible Areas. With the exception of signs erected by the Developer or Builders, no sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any Lot or any improvement thereon without the prior written consent of the Board of Directors of the Association. Nothing shall be caused or permitted to be hung or displayed on the outside or inside of windows (except inoffensive blinds, drapes or curtains) or placed on the outside walls of a Lot or otherwise outside of a Lot, or any part thereof, and no sign (except those of the Developer or Builders), awning, canopy, shutter, or television or citizen's band

or other radio antenna or transmitter, satellite dish or other device or ornament shall be affixed to or placed on the exterior walls or roof or any part thereof, or in or on a patio or balcony unless authorized by the Board, and subject to the rules and regulation as the Board may adopt from time to time.

(i) Animals. No animal, livestock or poultry of any kind shall be raised, bred or kept on any Lot; provided, however, dogs, cats or other household pets may be kept, not to exceed the total allowed under the applicable animal control laws and ordinances of Chatham County, Georgia, or other controlling governmental entity.

(j) Control of Pets. Every person owning or having possession, charge, care, custody or control of any dog, cat or other uncaged pet shall keep such pet exclusively inside his own residential unit or inside the confines of such Owner's Lot; provided, however, this such pet may be off the Owner's Lot if it be under the control of the competent person and restrained by a chain, leash or other means of adequate physical control if such freedom from restrain is allowed by the applicable Animal Control Laws. All Owners must control their pets at all times, whether or not such Owner is present, in a manner that will prevent any pet or its Owner from being in violation of the applicable Animal Control Laws.

(j) Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the property. The sanitary containers shall only be placed outside at the earliest the evening before garbage pick day and shall be immediately returned inside an enclosed area after garbage has been picked up. No trash, garbage, or other waste may be placed within the Common Areas, except in containers approved by the Board of Directors.

(k) Storage. No household furnishings, equipment, lawn furniture or related personal property, including children's play objects, grills, bicycles, and lawn ornament of the Owner shall remain outside the residential unit or garage overnight, unless ARB approval is received.

(l) Fines and Penalties. The association, by the Board of Directors, may impose fines and penalties for any violation of this Declaration or this Article. The Owners and Members consent to the Board making such determination and assess reasonable fines for violations of the Declaration, Bylaws, Articles of Incorporation, and Rules and Regulations and consent to the Association recording a lien against the Owner's or Member's Lot as a charge for such fines, in the same manner and with the same effect as for liens provided hereunder for non-payment of assessments. The following procedure shall govern the imposition of the fines: (i) the Association shall give written Notice of Violation of the Declaration, Bylaws, Articles of Incorporation, and Rules and Regulations adopted by the Board of Directors; (ii) if the Owner or Member does not respond within ten (10) days of the date of the Notice of Violation, the Owner or Member shall be deemed to have agreed with such determination; (iii) if the Owner or Member objects to such Notice of Violation, it shall provide all written evidence as to why such action does not constitute a

violation of the Declaration, Bylaws, Articles of Incorporation or Rules and Regulations within (10) days of the date of the Violation; (iv) the Board shall consider all written evidence submitted by the Owner or Member and shall make a final determination thereon before taking additional action. (v) the Association, through the Board of Directors, shall respond to an Owner's or Member's objection in writing with a final determination on the issues; (vi) if the Owner or Member does not adhere to the Association's initial determination or final determination, if applicable, the Association shall be entitled to levy reasonable fines to be applied as additional HOA dues.

(m) Rules and Regulations. Rules and Regulations concerning the use of the Lots may be promulgated by the Association acting by and through its Board of Directors, each of which shall be deemed to be incorporated herein by reference and made a part thereof, as amended from time to time. The Association shall deliver such rules and regulations to Owners prior to the time that they become effective. The rules and regulations promulgated from time to time shall be deemed to be reasonable and enforceable, so long as they bear any relationship to the safety, health, happiness and enjoyment of the Owners, and in furtherance of a plan to provide for the congenial occupation of the Lots, to promote and protect the cooperative aspects of ownership, the value of the Lots and/or facilitate the administration of the community as a first class, safe, healthy, happy, quiet and restful residential community. The board of directors of the Association is hereby granted specific power and authority to enforce said rules and regulations.

Section 2. Exterior Maintenance. In addition to the maintenance upon the Common Area and the exterior fences, the Association may provide, in the Board's discretion, exterior maintenance upon each unit which is subject to assessment hereunder, as follows: landscape maintenance (e.g. mowing, trimming, pruning and fertilizing), periodic and scheduled replacement of roofs, painting of front doors, trim, front porch columns, and window shutters periodically as needed, repair and replacement of window shutters. Repairs to the exterior of the home and roof repairs are the responsibility of the Owner. Replacement of trees, shrubs or grass on private property will be the responsibility of the individual Owners. An easement of ingress and egress over, across and upon the Lots within the Development is hereby granted to the Association for the purpose of performing the maintenance described herein, including but not limited to the right and authority to manually activate or deactivate the landscape irrigation system on each lot.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or tenants of the Owner of the Lot needing such maintenance or repair, the cost of each exterior maintenance or repair shall be added to and become a part of the assessment to which such Lot is subject.

Unit exteriors will be maintained individually by each Owner to a maintenance standard that is consistent with other units in the subdivision. Doors, windows and screens shall be maintained in good working order, pathways and entranceways will be kept in good repair and free of obstruction and building trim and siding will be kept clean and in good repair.

In the event an Owner of any Lot shall fail to maintain said Lot and the improvements

situated thereon, as provided herein, the Association, after notice to the Owner as provided in the By-Laws and approval of the Board of Directors, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the buildings and other improvements erected thereon. All costs related to such correction, repair, or restoration shall become a special maintenance assessment upon such Lot and shall constitute a lien in the same manner as provided hereinunder for non-payment of assessments.

ARTICLE VIII EASEMENTS

All of the Property, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking area, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, cable, and electric power line and other public utilities as shall be established by the Developer or by its predecessors in title; further, the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property. In addition, there is hereby reserved by the Developer, Builders and their agents and employees an easement and right of ingress, egress, and regress across all Common Areas, now or hereafter owned by the Association, for the purpose of construction of improvements within the Properties, including the right of temporary storage of construction materials on said Common Areas.

So long as the Developer owns any property described on Exhibit "A" and has the right to add any additional property to the Property by supplement, the Developer reserves blanket easement and the right to grant such specific easements over all the Property, including Lots and Common Areas, as may be necessary in conjunction with the orderly development of the property described on Exhibit "A" or any adjacent property (including without limitation the planning, construction, marketing, leasing, management and maintenance of improvements) for use, enjoyment, access, construction and maintenance of public or private utilities and storm drainage (whether subsurface or surface). No such easement may be located within the area beneath any building located thereon.

All Lots shall be subject to easement for the encroachment of initial improvements encroachments including, but not limited to, such items as overhanging eaves and walls.

Developer reserves access easement over all Lots for construction, either for that Lot or any adjacent property and easement for the installation of public or private utilities and storm drainage (whether subsurface or surface). There are reserved cross-easements in favor of Owners of Lots that comprise a building for access to and from each other Lot comprising the building and the Common Area adjacent to the Lots comprising the building, including, but not limited to the transportation of rollout garbage containers; however, this does not include access to approved decks, patios or areas with approved fences.

ARTICLE IX

EASEMENTS AND PARTY WALLS

Section 1. Easements for Encroachments. If any portion of a Lot or Unit encroaches upon any Lot or any Unit as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement for the encroachment and for the maintenance of the same shall exist so long as the encroachment exists. This easement for encroachment includes, but is not limited to, eaves, walls, decks, balconies, porches and overhangs.

Section 2. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Units upon the Property and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 3. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 4. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this instrument shall be appurtenant to the land and shall pass to such Owner's successors in title.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all provisions, restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, including rules and regulations promulgated pursuant to the authority set forth herein, the Articles of Incorporation, or the By-Laws of the Association. Owners shall be liable for costs and expenses incurred by the Association as a result of acts or omissions of such Owner or such Owner's tenants, agents, employees, invitees, guests and household members in failing to comply with rules or regulations of the Association or other terms and provisions of this Declaration. Said costs and expenses shall include attorney's fees actually incurred. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association, through its Board of Directors, shall also

have the authority and power to levy fines in amounts as reasonably determined by the Association for the failure to comply with rules and regulations of the Association or other terms and provisions of this Declaration. Said fines shall be collected in the same manner as assessments and shall likewise constitute a lien upon the Lot of such Owner who has failed to comply or whose tenants, agents, employees, invitees, guests and household members have failed to comply.

Section 1.1 Dispute Resolution and Limitation on Litigation.

(a) Notwithstanding any provision herein to the contrary, Declarant, the Association and its officers, directors, and committee members, all Owners (and tenants) subject to this Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article (each being a "Bound Party"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Property without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 1.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

(i) the interpretation, application, or enforcement of the Declaration, bylaws, rules, regulations, standards and guidelines governing the Association ("Governing Documents");

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within the Property other than matters of judgment of the ARB under Articles VI and VII, which shall not be subject to review; except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 1.2;

a) any suit by the Association to collect assessments or other amounts due from any Owner;

b) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve *the* Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);

- c) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- d) any suit in which any indispensable party is not a Bound Party; and
- e) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 1.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

Section 1.2 Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 1.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Chatham County area,

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

Each party shall bear its own costs of the mediation, including attorneys' fees, and each party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one noncomplying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorney& fees and court costs.

Section 1.3 Initiation of Litigation by Association. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Members entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section 1.3 shall not be amended unless by the Declarant or unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. Following the expiration of the Class "B" Control Period, material amendments or extraordinary actions must be approved by Members entitled to cast at least

Sixty-Seven (67%) Percent of the votes of Members present, in person or by proxy, and voting at any meeting of the Association held for such purpose. Notwithstanding the foregoing or any other provisions contained herein to the contrary, the Declarant reserves the right to make changes, revisions, or amendments necessary to comply with the requirements of HUD, Fannie Mae, Freddie Mac, or the VA.

(a) A material amendment includes adding, deleting or modifying any provision regarding the following:

- (i) Assessment basis or assessment liens;
- (ii) Any method of imposing or determining any charges to be levied against individual unit owners;
- (iii) Reserves for maintenance, repair or replacement of Common Area improvements;
- (iv) Maintenance obligations;
- (v) Allocation of rights to use Common Areas;
- (vi) Any scheme of regulation or enforcement of standards for maintenance, architectural design, or exterior appearance of improvements;
- (vii) Reduction of insurance requirements;
- (viii) Restoration or repair of Common Area improvements, or for reconstruction following condemnation or casualty loss;
- (ix) The addition, annexation or withdrawal of land to or from the project, except as provided in Article II of this Declaration;
- (x) Voting rights;
- (xi) Restrictions effecting leasing or sale of Lots; or
- (xii) Any provision which is for the express benefit of mortgagees.

(b) An extraordinary action includes:

- (i) Merging or consolidating the Association (other than another non-profit entity formed for purposes similar to the subject Association);
- (ii) Determining not to require professional management if that management has been required by the Association documents, a majority of eligible mortgagees or a majority vote of the Members;
- (iii) Expanding the Association to include land not previously described as additional land which increases the overall land area of the project or number of lots by more than Ten (10%) Percent;
- (iv) Abandoning, partitioning, encumbering, mortgaging, conveying or selling or otherwise transferring or relocating the boundaries of Common Areas (except for granting easements which are not inconsistent or which do not interfere with the intended Common Area use, dedicating Common area as required by a public authority, limited boundary line adjustments made in accordance with the provisions of this Declaration, or transferring Common Area pursuant to a merger or consolidation with a non-profit entity formed for purposes similar to

the subject Association);

(v) Using insurance proceeds for purposes other than construction or repair of the insured improvements; or

(vi) Making capital expenditures (other than for repair or replacement of existing improvements) during any period of twelve (12) consecutive months costing more than Twenty (20%) Percent of the annual operating budget.

(c) Meetings of the Membership to approve a material amendment or extraordinary action shall require at least twenty-five (25) days advance notice to all members. The notice shall state the purpose of the meeting and contain a summary of any material amendments or extraordinary actions proposed. The notice shall contain a copy of the proxy that can be cast in lieu of attendance at the meeting. The quorum for such a meeting shall be at least Twenty Percent (20%) of the total number of votes.

(d) Any material amendment which changes the rights of any specific class of Members must also be approved by Members entitled to cast at least Fifty One (51%) Percent of the votes of all members of such class present, in person or by proxy, and voting at any meeting of the Association held in accordance with the provisions hereof, or at least Fifty One (51%) Percent of the total authorized votes of all members of such class.

(e) During the Declarant control period, all material amendments and extraordinary actions must have the approval of the VA, if the VA has guaranteed any loans secured by Lots in the project. Approval shall be deemed given should the VA not respond within thirty (30) days of receipt of notice of material amendments and extraordinary actions.

Section 4. The following material amendments and extraordinary actions must be approved by Members entitled to cast at least 67% of the total authorized votes of all Members of the Association, including at least a majority of the total authorized votes entitled to be cast by Members other than the Declarant:

(a) Termination of the Declaration or other termination of the planned unit development;

(b) Dissolution of the Association except pursuant to a consolidation or merger; and

(c) Conveyance of all common areas.

Section 5. All other amendments (other than material amendments or extraordinary actions following the expiration of the Class "B" Control Period) must be approved by at least a majority of the votes entitled to be cast by all Members present, in person or by proxy, and voting at any meeting of the Association at which a quorum is present, or in writing by Members entitled to cast at least a majority of the total authorized votes of all Members of the Association.

Section 6. Annexation. Additional residential property and Common Area may be annexed to the Property during the Class "B" Declarant Control Period as provided in Article II of this Declaration, and thereafter with the consent of two-thirds (2/3) of Members,

