

Upon Recording, please return to:
CRAIG LONG, LLC
2450 Atlanta Hwy., Suite 1904
Cumming, GA 30041

AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
GROVE PARK

THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THIS DEVELOPMENT OR ASSOCIATION TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, *ET SEQ.*, NOR IS IT INTENDED TO CREATE A CONDOMINIUM REGIME SUBJECT TO THE GEORGIA CONDOMINIUM ACT, O.C.G.A. § 44-3-70, *ET SEQ.*

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AMENDED & RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
GROVE PARK

THIS DECLARATION is made on the date hereinafter set forth by **Grove Park Community Association, Inc.**, a nonprofit Georgia corporation (hereinafter, the “Association”).

WHEREAS, that certain Declaration of Protective Covenants for Grove Park was executed by Hallock Communities, L.P. (hereinafter, “Original Declarant”) on December 14, 1993, and recorded in Deed Book 715, Pages 272, Forsyth County, Georgia Records, and re-recorded on December 27, 1993 at Deed Book 719, Page 231, Forsyth County, Georgia Records (the “Original Declaration”);

WHEREAS, a Supplementary Declaration of Protective Covenants for Grove Park was recorded by the Original Declarant on October 26, 1994 at Deed Book 800, Page 432, Forsyth County, Georgia Records (“First Supplementary Declaration”) for the purposes of annexing to the provisions of the Original Declaration certain portions of the real property described in Exhibit “C” to the Original Declaration, and more particularly described in Exhibit “A” to the First Supplementary Declaration, being known as Grove Park Phase II;

WHEREAS, an additional Supplementary Declaration of Protective Covenants for Grove Park was recorded by the Original Declarant on July 7, 1995 at Deed Book 868, Page 476, Forsyth County, Georgia Records (“Second Supplementary Declaration”) for the purposes of annexing to the provisions of the Original Declaration certain portions of the real property described in Exhibit “C” to the Original Declaration, and more particularly described in Exhibit “A” to the Second Supplementary Declaration, being known as Grove Park Phase III;

WHEREAS, another additional Supplementary Declaration of Protective Covenants for Grove Park was recorded by the Original Declarant on June 5, 1996 at Deed Book 984, Page 616, Forsyth County, Georgia Records (“Third Supplementary Declaration”) for the purposes of annexing to the provisions of the Original Declaration certain portions of the real property described in Exhibit “C” to the Original Declaration, and more particularly described in Exhibit “A” to the Third Supplementary Declaration, being known as Grove Park Phase IV;

WHEREAS, the Original Declarant, pursuant to its powers under Article IX, Section 1 of the Original Declaration, and in accordance with the provisions of that section, did subject all of those tracts or parcels described in the First Supplementary Declaration, Second Supplementary Declaration, and Third Supplementary Declaration so that all such real property, along with all of those tracts or parcels described in Article II, Section I of the Original Declaration, shall be sold, transferred, used, conveyed, occupied and mortgaged or otherwise encumbered pursuant to the provisions of the Original Declaration, all of which run with the title of such property and shall be binding upon all persons having any right, title or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title and assigns, and shall inure to the benefit of each and every owner of all or any portion thereof;

WHEREAS, the Association has found that the Original Declaration is legally deficient and in need of significant amendment and restatement in order to adequately protect the interests and rights of the Association and its membership therein;

WHEREAS, Article III, Section 4 of the Original Declaration states that the Original Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots and the consent of Original Declarant, so long as the Original Declarant owns any property for development and/or sale in the Community;

WHEREAS, the Original Declarant's prior written approval for amendment and restatement is not needed in order for the Association to amend and restate the Declaration of Covenants, Conditions and Restrictions as the Original Declarant does not own any property for development and/or sale in the Community, nor does the Original Declarant own any property subject to annexation to the Community;

WHEREAS, pursuant to Article III, Section 4 of the Original Declaration, and in accordance with the procedures for voting by written ballot set forth in Article II, Section 11 of the Bylaws of Grove Park Community Association, Inc. ("Bylaws"), attached and incorporated into the Original Declaration as Exhibit "D", the Association did obtain consent of two-thirds (2/3) of the membership to adopt this Amended and Restated Declaration of Covenants, Conditions, and Restrictions ("Amended & Restated Declaration");

WHEREAS, the Association desires for this Amended & Restated Declaration to become effective upon their recordation by the Clerk in the records of Forsyth County, Georgia;

WHEREAS, any disputes between or among the Association, its membership, and/or the Board of Directors arising prior to the effective date of this Amended & Restated Declaration shall be governed by the terms of the covenants, conditions, restrictions, easements, assessments, and liens as set forth in the Original Declaration;

WHEREAS, any disputes between or among the Association, its membership, and/or the Board of Directors arising after the effective date of this Amended & Restated Declaration shall be governed by the terms of the covenants, conditions, restrictions, easements, assessments, and liens as set forth within this Amended & Restated Declaration;

NOW, THEREFORE, the Association hereby declares that, as of the effective date of recordation of this Amended & Restated Declaration in Forsyth County, Georgia Records, the real property described in Exhibit "A" of this Amended & Restated Declaration, including the improvements constructed or to be constructed thereon, is hereby subject to the provisions of this Amended & Restated Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments, and liens, hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with title to, the real property hereby and hereafter made subject hereto, and shall be binding on all persons having any right, title, or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

This document does not and is not intended to create a condominium within the meaning of the Georgia Condominium Act, O.C.G.A. § 44-3-70, *et seq.*, nor a property owners' development within the meaning of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.*

ARTICLE 1. **DEFINITIONS**

The terms in this Amended & Restated Declaration and the attached exhibits and other Governing Documents shall be given their commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below:

1.1 “Articles of Incorporation” means the Articles of Incorporation of Grove Park Community Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference as may be amended from time to time.

1.2 “Association” means Grove Park Community Association, Inc., a Georgia nonprofit corporation, its successors, and assigns.

1.3 “Area of Common Responsibility” means the Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of the Original Declaration, this Amended & Restated Declaration, any Supplemental Declaration, or other applicable covenants, contract, or agreement.

1.4 “Board of Directors” or “Board” means the body responsible for administration of the Association, selected as provided in the Bylaws and serving as the board of directors under Georgia corporate law.

1.5 “Bylaws” or “Amended & Restated Bylaws” means The Bylaws of Grove Park Community Association, Inc. as they may be amended from time to time.

1.6 “Common Area” means all real and personal property, including easements and other interests in which the Association owns, leases, or otherwise holds possessory or use rights, together with the facilities and improvements located thereon, for the common use and enjoyment of the Owners.

1.7 “Common Expenses” means the actual or estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate.

1.8 “Community” means the real property and interests described in Exhibit “A,” together with such additional property as is subjected to this Amended & Restated Declaration in accordance with Article 7.

1.9 “Community-Wide Standard” means the standard of conduct, maintenance, or other activity generally prevailing throughout the Community. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Committee.

1.10 “Days” shall mean calendar days; provided, however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday, or legal holiday,

then such time period shall be automatically extended to the close of business on the next regular business day.

1.11 “Declarant” or “Original Declarant” shall mean and refer to Hallock Communities, L.P., a Georgia limited partnership, and its successors-in-title and assigns, provided any such successor-in-title or assign acquired, for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in *Exhibit “B” of the Original Declaration* or in *Exhibit “C” of the Original Declaration*, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign was designated as the “Declarant,” under the Original Declaration, by the grantor of such conveyance, which grantor being the “Declarant” under the Original Declaration at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as “Declarant” under the Original Declaration shall cease, it being understood that, as to all of the property described in *Exhibit “B” of the Original Declaration* and in *Exhibit “C” of the Original Declaration* which is now subjected to the Original Declaration, there shall be only one “Declarant” hereunder at any one point in time;

1.12 “General Assessment” shall mean assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Units.

1.13 “Governing Documents” shall be a collective term referring to this Amended & Restated Declaration, the Original Declaration (during any applicable period prior to the effective date of this Amended & Restated Declaration), all Supplemental Declarations of record, the By-Laws (during any applicable period prior to the effective date of the Amended & Restated Bylaws), the Amended & Restated Bylaws, the Articles, any architectural or design standards as provided for herein, the rules of the Association, and any additional covenants governing any portion of the Community or any of the above, as each may be amended.

1.14 “Member” shall mean a Person subject to membership in the Association pursuant to Article 3.

1.15 “Mortgage” shall mean any mortgage, deed to secure debt, deed of trust, and any and all other similar instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation.

1.16 “Mortgagee” shall mean the beneficiary or holder of a Mortgage.

1.17 “Occupant” shall mean any Person occupying all or any portion of a residence or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.18 “Original Declaration” shall mean that Declaration of Protective Covenants for Grove Park made by the Original Declarant, Hallock Communities, L.P. and recorded on December 14, 1993 in Deed Book 715, Page 272, Forsyth County, Georgia Records, and re-recorded on December 27, 1993 at Deed Book 719, Page 231, Forsyth County, Georgia Records.

1.19 “Owner” shall mean and refer to one or more Persons who hold record title to any Unit, but excluding, in all cases, any party holding an interest merely as security for the performance of an obligations.

1.20 “Person” shall mean a natural person, a corporation, a joint venture, a partnership, a limited liability company, an association, an individual acting in a fiduciary capacity, or any other legal entity.

1.21 “Plat” or “Plats” shall mean a Recorded plat applicable to the Community or phase of the Community.

1.22 “Record,” “Recorded,” or “Recording” shall mean any recordation or filing of any document in the records of the Office of the Clerk of the Superior Court of Forsyth County, Georgia or Forsyth County, Georgia.

1.23 “Special Assessment” shall mean assessments levied in accordance with Section 8.5.

1.24 “Specific Assessment” shall mean assessments levied in accordance with Section 8.6.

1.25 “Supplemental Declaration” shall mean any instrument Recorded which amends or supplements the Original Declaration or this Amended & Restated Declaration and which subjects additional property to the Original Declaration or imposes, expressly or by reference, additional or alternative restrictions and obligations on the land described therein, or both. This Amended & Restated Declaration is a form of Supplemental Declaration.

1.26 “Total Association Vote” shall mean all of the votes attributable to the members or Units of the Association whose voting rights, as of the record date of such action, have not been suspended by the Board pursuant to Section 3.2, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

1.27 “Unit” shall mean a portion of the Community, whether improved or unimproved, which is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on a Recorded subdivision Plat with respect to any portion of the Community, together with the structures, if any, constructed thereon, as well as vacant land intended for further subdivision, but shall not include Common Areas or property dedicated to the public.

1.28 “Use Restrictions and Rules” shall mean those use restrictions and rules affecting the Community, which may be adopted, modified, and repealed as set forth in Article 10. The initial Use Restrictions and Rules are set forth on Exhibit “B” to this Amended & Restated Declaration.

ARTICLE 2.
PROPERTY RIGHTS

2.1 Common Area.

Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Unit, subject to:

- (a) The Original Declaration, this Amended & Restated Declaration, and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board and/or the membership to adopt, amend, and repeal rules regulating the use and enjoyment of the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation of the Governing Documents, or for a longer period in the case of any continuing violation;
- (e) The right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of reasonable use fees, if any, established by the Board;
- (f) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit.

2.2 No Partition.

Except as permitted in this Amended & Restated Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Amended & Restated Declaration. This Article shall not prohibit the Board from acquiring or disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Amended & Restated Declaration.

2.3 Condemnation.

In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, then, unless within sixty days (60 days) after such taking, at least seventy-five percent (75%) of the total Units entitled to vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provision of Section 6.3, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

ARTICLE 3.
MEMBERSHIP AND VOTING RIGHTS

3.1 Membership.

Every Owner shall be a Member of the Association. There shall be only one (1) membership per Unit. If a Unit is owned by more than one Person, all Co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in the Bylaws, and all such Co-Owners shall be jointly and severally obligated to perform the responsibilities of owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument delivered to the secretary of the Association.

3.2 Voting.

Members shall be entitled to one vote for each Unit owned. When more than one Person holds an ownership interest in a Unit, the vote for such Unit shall be exercised as those Owners themselves determine and advise the Association's Secretary prior to any meeting or referendum.

The vote attributable to a Unit shall be suspended in the event more than one Person seeks to exercise it. The Board may suspend the voting rights of any Unit, and may suspend any vote sought to be exercised on behalf of such a Unit, if any assessment for said Unit is delinquent.

ARTICLE 4.
RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Function of the Association.

The Association shall be the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of this Amended & Restated Declaration, the Governing Documents, and such reasonable rules and use restrictions in the Community as the Board may adopt pursuant to Article 10. The Association shall perform its functions in accordance with the Governing Documents and laws of the State of Georgia.

4.2 Common Area.

The Association, subject to the rights of the Owners set forth in Section 2.1 of this Amended & Restated Declaration, shall manage and maintain the Common Area and all improvements thereon in a manner consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under the Governing Documents, the cost of which shall be a Common Expense.

4.3 Personal Property and Real Property for Common Use.

The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Any improved or unimproved real estate or interest in real estate, personal property, easements, leasehold, and other property interests conveyed to the Association by Declarant pursuant to the terms of the Original Declaration, shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association.

4.4 Enforcement.

The Board may impose sanctions for violations of the Governing Documents in accordance with procedures set forth in the By-Laws. Such sanctions may include, without limitation:

- (a) Imposing reasonable monetary fines which shall constitute a lien upon the Unit of the violator;
- (b) Filing liens in the Public Records for non-payment of any assessments or fees;
- (c) Filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (d) Suspending the Owner's right to vote;
- (e) Suspending any Person's right to use any recreational facilities within the Common Area, provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;
- (f) Suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty days (30 days) delinquent in paying any assessment or other charge owed to the Association; and
- (g) Levying Specific Assessments to cover costs incurred in bringing a Unit into compliance in accordance with Sections 5.1 and 8.6.

In addition, the Board may elect to enforce any provision of the Governing Documents by self-help, specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and the removal of pets that are in violation of pet rules or by suit at law or in equity to enjoin any violation and/or to recover monetary damages.

In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents, the Board may sanction such Occupant, guest, or invitee and/or the Owner of the Unit that the violator is occupying or visiting. In the event that a fine is imposed on any Occupant, guest, or invitee of a Unit for violation of the Governing Documents, the fine may first be assessed against the Occupant only, but if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.

All remedies set forth in this Amended & Restated Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorney's fees and court costs reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or estop the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and permit local governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.5 Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by this Amended & Restated Declaration or the Bylaws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.6 Indemnification.

The Association shall indemnify every officer, director, and Architectural Review Committee or committee member (the "Indemnified Parties") against all damages and expenses, including attorney's fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an Indemnified Party, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The Indemnified Parties shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such Indemnified Parties may also be Members of the Association). The Association shall indemnify and forever hold each such Indemnified Party harmless from any and all liability to others on account of any such contract, commitment, or action. This right to indemnification shall not be exclusive of any other rights to which any present or former Indemnified Party may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation if such insurance is reasonably available.

Decisions whether to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party. In deciding whether to bring a civil action against another party, a director is protected by the business judgment rule as explained in the Bylaws.

4.7 Dedication of Common Areas.

The Association, acting through the Board, may dedicate portions of the Common Areas to Forsyth County, Georgia, or any other local, state, or federal governmental or quasi-governmental entity.

4.8 Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Grove Park Community. The Association may, but shall not be obligated to, maintain, or support certain activities within the Community designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. The Association shall in no way be considered an insurer or guarantor of safety or security within the Community, nor shall the Association be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any security system or measures, including any mechanism or system for limiting access to the Community, cannot be comprised, or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board, and committees are not insurers or guarantors of safety or security and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

4.9 Provision of Services.

The Association may provide services and facilities for the Members of the Association and their guests, lessees, and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense or charge to Owners as Specific Assessments. By way of example, some services and facilities which may be provided include landscape maintenance, garbage collection, cable television service, Internet, intranet and other computer-related services, security, utilities, and similar services and facilities. The Board, without the consent of the Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

4.10 Agreements.

All agreements and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community; and in performing its responsibilities hereunder, the Association, through its Board, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall deem necessary or desirable of the proper operation of the Community, whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or with which it contracts.

All costs and expenses incident to the employment of a manager shall be a Common Expense. During the term of such management agreement, such manager may, if authorized by the Board, exercise all of the powers or duties specifically and exclusively reserved to the trustees, officers, or members of the Association by this Amended & Restated Declaration and Bylaws. Such manager may be an individual, corporation, or other legal entity, as the Board of Directors shall determine, and shall be bonded in such manner as the Board may require, with the costs of acquiring any such bond to be a Common Expense. In addition, the Association may pay for, and the Board may hire and contract for, such legal and accounting services as are necessary or desirable in connection with the operation of the Community or the enforcement of the Governing Documents or the rules and regulations of the Association.

ARTICLE 5. **MAINTENANCE**

5.1 Association's Responsibility.

The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair, and replacement of all landscaping and improvement situated on the Common Property.

The Association shall also maintain, whether or not constituting Common Property:

- (a) All Community entry features, including entry area landscaping, any irrigation system, and expenses for water and electricity, if any, provided to all such entry features;
- (b) Streetscapes located at street intersections within the Community;
- (c) All cul-de-sac islands located in the Community;
- (d) Landscaping originally installed by Declarant, whether or not such landscaping is on a Unit or public right-of-way;

- (e) All drainage systems, storm water retention, or detention systems of the community to the extent maintenance is required in the Board's opinion and such area is not to be maintained by a governmental entity or third-party;
- (f) All property outside of Units located within the Community which was originally maintained by the Original Declarant.

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

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the family, guests, lessees, or invitees of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be assessed against the Owner as a Specific Assessment to which such Owner is subject and shall become a lien against the Unit of such Owner.

All maintenance by the Association shall be performed consistent with the Community-Wide Standard and this Amended & Restated Declaration.

The Association shall not be liable to any Owner, or any Owner's Occupant, guest, or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. 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 perform some function required to be taken or performed by the Association under this Amended & Restated Declaration, or for inconvenience or discomfort arising from the making of repair or improvements which are the responsibility of the Association.

There are hereby reserved to the Association blanket easements over the Community as necessary to enable the Association to fulfill its maintenance responsibilities under Section 5.1. The Association shall maintain the facilities and improvements within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing two-thirds (2/3) of the Total Association Vote agree in writing to discontinue such operation.

Except as otherwise provided herein, all costs associated with the Association's maintenance responsibilities shall be a Common Expense to be allocated among all Units as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the Owner(s) of, or other Persons responsible for, certain portions of the Areas of Common Responsibility pursuant to this Amended & Restated Declaration, other recorded covenants, or agreements with the Owner(s) thereof.

5.2 Owner's Responsibility.

Except as provided in Section 5.1 above, all maintenance of the Unit and all structures, parking areas, landscaping, and other improvements thereon shall be the sole responsibility of the

Owner thereof, who shall maintain such Unit in a manner consistent with the Community-Wide Standard and this Amended & Restated Declaration.

In the event that the Board determines that any Owner has failed or refused to discharge properly any of the Owner's obligations with regard to the maintenance, repair, or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The Notice shall set forth, with reasonable particularity, the maintenance, repairs, or replacement deemed necessary. The Owner shall have ten days (10 days) after receipt of such notice within which to complete such maintenance, repair.

In the event that such maintenance, repair, or replacement is not capable of completion within a ten-day (10 day) period, the Owner must notify the Association of such and commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be assessed against the Owner and the Unit as a Specific Assessment.

5.3 Party Walls and Party Fences.

Each wall or fence that is built as part of the original construction on the Units which serves as the dividing line between two Units and/or separates any two adjoining Units shall constitute a party wall or fence. 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 negligence or willful acts or omissions shall apply.

The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions. If a party wall or fence is destroyed or damaged by fire or other casualty then, to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who had used the wall or fence may restore it. If other Owners use the party wall or fence thereafter, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions. The right of any Owner to contribution from any other Owner under this Paragraph shall be appurtenant to the land and shall pass to such Owner's successor-in-title.

ARTICLE 6. **INSURANCE & CASUALTY LOSSES**

6.1 Insurance on Common Property.

The Board or the duly authorized agent of the Association shall have the authority to and shall obtain or cause to be obtained insurance for all insurable improvements whether or not located on the Common Property which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire, and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction

in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase “all-risk” coverage in like amounts.

The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its Members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors’ and officers’ liability insurance. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00).

Premiums for all insurance shall be Common Expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee for the respective benefitted parties, as further identified in Subparagraph (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company authorized to do business in Georgia;
- (b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association’s Board, provided, however, no Mortgages having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto;
- (c) In no event shall the insurance coverage obtained and maintained by the Association’s Board hereunder be brought into contribution with insurance purchased by individual owners, Occupants, or their mortgagees, and the insurance carried by the Association shall be primary;
- (d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located;
- (e) The Association’s Board shall be required to make every reasonable effort to secure insurance policies that will provide for:
 - i. A waiver of subrogation by the insurer as to any claims against the Association’s Board, its manager, the Owners, and their respective tenants, servants, agents, and guests;
 - ii. A waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
 - iii. That no policy may be cancelled, invalidated, or suspended on account of any one or more individual Owners;
 - iv. That no policy may be cancelled, subjected to non-renewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or

employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defeat or to cause the conduct and the allowance of a reasonable time thereafter within which a cure may be affected by the Association, its manager, any Owner, or Mortgagee;

- v. That any “other insurance” clause in any policy exclude individual Owners’ policies from consideration;
- vi. That no policy may be cancelled, subjected to non-renewal, or substantially modified without at least thirty days (30 days) prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker’s compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other person handling or responsible for the Association’s funds, if reasonably available. If obtained, the amount of fidelity coverage shall be determined in the directors’ best business judgment and, if available, shall at least equal three months’ assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled, subjected to non-renewal, or substantially modified without at least thirty days’ (30 days’) prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs (“VA”), or the U.S. Department of Housing and Urban Development (“HUD”).

6.2 Individual Owners’ Insurance.

By virtue of taking title to a Unit subject to the terms of the Original Declaration and this Amended & Restated Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Units, and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Unit and all structures constructed thereon and a liability policy covering damage or injury occurring on a Unit. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an “all-risk” policy, if reasonably available, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If all-risk coverage is not reasonably available, Owners shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner. The Association shall have the right, but not the obligation, at the expense of the Owner, to acquire the insurance required to be maintained by the Owner if the Owner fails to provide a valid policy to the Association with a pre-paid receipt within ten days (10 days) after receipt by the Owner of a written request from the Association. If the Association does acquire insurance on behalf of any Owner, the cost thereof shall be assessed against the Owner and the Unit as a Specific Assessment.

6.3 Damage and Destruction – Insured or Covered by Association.

Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair and reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Board shall have the enforcement powers specified in Sections 4.4 and 9.8 of this Amended & Restated Declaration necessary to enforce this provision.

Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty days (60 days) after the casualty, at least seventy-five percent (75%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty days (60 days). No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

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

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

6.4 Damage and Destruction – Insured or Covered by Owners.

The damage or destruction by fire or other casualty to all or any portion of any improvement on a Unit shall be repaired by the Owner thereof within seventy-five days (75 days) after such damage or destruction or, where repairs cannot be completed within seventy-five days (75 days), they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Unit and remove all debris therefrom within seventy-five days (75 days) after such damage or destruction. In the event of non-compliance with this provision, the Board shall have all enforcement powers specified in Sections 4.4 and 9.8 of this Amended & Restated Declaration.

6.5 Insurance Deductible.

The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

ARTICLE 7.
ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation Without Approval of Membership.

Article II, Section 1, Paragraph (a) of the Original Declaration provided that Declarant shall have the unilateral right, privilege, and option, from time to time, at any time until five years (5 years) after the recording of the Original Declaration, to subject all or any portion of the real property described in Exhibit "C" to the Original Declaration to provisions of said Original Declaration and the jurisdiction of the Association by filing for record in the county in which the property to be annexed is located a Supplementary Declaration describing the property being subjected. Further, the Original Declaration provided that, as long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend the Original Declaration to reflect the different character of any such annexed real property.

Within five years (5 years) of the Original Declaration, Declarant did unilaterally annex portions of property described in Exhibit "C" to the Original Declaration, and to the provisions of the Original Declaration, by recording Supplementary Declarations describing the property being subjected as follows:

- (a) Declarant unilaterally annexed additional property by recording a Supplementary Declaration on October 26, 1994 at Deed Book 800, Pages 432-434, Forsyth County, Georgia Records and annexing the property depicted in the Final Subdivision Plat of Grove Park Phase II, dated August 29, 1984, which plat was recorded in Plat Book 41, Pages 31-33, Forsyth County, Georgia land records, and which property is more specifically described in Exhibit "A" to said Supplementary Declaration;
- (b) Declarant unilaterally annexed additional property by recording a Supplementary Declaration on July 7, 1995 at Deed Book 868, Pages 476-478, Forsyth County, Georgia Records and annexing the property depicted in the Final Subdivision Plat of Grove Park Phase III, dated April 17, 1995, which plat was recorded at Plat Book 43, Pages 72-78, Forsyth County, Georgia land records, and which property is more specifically described in Exhibit "A" to said Supplementary Declaration;
- (c) Declarant unilaterally annexed additional property by recording a Supplementary Declaration on June 5, 1996 at Deed Book 984, Pages 616-618, Forsyth County, Georgia Records and annexing the property depicted in the Final Subdivision Plat of Grove Park Phase IV, dated May 6, 1996 and revised May 20, 1996, which plat was recorded at Plat Book 46, Pages 205-209, Forsyth County, Georgia land records, and which property is more specifically described in Exhibit "A" to said Supplementary Declaration.

Declarant conveyed to the Association, by Warranty Deed dated December 28, 1995 and recorded at Deed Book 928, 191, certain property within the Community as depicted on Plat Book 45, Page 106, Forsyth County, Georgia records and more particularly described in the legal description within said Warranty Deed.

Declarant also conveyed to the Association, by Warranty Deed dated March 13, 2001 and recorded at Deed Book 1866, Page 85, certain property within the Community as depicted on Plat Book 41, Pages 59-63, Forsyth County, Georgia records and more particularly described in the legal description within said Warranty Deed.

As five years (5 years) have passed since the recording of the Original Declaration in Forsyth County, Georgia records, Declarant no longer has the right to unilaterally annex property to the provisions of the Original Declaration or this Amended & Restated Declaration. Additionally, Declarant no longer owns any property for development and/or sale in the Community.

7.2 Other Annexation – With Approval of Membership

Subject to the consent of the Owners thereof, upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Units, the Association may annex real property to the provisions of this Amended & Restated Declaration and the jurisdiction of the Association by filing for record in the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President of the Association whose signature shall be attested by the Secretary of the Association, and any such annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

ARTICLE 8. **ASSESSMENTS**

8.1 Purpose of Assessment.

The assessments provided herein shall be used for the general purpose of promoting the recreation, health, common benefit, and enjoyment of the Owners and Occupants of Units, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board.

8.2 Types of Assessments.

There are hereby created, and the Association is authorized to levy three types of assessments: (a) General Assessments as described in Section 8.4; (b) Special Assessments as described in Section 8.5; (c) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay those assessments.

8.3 Personal Obligation and Lien.

All assessments, together with interest, computed from the due date of such assessment at a rate of eighteen percent (18%) per annum or such higher rate as the Board may establish, subject to the limitation of Georgia law, late charges established by Board resolution, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Unit and also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of the title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for issuance of such certificate.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to the Unit and impose special requirements for Owners with a history of delinquent payment. The General Assessment shall be an annual assessment due and payable in advance on the first day of each fiscal year; provided, the Board may by resolution permit payment in two or more installments. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may accelerate the installments and require all of the General Assessments to be paid in full immediately.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials for payment of Common Expenses.

8.4 General Assessments; Computation of General Assessments.

At least thirty days (30 days) before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year. General Assessments shall be fixed at a uniform rate for all Units subject to assessment. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units.

The budget and notice of the amount of the General Assessment for the following year shall be available to each Owner at least thirty days (30 days) prior to the assessment or installment due date. Such budget and assessment shall become effective unless disapproved at a meeting by

the Total Association Vote. There shall be no obligation to call such a meeting unless a petition for a special meeting is presented to the Board within ten days (10 days) of the delivery of the notice of assessment.

If a budget is not adopted for any year, then until such time as a budget is adopted, the budget in effect for the immediately preceding year shall continue for the current year.

8.5 Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any Special Assessment which would exceed the amount of the General Assessment in any fiscal year shall require the affirmative vote or written consent of a majority of the total Members of the Association entitled to vote. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Special Assessments shall be levied equally on all Units subject to Assessments.

8.6 Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit or Units to cover costs incurred in bringing the Unit into compliance with the terms of the Governing Documents or other rules, or for costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with Section 3.2 of the Bylaws before levying an Specific Assessment under this Section.

8.7 Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, costs of collection, and attorney's fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record, meaning any Recorded Mortgage with first priority over other Mortgages, made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Georgia law.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While the Association owns a Unit following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged the foreclosed Unit had it not be acquired by the Association. The Association may sue for unpaid assessments and other charged authorized hereunder without foreclosing or waiving the line securing the same.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such

assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment, including such acquirer, its successors, and assigns.

8.8 Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessment or installments thereof which are not paid when due shall be delinquent. The Board of Directors may suspend the voting rights of any Unit, and may suspend any vote sought to be exercised on behalf of such a Unit, if any assessment for said Unit is delinquent. Any assessment or installment thereof delinquent for a period of more than ten days (10 days) shall incur a late charge in an amount as the Board may from time to time determine.

The Association shall cause a notice of delinquency to be given to any Member who has not paid within ten days (10 days) following the due date. If the assessment is not paid within thirty days (30 days), a lien, as herein provided, shall attach and, in addition, the lien shall include interest, not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due from the date first due and payable, all late charges, all costs of collection, including without limitation, reasonable attorney's fees actually incurred, and any other amount provided or permitted by law.

In the event that the assessment remains unpaid after sixty days (60 days), the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose on its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property.

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

8.9 Date of Commencement of Assessments.

The obligation to pay assessments shall commence as to each Unit on the first day of the month following the transfer or conveyance of an improved Unit with a certificate of occupancy to a Person for residential use. The first annual General Assessment levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

8.10 Failure to Assess.

Failure of the Board to fix assessment amounts or rate or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which a General Assessment was made, if any, until a new General Assessment is levied, at which time the Association may retroactively assess any shortfalls in collection.

8.11 Exempt Property.

The following property shall be exempt from payment of assessments:

- (a) All Common Area;
- (b) Any property dedicated to and accepted by any governmental authority or public utility.

ARTICLE 9.
ARCHITECTURAL STANDARDS

9.1 General.

No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Original Declarant, or as is approved in accordance with this Article 9, or as is otherwise expressly permitted herein.

9.2 Architectural Review Committee (“ARC”).

No exterior construction, addition, erection, or alternation shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by an Architectural Review Committee (“ARC”). The ARC may be established such that it is divided into two subcommittees, with one jurisdiction over new construction.

The Board may employ architects, engineers, or other Persons as it deems necessary to enable the ARC to perform its review. The ARC may, from time to time, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified Persons, which shall have full authority to act on behalf of the ARC for all matters delegated. If the Declarant does not own any property for development and/or within the Community, and if the Declarant no longer has the right to unilaterally annex additional property to the Community, the Board shall appoint the members of the ARC.

9.3 Design Guidelines.

The Board has the authority to promulgate architectural standards or design guidelines (“Design Guidelines”) or procedures for the exercise of the ARC’s review for the Community. The Design Guidelines may provide for a review fee. The ARC shall have the authority to amend the Design Guidelines with the consent of the Board. Design Guidelines are not the exclusive basis for decisions, but they may provide guidance on specific matters.

9.4 Procedures.

Prior to commencing any activity subject to review, an Owner shall submit an application for approval of the proposed work to the ARC. Such application shall be in the form required by the ARC and shall include plans and specifications (“Plans”) showing site layout, structural design,

exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation system, utility facilities layout, and other features of the proposed construction, as applicable. Before the Owner may begin the proposed activity, the application must be approved in accordance with the procedures described below.

In reviewing each submission, the ARC may consider whatever factors it deems relevant including harmony of external design with surrounding structures, and environment and location in relation to surrounding structures, topography, and finish grade elevation. Decisions of the ARC may be based on purely aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are purely subjective and may vary over time and among different Persons.

The ARC shall respond in writing to an application within sixty days (60 days) at an address specified by such party at the time of submission. The response may (i) approve the application; (ii) approve a portion, segments, or features of the plans, and disapprove other portions; or (iii) disapprove an application. The ARC may, but shall not be obligated to, set forth the reasons for such finding, and it may make suggestions to cure objections to an application. In the event the ARC fails to respond, the approval shall be deemed to have been given; provided, no construction which is inconsistent with the Governing Documents shall be deemed approved unless a written variance has been issued. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U.S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the submitting party.

If construction does not commence on a project which has been approved within 180 days of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for approval. If construction is not completed on a project for which plans have been approved within a period set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article.

9.5 No Waiver of Future Approvals.

Each Owner acknowledges that the ARC will change from time to time and that interpretation, application, and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans, specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans, specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.6 Variance.

The ARC may authorize variances in writing from tis guidelines and procedures, but only:

- (a) In accordance with duly adopted rules and regulations;
- (b) When unique circumstances dictate, such as unusual topography, natural obstructions, hardship, or aesthetic or environmental considerations; and

- (c) When construction in accordance with the variance would be consistent with the purposes of the Amended & Restated Declaration and compatible with existing and anticipated uses of adjoining properties.

For purposes of this Section, the terms of or the inability to obtain governmental approval, or the terms of any financing, shall not be considered a hardship warranting a variance.

9.7 Limitation of Liability.

The requirements and procedures established by this Article are intended to enhance the overall aesthetics of the Community and shall not create any duty to any Persons. The ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring the appropriateness of soils, drainage, and general site work. Neither the Association, the Board, any committee, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction on or modification to any Unit. In all matters, the Association shall defend and indemnify a reviewing body and their members.

9.8 Enforcement.

Any structure or improvement placed or made in violation of this Article or the Design Guidelines shall be deemed to be nonconforming, unless a variance has been granted. Upon written request from the Board, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board shall have the right to Record a notice of violation and to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the Owner and Unit and collected as a Specific Assessment.

Unless otherwise specified in writing by the ARC granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Persons fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the Bylaws to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Community, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the reviewing bodies.

ARTICLE 10.
USE RESTRICTIONS AND RULES

10.1 Plan of Development; Applicability; Effect.

Declarant has established a general plan of development for the Community in order to enhance all Owners' collective interests, subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, and desires within the community. The initial Use Restrictions and Rules attached as Exhibit "B," establish affirmative and negative covenants, easements, and restrictions on the land subject to this Amended & Restated Declaration.

All provisions of this Amended & Restated Declaration and any Association rules shall apply to all Owners, Occupants, tenants, guests, and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the lease Unit shall be bound by the terms of the Governing Documents.

10.2 Authority to Promulgate Use Restrictions and Rules.

The initial Use Restrictions and Rules applicable to all of the Community are attached as Exhibit "B" to this Amended & Restated Declaration and may be modified in whole or in part, repealed, or expanded as follows:

- (a) Subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may, from time to time and without a vote of the Members, adopt or promulgate rules which modify, cancel, limit, create exceptions to, or expand the initial Use Restrictions and Rules.

Such newly-adopted use restrictions and rules shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be incorporated into and shall constitute the effective Use Restrictions and Rules binding upon all Owners and Occupants until and unless overruled, cancelled, or modified by a majority of the Total Association Vote at a meeting duly called for such purpose as provided in the By-Laws.

The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

- (b) Within thirty days (60 days) of the effective date of any action taken under subsection (a) of this Section, the Board shall have a copy of any newly-adopted use restriction and rule Recorded by the Office of the Clerk of Superior Court, Forsyth County, Georgia land records.

10.3 Owners' Acknowledgement.

All Owners and occupants of Units are given notice that use of their Unit or Units is limited by the Use Restrictions and Rules as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into and Recording a contract of sale,

acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected and that the Use Restrictions and Rules may change from time to time.

10.4 Rights of Owners.

The *limitations* in this Section 10.4 shall apply only to Use Restrictions and Rules adopted or amended in accordance with Section 10.2 – 10.3; they shall not apply to amendments to this Declaration adopted in accordance with Section 14.2.

Except as may be specifically set forth in this Amended & Restated Declaration (either initially or by future amendment), the Board may not adopt any rule or regulation in violation of the following provisions:

(a) Similar Treatment.

Similarly situated Owners and occupants shall be treated similarly.

(b) Residential Use.

All Units shall be used for residential purposes exclusively. No business or business activity shall be carried on in or upon any Unit at any time except with the written approval of the Board. The Board may, but shall not be obligated to, permit a Unit to be used for business purposes so long as such business, in the sole discretion of the Board, does not otherwise violate the provisions of the Amended & Restated Declaration or Bylaws, does not create a disturbance, and does not unduly increase traffic flow or parking congestion. The Board may issue further rules regarding the permitted business activities.

(c) Signs.

No rule shall interfere with a Unit Owner or Occupants right to erect the following types of signs without prior written approval of the ARC: (i) Not more than one “For Sale” sign consistent with the Community-Wide Standard and having a maximum area of four square feet; (ii) Security signs consistent with the Community-Wide Standard; (iii) Any signs required by legal proceedings; and (iv) Signs erected by Declarant.

Notwithstanding the foregoing, the Board and Association shall have the right to erect reasonable and appropriate signs. Further, pursuant to Section 10.2 of the Amended & Restated Declaration of Covenants, nothing shall prevent the Board from adopting or promulgating rules which allow or disallow other types of signs or sign restrictions within the Community which do not interfere with or conflict with the rights set forth in this subsection.

(d) Household Composition.

No rule shall interfere with the freedom of occupants of Units to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

(e) Subdivision of Unit.

No Unit shall be subdivided or its boundary lines changed except with the prior written approval of the ARC. The Association, however, hereby expressly reserves the right to replat any Unit or Units owned by the Association. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

(f) Abridging Existing Rights.

If any rule would otherwise require Owners or Occupants of Units to dispose of personal property which they maintained in or on the Unit prior to the effective date of such rule, or to vacate a Unit in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with this Declaration and all rules previously in force, such rule shall not apply to any such Owners without their written consent unless the rule was in effect at the time such Owners or occupants acquired their interest in the Unit.

ARTICLE 11.
EASEMENTS

11.1 Easements for Encroachment and Overhang.

There shall be reciprocal appurtenant easements for encroachment and overhang as between each Unit and such portion or portions of the Common Property adjacent thereto or as between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Amended & Restated Declaration) to a distance of not more than five feet (5 feet) as measured from any point on the common boundary between each Unit and the adjacent portion of the Common Property or as between adjacent Units, as the case may be, along a line perpendicular to such boundary at such point; 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, tenant, or the Association.

11.2 Easements for Use and Enjoyment.

Every Owner of a Unit shall have a right and easement of ingress and egress, use and enjoyment, in and to the Common Property, if any, which shall be appurtenant to and shall pass with the title to each Unit, subject to the following provisions:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Unit Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests, and invitees;
- (b) The right of the Association to suspend the voting rights of a Unit Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Unit which is hereby provided for remains unpaid, and for a reasonable period of time for an infraction of the Governing Documents;

- (c) The right of the Association to borrow money for the purpose of improving the Common property, or any portion thereof, or for construction, repairing, or improvement of any facilities located or to be located thereon, and to give as security for the payment of any such loan a mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of the Association, any Unit or Unit Owner, or the holder of any Mortgage, irrespective of when executed, given by the Association or any Unit Owner encumbering any Unit or other property located within the Community
 - i. Any provision in this Amended & Restated Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements, or privileges herein reserved or established for the benefit of the Association, any Unit or Unit Owner, or the holder of any Mortgage, irrespective of when executed, given by the Association or any Unit Owner encumbering any Unit or other property located within the Community.
- (d) The right of the Association to dedicate or grant licenses, permits, or easements over, under, and through the Common Property to governmental entities for public purposes; and
- (e) The right of the Association to dedicate or transfer all or any portion for the Common Property subject to such conditions as may be agreed to by the Members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the affirmative vote of two-thirds (2/3) of the Total Association Vote.

Any Unit Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and facilities located thereon to the Members of such Owner's family and to such Owner's tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Unit, if leased.

11.3 Easements for Utilities.

There is hereby reserved to the Association blanket easements upon, across, above, and under all property within the Community for access, ingress, egress, installation, 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 antenna system, cable television system, or security system which the Association might decide to have installed to serve the Community. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate Recordable document, the Board shall have the right to grant such easement.

The Association specifically grants the local water supplier, electric company, and natural gas supplier easements across the Community for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters, and boxes, as applicable.

11.4 Easement for Entry.

In addition to the right of the Board to exercise self-help as provided in Sections 4.4 and 9.8, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security, and safety reasons, which right may be exercised by the manager, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties.

Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or Occupant fails or refuses to cure the condition upon request of the Board.

11.5 Easement for Maintenance.

The Association expressly reserves a perpetual easement for the benefit of the Association across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article 5. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Units, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

11.6 Easement for Entry Features.

There is hereby reserved to the Association an easement for ingress, egress, installation, construction, landscaping, and maintenance of entry features and similar streetscapes for the Community, over and upon each Unit which is bounded by the right-of-way providing primary access to the Community and every other Unit located at the corner of a street intersections. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and streetscapes and the right to grade the land under and around such entry features and streetscapes.

ARTICLE 12. **MORTGAGE PROVISIONS**

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Community.

12.1 Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association, such request stating the name and address of such holder, insurer, or

guarantor and the street address of the Unit to which its Mortgage relates, thereby becoming an “Eligible Holder,” will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty days (60 days), or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within sixty days (60 days); or
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association;
- (d) Any proposed action which would require the consent of a specified percentage of Mortgage holders.

12.2 No Priority.

No provision of this Amended & Restated Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

12.3 Notice to Association.

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

12.4 VA/HUD Approval.

Because the Declarant no longer has the right to appoint and remove the directors of the Association, the following actions do *not* require the prior approval of the VA, even if the VA is guaranteeing any Mortgage in the Community, and do *not* require the prior approval of HUD, even if HUD is insuring any Mortgage in the Community: annexation of additional property to the Community by vote of the Association; dedication of Common Property to any public entity; mergers and consolidations; dissolution of the Association; and material amendment of the Original Declaration, Bylaws, or Articles of Incorporation.

12.5 Failure of Mortgagee to Respond.

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

ARTICLE 13.
DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

13.1 Agreement to Avoid or Limit Litigation.

The Association, its officers, directors, committee members, all Persons subject to this Amended & Restated Declaration, any builder, and any Person not otherwise subject to this Amended & Restated Declaration who agrees to submit to this Article (collectively, “Bound Parties”) agree to encourage the amicable resolution of disputes involving the Community, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances, or disputes described in Section 13.2 (“Claim” or “Claims”) shall be resolved using the procedures set forth in Section 13.3 through 13.8.

13.2 Claims.

Unless specifically exempted below, all Claim(s), grievances, or disputes arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Community shall be subject to the provisions of Section 13.3 through Section 13.8.

Notwithstanding the above, unless all parties otherwise agree, the following shall not be Claim(s) and shall not be subject to the provisions of Section 13.3 through 13.8:

- (a) Any suit by the Association against any Bound party to enforce the provisions of Article 8 (Assessments);
- (b) Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other 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 Article 9 (Architectural Standards) and Article 10 (Use Restrictions and Rules);
- (c) Any suit between Owners, which does not include 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 13.3.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 13.3 through Section 13.8.

13.3 Notice – Mandatory Procedure.

Any Bound party having a Claim(s) (“Claimant”) against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

- (a) The nature of the Claim(s), including the Persons involved and Respondent’s role in the Claim(s);
- (b) The legal basis of the Claim(s) (i.e., the specific authority out of which the Claim(s) arise);
- (c) Claimant’s proposed resolution or remedy; and
- (d) Claimant’s desire to meet with Respondent to discuss in good faith ways to resolve the Claim(s).

13.4 Negotiation – Mandatory Procedure.

The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim(s) 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 resolving the dispute by negotiation.

13.5 Mediation – Mandatory Procedure.

If the Parties do not resolve the Claim(s) within thirty days (30 days) of the date of the Notice (or within such other period as may be agreed upon by the Parties), Claimant shall have thirty additional days (30 additional days) to submit the Claim(s) to mediation under the auspices of a neutral mediator registered with the Georgia Office of Dispute Resolution providing dispute resolution services in the Metro-Atlanta area. The registered neutral mediator chosen by Claimant must be independent and without conflict of interest as to either Claimant or Respondent. Each Bound Party shall present the mediator with a summary of the Claim(s) prior to the mediation session.

If Claimant does not submit the Claim(s) to mediation within such time, or does not appear for and participate in good faith in the mediation, Claimant shall be deemed to have waived the Claim(s), and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim(s); provided, nothing herein shall release or discharge Respondent from any liability to any Persons other than the Claimant.

Any settlement of the Claim(s) through mediation shall be documented in writing by the mediator. If the parties do not settle the Claim(s) within thirty days (30 days) after submission of the matter to the mediation process, or within such time as determined 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 mediation was terminated (“Termination of Mediation”).

Within five days (5 days) of the Termination of Mediation, the Claimant shall make a final written settlement demand (“Settlement Demand”) to the Respondent, and the Respondent shall make a final written settlement offer (“Settlement Offer”) to the Claimant. If the Claimant fails to

make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

13.6 Litigation – Mandatory Procedure

If the Parties do not agree in writing to a settlement of the Claim(s) within fifteen days (15 days) of the Termination of Mediation, the Claimant shall have sixty additional days (60 additional days) to file a complaint in an appropriate court (as determined by the laws of the State of Georgia) lying in Forsyth County, Georgia pertaining to the Claim(s) set forth in the Notice. A copy of the Notice should be attached as an exhibit to the complaint. If Claimant does not submit the Claim(s) to an appropriate court in Forsyth County within such time, Claimant shall be deemed to have waived the Claim(s), and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim(s); provided, nothing herein shall release or discharge Respondent from any liability to any Persons other than the Claimant. Should a trial be necessary for resolution of the Claim(s) in any litigation arising under the terms of this Article 13, the Bound Parties waive their right to a jury trial and agree to submit the Claim(s) for a bench trial.

13.7 Allocation of Costs of Resolving Claims.

Subject to Section 13.5, each Party shall share equally all charges rendered by the neutral mediator(s) in conducting a mediation proceeding for purposes of resolution of a Claim(s) ("Mediation Costs").

In any litigation arising from the resolution of a Claim(s) pursuant to Section 13.6, the non-prevailing party shall be liable to the prevailing party for its reasonable attorney's fees and expenses actually incurred in resolving the Claim(s), provided that the non-prevailing party's Settlement Demand or Settlement Offer (See Section 13.5) was not equal to or more favorable to the prevailing party than the damages, arising from the Claim(s), which were actually awarded by the Court via Final Order and Judgment as defined by Georgia law.

13.8 Enforcement of Resolution.

After resolution of any Claim(s), if any party fails to abide by the terms of any agreement or Final Judgment, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Final Judgment without the need to again comply with the procedures set forth in Sections 13.3 to 13.7. In such event, the Party taking action to enforce the agreement or Final Judgment shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Final Judgment, including, without limitation, attorneys' fees, and court costs.

ARTICLE 14.
GENERAL PROVISIONS

14.1 Duration.

Subject to the limitations of Georgia law, this Amended & Restated Declaration shall have perpetual duration. If Georgia law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Amended & Restated Declaration shall remain in effect for the maximum period permitted and shall automatically be extended at the expiration of such period for successive periods of twenty years (20 years) each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Amended & Restated Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one years (21 years) after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

14.2 Amendment.

This Amended & Restated Declaration may be amended as provided in this Section. Amendments to this Amended & Restated Declaration shall become effective upon recordation, unless a later effective date is specified herein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Amended & Restated Declaration.

This Amended & Restated Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Members representing at least two-thirds (2/3) of the Total Association Vote.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

If an Owner consents to any amendment to this Amended & Restated Declaration or Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

14.3 Severability.

Invalidation of any provision of this Amended & Restated Declaration, in whole or in part, or any application of a provision of this Amended & Restated Declaration by judgment or court order shall in no way affect other provisions or applications.

14.4 Litigation.

Except as provided below, no judicial, administrative, or arbitration proceeding shall be commenced or prosecuted by the Association unless approved by seventy-five percent (75%) of the Total Association Vote. This Section shall not apply, however, to:

- (a) Actions brought by the Association to enforce the provisions of this Amended & Restated Declaration, including, without limitations, the foreclosure of liens;
- (b) The imposition and collection of assessments as provided in Article 8;
- (c) Proceedings involving challenges to *ad valorem* taxation; or
- (d) Counterclaims brought by the Association in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article 13, if applicable.

14.5 Cumulative Effect; Conflict.

The provisions of this Amended & Restated Declaration shall be cumulative with the provisions of any applicable Supplemental Declaration. Nothing in this Section shall preclude any Supplemental Declaration or other Recorded declaration, covenant, and restrictions applicable to any portion of the Community from containing additional restrictions or provisions which are more restrictive than the provisions of this Amended & Restated Declaration, and the Association shall have the standing and authority to enforce the same.

14.6 Compliance.

Every Owner and Occupant of any Unit shall comply with the Governing Documents. Subject to the terms of Article 13, failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Sections 4.4 and 9.8.

14.7 Notice of Sale or Transfer of Title.

Any Owner desiring to sell or otherwise transfer title to his or her unit shall give the Board or its designee at least seven days' (7 days') prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

14.8 Exhibits.

Exhibit "A" attached to this Amended & Restated Declaration is incorporated by this reference and amendment of such exhibit shall be governed by the provisions of Section 14.2. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Amended & Restated Declaration which refer to such exhibits.

EXHIBIT "A"
PROPERTY SUBMITTED

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 211, 212, 213, 220 and 221 of the 2nd District, 1st Section, Forsyth County, Georgia and being more particularly described as Grove Park Phase I, containing approximately 42.238 acres as shown on that certain Final Subdivision Plat of Grove Park Phase I dated October 25, 1993, last revised November 19, 1993, prepared by Richard May & Associates, Inc., bearing the seal of Georgia Registered Land Surveyor No. 2210, Richard N. May, and recorded in Plat Book 38, Pages 292-294, Forsyth County, Georgia Records.

Together with:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 211 and 212 of the 2nd District, 1st Section of Forsyth County, Georgia, containing approximately 1.62 acres, and being known as Lot 44 and Lot 46 of Grove Park Phase I, as more particularly shown on that certain Final Subdivision Plat of Grove Park Phase I, dated October 26, 1993, last revised October 3, 1994, prepared by Richard May & Associates, Inc., and bearing the seal of Richard N. May, Georgia Registered Land Surveyor No. 2210, which plat was recorded in Plat Book 41, Pages 59-63, Forsyth County, Georgia land records.

Together with:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 211, 212, 221, and 222 of the 2nd District, 1st Section of Forsyth County, Georgia, containing approximately 32.743 acres, and being known as Grove Park Phase II, as more particularly shown on that certain Final Subdivision Plat of Grove Park Phase II, dated August 29, 1994, last revised September 16, 1994, prepared by Richard May & Associates, Inc., and bearing the seal of Richard N. May, Georgia Registered Land Surveyor No. 2210, which plat was recorded in Plat Book 41, Pages 31-33, Forsyth County, Georgia land Records.

Together with:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 213, 220, and 221 of the 2nd District, 1st Section of Forsyth County, Georgia, containing approximately 51.767 acres, and being known as Grove Park Phase III, as more particularly shown on that certain Final Subdivision Plat of Grove Park Phase III, dated April 17, 1995, prepared by Richard May & Associates, Inc. and bearing the seal of Richard N. May, Georgia Registered Land Surveyor No. 2210, which plat was recorded in Plat Book 43, Pages 72-78, Forsyth County, Georgia land Records.

Together with:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 221, 222, and 223 of the 2nd District, 1st Section of Forsyth County, Georgia, containing approximately 20.359 acres, and being known as Grove Park Phase IV, as more particularly shown on that certain Final Subdivision Plat of Grove Park Phase IV, dated May 6, 1996 and revised May 20, 1996, prepared by Richard May & Associates, Inc. and bearing the seal of Richard N. May, Georgia Registered

Land Surveyor No. 2210, which plat was recorded in Plat Book 46, Pages 205-209, Forsyth County, Georgia land Records.

Together with:

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 211 of the 2nd District and 1st Section of Forsyth County, Georgia, and being 2.063 acres as shown on a plat for Grove Park Community Association, Inc., dated June 21, 1993, as surveyed by Richard N. May, Registered Surveyor, which plat is recorded at Plat Book 45, Page 106, of the Forsyth County, Georgia land Records.

EXHIBIT “B”
INITIAL USE RESTRICTIONS & RULES

The following Use Restrictions and Rules shall apply to all of the Community until such time as they are amended, modified, repealed, or limited by rules of the Association adopted pursuant to Article 10 of the Amended & Restated Declaration.

1. Vehicles.

The term “vehicles” shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. Vehicles shall not be parked on any streets within the Community. Vehicles shall not be parked on the Common Property or on any portion of a Unit other than the driveway and the garage. Unless and except to the extent that the Occupants of a Unit shall have more vehicles than the number of parking areas serving their Unit, all vehicles shall be parked within such parking areas. Where the Unit contains a garage, “parking areas” shall refer to the number of garage parking spaces. All parking shall be subject to such rules and regulations as the Board may adopt.

All single-family detached homes shall contain a garage; carports shall not be permitted. Garage doors shall be kept closed at all times, except during times of ingress and egress from the garage.

Notwithstanding anything provided herein to the contrary, no towed vehicle, boat, boat trailer, recreational vehicle, motor home, mobile home, bus, truck with camper top, truck or commercial vehicle over one-ton capacity, motorcycle, minibike, scooter, go-cart, or similar recreational vehicle shall be permitted on any Unit, except if kept in an enclosed garage, for periods longer than 38 consecutive hours. The intent of this provision is that the aforementioned recreational vehicles may not be stored on a Unit except if in a garage. The temporary removal of such vehicle from a Unit to break the continuity of the 48 consecutive hours shall not be sufficient to establish compliance with this restriction. Any such vehicle shall be considered a nuisance and may be removed from the Community. Trucks with mounted campers which are an Owner’s or Occupant’s primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal.

Notwithstanding anything provided herein to the contrary, no vehicle may be left upon any portion of the Community, except in a garage, if it is unlicensed or if it is in any condition such that it is incapable of being operated upon the public highways. Any such vehicle shall be considered a nuisance and may be removed from the Community.

No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board.

2. Animals and Pets.

No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Unit, with the exception of dogs, cats, or other usual and common household pets in reasonable number as determined by the Board; provided, however, those pets which are permitted to roam free or, in the sole discretion of the Board, pose a danger to health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners or Occupants of other Units or the owner of

any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred, or maintained for commercial purposes. Dogs which are household pets shall at all times, whenever they are outside a unit, be confined on a leash. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

3. Leasing.

Units may be leased for residential purposes. However, the leasing of a Unit requires prior approval of the Board, and Board approval must be sought upon expiration of each new lease term. The total number of leased units in the neighborhood is limited to seven Units (or five percent (5%) of the Community Units). No Unit may be leased via VRBO, Airbnb, or other hotel or short-term rental method. No "For Rent" signs may be placed or erected within the Community.

In order to obtain Board approval, the Unit Owner must, at a minimum: (a) occupy the home for a minimum of one year prior to leasing the Unit; (b) seek to lease the Unit for a minimum lease term of one year and a maximum lease term of five years; (c) disclose the lessee's name(s) and contact information; (d) provide a copy of the lease to the Board; and (e) notify the Board in the event that the lease is terminated prior to the lease term stated within the approved lease.

No lease may be renewed without first seeking approval of the Board. The Unit Owner must request Board approval for lease *renewal* forty-five days (45 days) prior to the expiration of the lease term in order to qualify for approval. Upon receipt of any request for lease renewal or approval of lease, the Board will have ten days (10 days) to inform the Unit Owner of its decision.

Any Unit subject to a lease that is operational prior to the effective date of the Amended & Restated Declaration of Covenants shall not be subject to the "Leasing" provisions set forth herein, provided that all such leased Units *will become* subject to these leasing provisions upon the expiration of the lease term or pre-term termination of said lease, whichever comes first.

Any lease shall obligate the tenant and all occupants to comply with all provisions of the Amended & Restated Declaration, Bylaws, any rules and regulations, and all use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners and/or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

4. Nuisance.

It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on such Owner or Occupant's Unit. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Unit 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 occupants of surrounding properties or Units. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the

generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier, or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed, or maintained upon the exterior of any Unit unless required by law.

5. Unsightly or Unkempt Conditions.

The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly or disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkept conditions, shall not be pursued or undertaken in any part of the Community.

6. Antennas.

No exterior antennas of any kind, including, without limitation, satellite dishes, shall be placed, allowed, or maintained upon any portion of the Community, including any Unit, without the prior written consent of the ARC.

7. Tree Removal.

No trees shall be removed from any portion of the Community without the prior written consent of the ARC except for (a) trees that are located within ten feet (10 feet) of a drainage area, a septic field, a sidewalk, a residence, or a driveway; (b) diseased or dead trees; or (c) trees removed by Declarant.

8. Drainage.

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers or storm drains. Declarant hereby reserves for the benefit of the Association and their respective successors and assigns a perpetual easement across the Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property. Reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

9. Sight Distance at Intersections.

All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

10. Garbage Cans, Woodpiles, Etc.

All garbage cans, woodpiles, swimming pool pumps, filters or related pool equipment, air conditioning compressors, and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. The Association, however, hereby expressly reserves the right to dump or bury rocks and trees on property within the Community as needed for efficient construction and to allow developers and builders within the Community to bury rocks

and trees removed from a building site on such building site. Trash, garbage, debris, or other waste matter of any kind may not be burned within the Community.

11. Guns.

The use of firearms in the Community shall be prohibited. The term “firearms” includes, without limitation, “B-B” guns, pellet guns, and small firearms of all types.

12. Fences.

No fence or fencing type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Unit, without prior written consent of the ARC. The ARC may issue further guidelines detailing acceptable fence styles or specifications, but in no event may a chain link or barbed wire fence be approved. No flat, dog ear style privacy fences allowed. All fences must have a curvature or other decoration that is deemed permissible by the ARC.

13. Utility Lines.

Except as may be permitted by the ARC, no overhead utility lines, including lines for cable television, shall be permitted within the Community, except temporary lines required during construction and lines installed by or at the request of the Association.

14. Air-Conditioning Units.

Except as may be permitted by the ARC, no window air conditioning units may be installed.

15. Lighting.

Except as may be permitted by the ARC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Unit; (b) one decorative post light; (c) streetlights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; or (e) front house illumination of model homes.

16. Artificial Vegetation, Exterior Sculpture, and Similar Items.

No artificial vegetation shall be permitted on the exterior of any Unit. Exterior sculpture, fountains, flags, and similar items must be approved by the ARC.

17. Energy Conservation Equipment.

No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless they are an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the ARC.

18. Unit Swimming Pools.

No swimming pool shall be constructed, erected, or maintained upon any Unit without the prior written consent of the ARC and in no event shall any above-ground pool be permitted.

19. Community Swimming Pool.

Smoking is not permitted at, around, or within the Community pool area.

20. Burning.

No burning of brush or other items is permitted within the Community.

21. Gardens and Play Equipment.

No vegetable garden, hammock, statuary, or play equipment (including, without limitation, basketball goals) shall be constructed, erected, or maintained upon any Unit unless the type and location thereof has been previously approved by the ARC.

22. Mailboxes.

All mailboxes located on Units shall be of a similar style approved by the ARC. Replacement mailboxes may be installed after the type has been approved in writing by the ARC. The current style of mailbox approved by the ARC is black cast aluminum posts with a standard black box. No wood posts are permitted without prior approval by the ARC.

23. Exteriors.

Any change to the exterior color of any improvement located on a Unit, including, without limitation, the dwelling or any fence located on a Unit, must be approved by the ARC.

24. Clotheslines.

No exterior clotheslines of any type shall be permitted upon any Unit.

25. Exterior Security Devices.

No exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Unit. Signs placed on the Unit or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior Security device.

26. Entry Features.

Owners shall not alter, remove, or add improvements to any entry features made part of the original construction or development on any Unit, or any part of any easement area associated therewith, without the prior written consent of the ARC.

27. Tennis Courts.

Tennis privileges are free for Grove Park Owners and Occupants *only*. Non-residents of the Community must pay a fee of \$25.00 per season.

28. Vendor Contracts for the Association.

As part of the Board's power to contract with any Person for performance of various duties and functions, as set forth in Section 3.17 of the Amended & Restated Bylaws, the Board must solicit three (3) bids per potential contract. The Board must then agree upon the vendor and subsequent contracts based on the bids provided.

All vendor contracts entered by the Board on behalf of the Association:

- (a) Must not exceed one year;
- (b) Must require insurance liability policies, including workers compensation coverage;
- (c) Must require two (2) signatures from the Board; and
- (d) Must contain a thirty-day (30 day) termination clause allowing for termination for any reason.

29. Signs.

No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the ARC except as provided in Section 10.4(c) or as follows:

- (a) Not more than one political or campaign sign per candidate consistent with the Community-Wide Standard and having maximum dimensions of 18" x 24"; and
- (b) Signs erected to celebrate graduations or birthdays consistent with the Community-Wide Standard which may remain erected temporarily for not more than fourteen calendar days (14 days).

EXHIBIT "C"

**AMENDED & RESTATED
BYLAWS
OF
GROVE PARK COMMUNITY ASSOCIATION, INC.**

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AMENDED & RESTATED
BYLAWS
OF
GROVE PARK COMMUNITY ASSOCIATION, INC.

ARTICLE 1.
NAME, MEMBERSHIP, APPLICABILITY, AND DEFINITIONS

1.1 Name.

The name of the Association shall be Grove Park Community Association, Inc. (“Association”).

1.2 Membership.

The Association shall have one class of membership, as is more fully set forth in that Declaration of Protective Covenants for Grove Park (such Declaration as amended, renewed, restated, or extended from time to time is hereinafter sometimes referred to as the “Declaration”), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions.

The words used in these Bylaws shall have the same meaning as set forth in the Declaration unless the context shall prohibit.

ARTICLE 2.
ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES

2.1 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, either in the Community or as convenient thereto as possible and practical.

2.2 First Meeting and Annual Meeting.

An annual or special meeting shall be held within one year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur no later than sixty days (60 days) after the close of the Association’s fiscal year.

2.3 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 the Board of Directors or upon a petition signed by at least twenty-five percent (25%) of the Total association Vote. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

2.4 Notice of Meeting.

It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of each Unit (as shown in the Association's records) a notice of each annual or special meeting of the Association stating the purpose of the special meeting, as well as the time and place where it is to be held, and in the notice of a special meeting, the purpose thereof. If an Owner wishes notice to be given at an address other than his or her Unit, such Owner shall designate by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than ten days (10 days) nor more than sixty days (60 days) before a meeting.

2.5 Waiver of Notice.

Waiver of notice of a meeting of the members shall be deemed 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 lack of proper notice at the time the meeting is called to order.

2.6 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 days (5 days) nor more than thirty days (30 days) from the time the original meeting was called at such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.7 Voting.

The voting rights of the members shall be as set forth in the Articles of Incorporation and the Declaration (as amended and restated), and such voting rights are specifically incorporated herein.

2.8 Proxies.

At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting.

Every proxy shall be revocable and shall automatically cease upon (a) conveyance by the member of such member's Unit; (b) upon receipt of notice by the Secretary of the death or judicially declared incompetence of a member; (c) written revocation provided to the Secretary; or (d) upon the expiration of eleven months (11 months) from the date of the proxy.

2.9 Quorum.

The presence, in person or by proxy, of twenty five percent (25%) of the Total Association entitled to vote shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

2.10 Action without a Formal Meeting.

Any action to be taken at a meeting of the members or any action that may be taken at a meeting of the members may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by members holding the voting power required to pass such action at a meeting held on the date that the last consent is executed. Such action shall be effective upon receipt by the Association of a sufficient number of such consents executed by current members unless a later effective date is specified therein.

Each signed consent shall be delivered to the Association and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

2.11 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 an action shall only 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 (a) the number of responses needed to meet the quorum requirement; (b) the percentage of approvals necessary to approve such matter other than the election of directors; and (c) 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.

ARTICLE 3.
BOARD OF DIRECTORS; NUMBER, POWERS, MEETINGS

3.1 Governing Body; Composition.

The affairs of the Associations shall be governed by a Board of Directors. The directors must reside in the Community and shall be members or spouses of such members; provided, however, no person and his or her spouse may serve on the Board at the same time.

3.2 Number of Directors.

The Board shall consist of three (3) members; provided, however, the Board may at any time increase the number of Board members to five (5).

3.3 Nomination of Directors.

Elected directors shall be nominated from the floor and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.4 Election and Term of Office.

Owner-elected directors shall be elected and hold office as follows:

- (a) After the Original Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting to be held at which Owners shall elect three (3) directors.
- (b) At annual meetings of the membership thereafter, directors shall be elected. All eligible members of the Association shall vote on all directors to be elected and the candidates receiving the most votes shall be elected.

The term of one director shall be fixed to one year (1 year), the term of one director shall be fixed at two years (2 years), and the term of one director shall be fixed at three years (3 years). At the expiration of the initial term of office of each respective Owner-elected member of the Board, a successor shall be elected to serve for a term of two years (2 years). The members of the Board shall hold office until their respective successors shall have been elected by the Association.

3.5 Removal of Directors.

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 Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten

days' (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.

Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty days (30 days) may be removed by a majority vote of the directors at a meeting, assuming a quorum is present.

3.6 Vacancies.

Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the majority of the remaining director, even though less than a quorum,, at any meeting of the Board of Directors. Each person so selected shall serve the unexpired portion of the term.

3.7 Organization Meetings.

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

3.8 Regular Meetings.

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 four (4) such meetings shall be held during each fiscal year with at least one per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.9 Special Meetings.

Special meetings of the Board of Directors shall be held when requested by the President, Vice President, 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.

The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; (d) by electronic mail (e-mail); or (e) by commercial delivery service to such director's home or office. All such notices shall be given or sent to the director's address, telephone number, or email as shown on the records of the Association. Notices sent by first class mail shall be deposited into the United States mailbox at least four days (4 days) before the time set for the meeting. Notices given by personal delivery, telephone, or email shall be given at least forty-eight hours (48 hours) before the time set for the meeting.

3.10 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 quorum is present and, either before or after the meeting, each of the directors not present signs (a) written waiver of notice; (b) a consent to holding the meeting; or (c) an approval of the minutes. The waiver of notice or consent needed not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.11 Quorum of Board of Directors.

At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of directors.

3.12 Compensation.

No director shall receive any compensation from the Association for acting as such. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

3.13 Open Meetings.

All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

3.14 Executive Session.

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 similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

3.15 Action Without a Formal Meeting.

Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records.

3.16 Telephonic / Electronic Participation.

One or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar electronic communication equipment by means of which all persons participating in the meeting can hear each other at the same time, and those

directors so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

3.17 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 Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by the Bylaws or by any resolution adopted by the Association, the Board of Directors shall have the power to and be responsible for the following, in way of explanation but not limitation:

- (a) Preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the common expenses;
- (b) Making assessments to defray the common expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) Providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;
- (d) Designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) Collecting assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (f) Making and amending use restrictions and rules and regulations;
- (g) Opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) Enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bring any proceeding which may be instituted on behalf of or against the Owners concerning the Association;
- (i) Obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (j) Paying the cost of all services rendered to the Association or its members which are not directory chargeable to Owners;

(k) Keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration and specifying the maintenance and repair expense and any other expenses incurred; and

(l) Contracting with any Person for the performance of various duties and functions.

3.18 Management Agent.

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 term of any management agreement shall not exceed one year and shall be subject to termination by either party, without cause and without penalty, upon thirty days' (30 days) written notice.

3.19 Borrowing.

The Board of Directors shall have the power to borrow money for the purpose of repair or restoration of the Common Property and facilities without the approval of the members of the Association; provided, however, the Board shall obtain membership approval in the same manner as for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed Ten Thousand Dollars (\$10,000.00) outstanding debt at any one time.

3.20 Fining Procedure.

The Board shall not impose a fine (a later charge shall not constitute a fine) unless and until the following procedure is followed:

- (a) Written notice shall be served upon the violator by first-class or certified mail sent to the last address of the member shown on the Association's records specifying:
 - i. the nature of the violation, the fine to be imposed, and the date not to be less than fifteen days (15 days) from the date of the notice that the fine will take effect;
 - ii. that the violator may, within ten days (10 days) from the date of the notice, request a hearing regarding the fine to be imposed;
 - iii. the name address, and telephone numbers of a person to contact to challenge the fine;
 - iv. that any statements, evidence, and witnesses may be produced by the violator at the hearing; and
 - v. that all rights to have the fine reconsidered are waived if a hearing is not requested within ten days (10 days) of the date of the notice.

- (b) If a hearing is requested, it shall be held before the Board in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine shall be imposed prior to the date that is five days (5 days) after the date of the hearing.

ARTICLE 4. **OFFICERS**

4.1 Officers.

The officers of the Association shall be a President; Vice President; Secretary; and Treasurer. Any two (2) or more offices may be held by the same person, except the offices of President and secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

4.2 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.

4.3 Removal.

Any officer may be removed by the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby.

4.4 President.

The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The Present shall have all the general powers and duties which are incident to the office of the present of a corporation organized under the Georgia Nonprofit Corporation Code.

A past board president is required to meet and be available as a resource for any newly elected board for the first two months of the year.

4.5 Vice President.

The Vice President shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

4.6 Secretary.

The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct

and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with Georgia law.

4.7 Treasurer.

The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent of such depositories as may from time to time be designated by the Board of Directors.

4.8 Resignation.

Any officer may resign at any time by giving written notice to the Board of Directors. 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 5.
COMMITTEES

5.1 Committees.

Committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. 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.

ARTICLE 6.
MISCELLANEOUS

6.1 Fiscal Year.

The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such resolution, the fiscal year shall be the calendar year.

6.2 Parliamentary Rules.

Roberts Rules of Order (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation, the Declaration, these Bylaws, or a ruling made by the person presiding over the proceeding.

6.3 Conflicts.

If there are conflicts or inconsistencies between the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these Bylaws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and the Bylaws (in that order) shall prevail.

6.4 Amendment.

These Bylaws may be amended by the Board of Directors:

- (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 title insurance company to issue title insurance coverage with respect to the Units subject to the 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 the Units subject to the Declaration; or
- (d) If such amendment is necessary to enable any governmental agency or insurance company to insure or guarantee mortgage loans on the Units subject to the Declaration.

In addition, these Bylaws may be amended upon affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Total Association Vote.