

**AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS
FOR
DEER VALLEY**

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**THIS AMENDED AND RESTATED DECLARATION SUBMITS THE PROPERTY TO
THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS ASSOCIATION ACT,
O.C.G.A. § 44-3-220, ET SEQ.**

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“A”	Legal Description

**AMENDED AND RESTATED
DECLARATION OF PROTECTIVE COVENANTS
FOR DEER VALLEY**

This Amended and Restated Declaration of Protective Covenants for Deer Valley (“Declaration”) is made on the day and year set forth below. By virtue of the recording of this Declaration, the property described on Exhibit “A”, attached hereto and incorporated herein by this reference (the “Property”), is hereby submitted and made subject to the Georgia Property Owners’ Association Act, O.C.G.A. § 44-3-220, et seq., and is hereby continued to be subject to this Declaration. By virtue of the recording of this Declaration, the Property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of the Georgia Property Owners’ Association Act and this Declaration, and every grantee of any interest in said Property, by acceptance of a deed or other conveyance of such interest, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of the Georgia Property Owners’ Association Act and this Declaration and shall be deemed to have consented to same. This Declaration shall apply to, govern, control and regulate the sale, resale or other disposition, acquisition, ownership, use and enjoyment of the Property and the improvements located thereon, and all of its provisions shall be and are covenants to run with the Property and shall be binding on the present owners of said Property and all of their successors and assigns and all subsequent owners of the Property and improvements located thereon, together with their grantees, successors, heirs, executors, administrators, devisees and assigns.

**Article I
Statutory Provisions**

This Declaration is made pursuant to the Georgia Property Owners’ Association Act, O.C.G.A. § 44-3-20 et seq., as the same may heretofore or hereafter be supplemented, amended or modified (the “Act”), and the Property described on Exhibit “A” attached hereto and incorporated herein by this reference, is hereby submitted and made subject to the Act.

**Article II
Definitions**

Unless the context shall prohibit, the following words, when used in this Declaration, shall have the following meanings:

(a) ”Architectural Control Committee” shall mean the committee appointed by the Board of Directors of the Association.

(b) ”Association” shall mean Deer Valley Community Association, Inc., a nonprofit Georgia corporation, its successors and assigns.

(c) ”Board of Directors” or ”Board” shall mean the appointed or elected governing body of the Association, as applicable, having its normal meaning under Georgia law.

(d) ”Bylaws” shall refer to the Bylaws of Deer Valley Community Association, Inc., as such may be amended from time to time.

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

(f) “Community” shall mean and refer to that certain real property and interests therein described in Exhibit “A”, attached hereto and incorporated herein by this reference.

(g) “Community-Wide Standard” shall mean the standard of conduct, maintenance or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association.

(g) “Lake” shall mean the lake located within the Community as shown on the plats for the Community recorded in the Gwinnett County, Georgia records. The lake adjacent to lots 34 through 40 of Deer Valley, which is also bordered by the Rosemoore subdivision, is not a part of the Community and the Association shall have not responsibility for this lake.

(h) “Lot” shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single-family dwelling site as shown on a plat recorded or to be recorded in the Gwinnett County, Georgia records.

(i) “Member” shall mean and refer to every person or entity who holds membership in the Association.

(j) ”Mortgage” means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(k) “Owner” shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

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

(m) “Property” shall mean and refer to all such property as is subject to this Declaration as set forth in Exhibit “A” attached hereto and incorporated herein by this reference.

(n) ”Rules and Regulations” shall mean the rules and regulations of the Association as may be adopted, amended and repealed, from time to time, by the Board of Directors of the Association.

Article III **Association Membership and Voting Rights**

Section 1. Membership. Every Person who is a record Owner of a fee simple or undivided fee interest in any Lot shall automatically be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner’s membership. Membership shall be appurtenant to and may not be separate from ownership of any Lot which is subject to assessment by the Association. In the event that fee title

to such a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. Ownership of such Lot shall be the sole qualification for membership. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a Member or the Member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

Section 2. Multiple Owners. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot; provided, however, multiple use rights for multiple Owners of a Lot shall exist subject, however, to the right of the Board to regulate and limit use by multiple Owners. The rights and privileges of membership, including the right to vote, may be exercised by a Member, the Member's spouse or other family member.

Section 3. Voting. Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) person seeks to exercise it.

Article IV **Assessments**

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

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments or charges which may or shall be levied by the Association pursuant to this Declaration; (b) special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to the Declaration; and (c) specific assessments against any particular Lot pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration.

All such assessments, fines and other charges lawfully assessed by the Association against any Owner or Lot as provided for in this Declaration or the Act shall, from the time such sums become due and payable, be the personal obligation of the Owner and constitute a lien in favor of the Association on the Lot prior and superior to all other liens whatsoever except: (a) liens for ad valorem taxes on the Lot; (b) the lien of any first Mortgage covering the Lot and the lien of any Mortgage recorded prior to the recording of the original Declaration; and (c) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot. The recording of this Declaration shall constitute record notice of the existence of the lien, and no further recordation of any claim of lien for assessments, fines or other charges shall be required.

No Owner shall be exempted from any liability for any assessment for any reason whatsoever, including, without limitation, abandonment, nonuse or waiver of the use and enjoyment of his or her Lot or any part of the Common Property. The grantee in a conveyance of a Lot shall be jointly and severally liable with the grantor therefor for all unpaid assessments, fines and other charges against the latter up to the time of the conveyance without prejudice to the

grantee's right to recover from the grantor the amount paid by the grantee; provided, however, that if the grantor or grantee shall request a statement from the Association as provided herein, such grantee and his or her successors, successors-in-title and assigns shall not be liable for the Lot conveyed which is subject to a lien for any unpaid assessments against such grantor in excess of any amount set forth in the statement.

Notwithstanding the foregoing, in the event that the holder of a first Mortgage or secondary purchase money mortgage of record (provided that neither the grantee nor any successor grantee on the secondary purchase money mortgage is the seller of the Lot), or any other person acquires title to any Lot as a result of foreclosure of any such Mortgage, such holder or other person and his or her successors, successors-in-title and assigns shall not be liable for, nor shall the Lot be subject to any lien for any assessments or charges under this Declaration chargeable to the Lot on account of any period prior to such acquisition of title; provided, however, that such unpaid share of an assessment or assessments shall be deemed to be a common expense collectible from all of the Owners, including such holder or other persons and his or its successors, successors-in-title and assigns.

Annual assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice, of the annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in annual installments on such date as is determined by the Board of Directors.

Section 3. Computation. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessments to be levied against each Lot for the following year to be delivered to each member at least 30 days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the total Association vote; provided, however, if a quorum is not obtained at the meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the Members at least thirty (30) days prior to the proposed effective date thereof. Unless the proposed budget is disapproved at a special meeting requested by the Members, as provided in the Bylaws for special meetings, the new budget and assessment shall take effect without a meeting of the Members. If the budget provides inadequate for any reason, the Board may prepare a revised budget for the remainder of the fiscal year, which revised budget shall become effective unless disapproved at a meeting by Members in the same manner as prescribed for the initial budget. There shall be no obligation to call a meeting for the purpose of considering the budget or any revised budget except on petition of the Members as required for special meeting in the Bylaws, which petition must be presented to the Board within ten (10) days after delivery of the notice of assessments.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time if approved by two-thirds of the total Association vote, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital

improvement upon the Common Property, including the necessary fixtures and personal property related thereto, or any lawful expense or obligation of the Association. Special assessments shall be paid as determined by the Board. The Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessments are imposed.

Section 5. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board may also specifically assess Owners for the following Association expenses (except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association as provided herein): (a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and (b) Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge not in excess of the greater of Ten and No/100 Dollars (\$10.00) or ten percent (10%) of the amount of such delinquent assessment or installment. The lien and personal obligation for assessments shall also include interest at the rate of ten percent (10%) per annum (or such higher amount as may be permitted by the Act from time to time) on any assessment, installment, delinquency or late charge from the date such sum was first due and payable. The lien and personal obligation for assessments shall further secure and include costs of collection, including court costs, the expenses of sale, any expenses required for the protection and preservation of the Lot, and reasonable attorney's fees actually incurred. The lien and personal obligation for assessments shall also include the fair rental value of the lot from the time of the institution of suit until the sale of the Lot at foreclosure or until the judgment rendered in such suit is otherwise satisfied. The Association shall cause a notice of delinquency to be given to any Member who has not paid within ten (10) days following the due date. If the assessment is not paid within ten (10) days after written notice is given to the Owner to make such payment, the entire unpaid balance of the assessment may be accelerated at the option of the Board and declared due and payable in full, and proceedings may be instituted to enforce such lien and personal obligation. Such notice shall be sent by certified mail, return receipt requested, to the Owner both at the address of the Lot and at any other address or addresses the Owner may have designated to the Association in writing, specifying the amount of the assessments then due and payable, together with authorized late charges and interest accrued thereon. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against 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. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. Nothing in this paragraph shall be construed to prohibit

actions maintainable pursuant to Section 44-3-223 of the Act or otherwise pursuant to this Declaration.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment 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 Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

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

Section 7. Capital Reserve Fee. Upon each and every transfer or conveyance of a Lot to any person other than the spouse of the Owner or to a person who previously owned a Lot within the Community within ninety (90) days prior to such transfer or conveyance or to a trust if the Owner or his spouse are the beneficiaries thereof, the transferee or grantee becoming the Owner of the Lot at each such transfer or conveyance shall be obligated to pay to the Association, in addition to all other assessments levied under this Declaration, simultaneously upon such transfer or conveyance, a non-refundable assessment in an amount equal to the then current year's annual assessment (hereinafter the "Capital Reserve Fee"). All Capital Reserve Fees collected by the Association shall be deposited by the Association in a capital reserve account which shall be for the purpose of funding capital costs required to repair or replace improvements which are part of the Common Property. The Capital Reserve Fee may be increased by a majority vote of the Board of Directors. The Capital Reserve Fee, together with any late fees, interest, court costs and attorney's fees, also shall be the personal obligation of the person who was the Owner of such Lot immediately preceding the transfer or conveyance who shall be jointly and severally liable for such portion thereof as may be due and payable to by the transferee or grantee at the time of the transfer or conveyance; provided, however, any First Mortgagee who obtains title to a Lot pursuant to the remedies provided in a First Mortgage shall not be liable for the Capital Reserve Fee. Capital Reserve Fees shall be due and payable for any Lot from and after the recording of this Declaration. For purposes of this section, "First Mortgagee" shall mean and refer to the holder of a first priority mortgage. The Capital Reserve Fee shall, from the time it becomes due and payable, be a charge against and continuing lien upon the Lot in favor of the Association and for the benefit of all Lot Owners.

Section 8. Certificate of Payment. Any Owner, mortgagee of a Lot, Person having executed a contract for the purchase of a Lot, or lender considering the loan of funds to be secured by a Lot, shall be entitled upon request to a statement from the Association or its managing agent setting forth the amount of assessments past due and unpaid, together with late charges and interest applicable thereto against that Lot. Such request shall be in writing, shall be delivered to the registered office of the Association, and shall state an address to which the statement is to be directed. Failure on the part of the Association, within five (5) business days from the receipt of such request, to mail or otherwise furnish such statement regarding amounts due and payable at the expiration of such five (5) day period, with respect to the Lot involved, to such address as may be specified in the written request therefor, shall cause the lien for assessments to be extinguished and of no further force or effect as to the title or interest acquired by the purchaser or lender, if any, as the case may be, and their respective successors and assigns,

in the transaction contemplated in connection with such request. The information specified in such statement shall be binding upon the Association and upon every Owner. Payment of a fee not exceeding Ten and No/100 Dollars (\$10.00) (or such larger amount as may be permitted, from time to time, by the Act) may be required as a prerequisite to the issuance of such a statement.

Article V

Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and occupants of Lots. These use restrictions may only be amended in the manner provided in Article XIII, Section 3, regarding amendment of this Declaration. In addition, the Board may, from time to time, without consent of the members, promulgate, modify or delete the Rules and Regulations applicable to the Property. Such use restrictions and Rules and Regulations shall be distributed to all Owners and occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless overruled, cancelled or modified by a majority of the Board of Directors.

Section 2. Residential Use. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Community, including business uses ancillary to a primary residential use, except that the Owner or occupant residing in the residence on a Lot may conduct such ancillary business activities within the residence so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the residence; (b) the business activity does not involve persons coming onto the Community who do not reside in the Community or door-to-door solicitation of residents of the Community; (c) the business activity conforms to all zoning requirements for the Community; and (d) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board of Directors.

The terms “business” or “trade,” as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider’s family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether: (i) the activity is engaged in full or part-time; (ii) the activity is intended to or does generate a profit; or (iii) license is required for the activity.

Section 3. Architectural Control. To preserve the architectural appearance of the Property, no exterior construction, alteration, addition or erection of any nature whatsoever shall be commenced or placed upon any part of the Property, except such as approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, or alteration 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 the Board of Directors or an appointed Architectural Control Committee (“ACC”). Any application to the Board of Directors or ACC shall be in writing and shall provide such information as the Board of Directors may reasonably require. The Board or Directors or ACC shall have the right to adopt reasonable architectural standards with respect to construction, additions or alterations as to any portion of the Property, which standards may provide for a

review fee and the same shall be enforceable as if set forth herein. The Board may employ architects, engineers or other persons as it deems necessary to enable the ACC to perform its review. The ACC 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 committee for all matters delegated. The Board shall appoint the members of the ACC, which shall be comprised of at least five (5) representatives. A majority vote of the ACC is required for approval or disapproval of submitted plans and specifications.

If the ACC fails to approve or disapprove submitted plans and specifications within forty-five (45) days after the plans and specifications have been submitted to it, the foregoing will be deemed approved. However, all activities commenced pursuant to plans which have been approved shall be consistent with such plans.

As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any change, modification, addition or alteration as such responsibilities are set forth in Article VII herein. In the discretion of the ACC, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The ACC shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board, the ACC or their representatives shall have the right, during reasonable hours, and after reasonable notice, to enter upon any property to inspect for the purposes of ascertaining whether or not these restrictive covenants have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry.

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

In the event proposed plans, details and specifications are disapproved by the ACC, an Owner may request a hearing by forwarding a written explanation of the basis for the appeal and requesting a hearing by the ACC. The ACC shall evaluate the written request and determine if there is sufficient reason for a hearing. The ACC's decision will be forwarded to the Owner in writing. In the event an Owner is not satisfied with the results of the appeal to the ACC, the Owner may appeal to the Board of Directors using the same written procedure as above. The Board shall be required to hear the Owner's appeal, and must consult with the ACC prior to

making its decision. The Board's decision will be forwarded to the Owner in writing and shall be final.

Each Owner acknowledges that the members of the Board and the ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of either the Board or the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board or the ACC shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 4. Signs. No sign of any kind shall be erected by an Owner or occupant of a Lot within the Community except as follows: (a) one (1) "For Sale" sign, and (b) one (1) professionally lettered security sign consistent with the Community-Wide Standard may be erected upon a Lot. Notwithstanding the foregoing, the Association shall have the right to erect reasonable and appropriate signs on the Common Property and on any property where entry features are located. This Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage.

Section 5. Vehicles. The term "vehicles," as used in this provision shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans, automobiles, and any other similar vehicles. All vehicles shall be parked within garages, driveways or other paved parking areas located on a Lot. Parking in yards or on the Common Property is prohibited. The doors of garages shall be kept closed at all times, except during times of entry and exit from the garage, or when someone is working in or around the garage.

No vehicle may be left upon any portion of the Community, except in a garage or other area which is not visible from another Lot or any street within the Community or from a street providing access to or running along the boundary of the Community for a period longer than five (5) days if it is unlicensed or if it is in a condition so that it cannot operate on public streets. After the five (5) day period, the inoperable vehicle shall be considered a nuisance and, if on Common Property, may be removed from the Community by the Association. No boat, boat trailer, recreational vehicle, motor home, mobile home, tow vehicle, commercial vehicle, or vehicle with commercial writing on its exterior shall be temporarily kept or stored in the Community for any period in excess of twelve (12) hours unless kept in a garage or other area which is not visible from another Lot or any street within the Community or from a street providing access to or running along the boundary of the Community. Trucks with mounted campers which is an Owner's or occupant's primary means of transportation shall not be considered recreational vehicles, provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. No eighteen wheel trucks or the cabs of these trucks or trucks with a load capacity in excess of three-quarters of a ton shall be parked, kept, or stored within the Community, and if so parked, kept, or stored shall be considered a nuisance. However, moving vans, service or delivery vehicles may be parked in the Community for such period of time as is reasonably necessary to provide each service.

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

Section 6. Occupants Bound. All provisions of the Declaration which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants of Lots and guests and invitees of occupants or Owners. The Owner shall be responsible for insuring that the occupant, and the guests, invitees and licensees of the Owner or the occupant strictly comply with all provisions of the Declaration.

Section 7. Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number. No pit bulldogs or other dangerous dogs may be brought onto or kept on the Property at any time by any Lot Owner, occupant, or guest of an Owner or occupant. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall at all times whenever they are outside be on a leash held by a responsible person or otherwise confined. All Owners and occupants keeping pets within the Community shall comply with all applicable governmental ordinances and regulations. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall be registered, licensed and inoculated as required by law.

Section 8. Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause a Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will discharge foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device, except for devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law. However, any siren or device for security purposes shall contain a device which causes it to automatically shut off within fifteen (15) minutes.

Section 9. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities which might tend to cause disorderly, unsightly or unkempt conditions, including without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, shall not be pursued or undertaken in any part of the Community except within garages located on Lots.

Section 10. Antennas. The installation and maintenance of television antennas, radio receivers, radio receiver equipment, satellite dish equipment and other similar devices shall be subject to such Rules and Regulations as are adopted from time to time by the Board of Directors, and all such Rules and Regulations shall be enforceable as if fully set forth herein.

Section 11. Tree Removal. No trees having a diameter of six (6) inches or more and a height of more than eight (8) feet above the ground shall be removed without the express consent of the Board of Directors, except for (a) diseased, dead or fallen trees; (b) trees needing to be removed to promote the growth of other trees or for safety reasons; and (c) trees within ten (10) feet of the residence, driveway, walkways constructed or to be constructed on the Lot.

Section 12. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or occupant of a Lot may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

Section 13. Sight Distance at Intersections. All property located at street intersections and at the intersections of streets and driveways shall be landscaped so as to permit safe sight across the corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 14. Clotheslines, Garbage Cans, Woodpiles, Etc. All clotheslines, garbage cans, woodpiles, swimming pool pumps, filters and related equipment and other similar items shall be located or screened so as to be concealed from view of neighboring Lots and Common Property, including the Lake, and the street on which the Lot (on which the item is located) fronts. All construction debris, rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage and debris shall not be put out to the curb earlier than the night before trash pick-up, and empty cans and containers shall be removed no later than the evening after pick-up. Trash, garbage, debris or other waste matter of any kind may not be burned within the Community.

Section 15. Fences. No fence or fencing-type barrier of any kind shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board of Directors. No chain link fences shall be installed which are visible from another Lot or from any street within the Community or from a street providing access to or running along the boundary of the Community. The Board of Directors may issue additional guidelines detailing acceptable fence styles or specification, but in no event may a barbed wire fence be approved.

Section 16. Air Conditioning Units. No window air conditioning units may be installed. Condensing units for air conditioners shall only be located in the rear or along the side of a residence constructed upon a Lot.

Section 17. Play Equipment and Above Ground Swimming Pools. Above ground swimming pools shall not be erected, constructed, or installed on any Lot. Play equipment shall be located in the rear portion of a Lot only.

Section 18. Standard Mailboxes. All residences in the Community shall have standard mailboxes conforming to postal regulations.

Section 19. Use of Lake. Use of the Lake shall be limited as provided by the Board of Directors. Neither the Board of Directors nor the Association shall be held liable to any person for any claim, damage, or injury occurring on the Lake or related to the use thereof.

Section 20. Playground. Any playground or other play areas or equipment located on the Common Property shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 21. Guns. The use of firearms in the Community is strictly prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, paint guns and small firearms of all types.

Section 22. Lighting. Except as may be permitted by the Board of Directors, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on the Lot; (b) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; and (d) seasonal decorative lights. Any exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the Owner and occupants of the adjacent Lots.

Article VI **Annexation of Additional Property**

Section 1. Unilateral Annexation By Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, and upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots, the Association may annex real property to the provisions of this 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 VII **Easements**

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and adjacent portion of the Common Property or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered (in accordance with the terms of this Declaration). The easement shall be five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point. However, an easement for encroachment shall not exist if the willful conduct by an Owner, tenant, or the Association caused the encroachment.

Section 2. Easement for Maintenance. A perpetual easement exists for the benefit of the Association across such portions of the Community as are necessary to allow for the maintenance required to be performed by the Association, inclusive of the maintenance of any entry features and similar streetscapes within the Community. 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 the right to grade the land under and around such entry features. All maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect the property, and damage shall be repaired by the person causing the damage at its sole expense.

Section 3. Easement for Entry in Emergency. In addition to the right of the Association to exercise self-help as provided herein, the Board of Directors shall have the right, but shall not be obligated, to enter upon any portion of the Community for emergency, security and safety reasons.

Article VIII
Common Property

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

(i) 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 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;

(ii) The right of the Association to suspend the voting rights of any Owner and the right of an Owner to use the recreational facilities available for use by the Owners, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for any infraction of this Declaration, Bylaws or Rules and Regulations, for the period of the infraction and an additional period not to exceed thirty (30) days;

(iii) The right of the Association to borrow money for the purpose of improving the Common Property or any portion thereof, or for construction, repair or improving 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 any Lot or Owner, or the holder of any mortgage, irrespective of when executed, given by any Owner encumbering any Lot or other property located within the Community;

(iv) 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;

(v) The right of the Association to dedicate or transfer all or any portion of 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 members who are Owners of at least two thirds (2/3) of the Lots; and

(vi) The right of the Association to adopt, enforce and amend, from time to time, reasonable rules and regulations pertaining to the use of the Common Property.

Any Owner may delegate such Owner's right of use and enjoyment in and to the Common Property and other 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 Lot, if leased.

Article IX
Maintenance

Section 1. Association's Responsibilities. The Association shall maintain and keep in good repair the Common Property. Maintenance by the Association shall include, but not be limited to, maintenance, repair and replacement, subject to any insurance then in effect, of all

landscaping and improvements situated on the Common Property. 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. The Association, through action of its Board of Directors, may acquire and hold tangible and intangible real or personal property, and may dispose of tangible and intangible real or personal property pursuant to Article V hereof.

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

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 added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

The Association shall not be liable for any injury or damage to any person or property (a) caused by the elements; (b) caused by any Owner or any third party, or by their respective guests, invitees, licensees, successors or assigns; (c) resulting from any rain or surface water which may leak or flow from any portion of the Common Property; or (d) caused by the failure of the Association to maintain the Common Property, unless such failure is caused by the willful misconduct or gross negligence of the Association. The Association shall not be liable to any Owner for any loss or damage, by theft or otherwise, of any property of such Owner or his respective guests, invitees, licensees, successors or assigns. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for the inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or governmental authority, it being acknowledged by each Owner that the obligation to pay assessments pursuant to this Declaration is a separate and independent covenant on the part of each Owner.

Section 2. Owner's Responsibilities. Except as provided in Section 1, above, all maintenance of the Lot and all structures, parking areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a good, clean and attractive condition and repair and in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance shall include, without limitation, prompt removal of all litter, trash, refuse and waste, reasonable maintenance, repair and replacement of all improvements and all exterior portions of the dwelling; maintenance of all grass and landscaping on a regular basis; tree and shrub pruning; watering of landscaped areas; keeping

lawn and gardening areas alive, free of weeds and in attractive condition; keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damage to all improvements, including the dwelling on the Lot.

In the event that the Board of Directors of the Association determines that any Owner has failed or refused to discharge property any of such 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 (10) days after receipt of such notice within which to complete such maintenance, repair or replacement, or in the event that such maintenance, repair or replacement is not reasonably capable of completion within a ten (10) day period, to commence such work within such ten (10) day period which shall then 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 shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot.

Article X **Insurance and Casualty Losses**

Section 1. Insurance on Common Property. The Board of Directors 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 also obtain a public liability policy applicable to the Common Property covering the Association, its officers, directors, members and its agents 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 insurance shall have coverage in the amount of at least One Million and No/100 Dollars (\$1,000,000.00) per occurrence for bodily injury or property damage and Two Million and No/100 Dollars (\$2,000,000.00) of aggregate coverage.

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 of Directors shall be written in the name of the Association, as trustee for the respective benefited 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 of Directors; provided, however, no mortgagee 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 of Directors 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 Property is located.

(e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) A waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, 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 defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or mortgagee;

(v) That any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) That no policy may be cancelled, subjected to non-renewal or substantially modified without at least thirty-(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 persons 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 (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”).

Section 2. Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots, 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 Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. 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 prepaid receipt within ten (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 Lot as a specific assessment.

Section 3. Damage and Destruction – Insured by Association.

(a) In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this 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 of Directors shall have the enforcement powers specified herein necessary to enforce this provision.

(b) Repair and Reconstruction. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the Lot Owners 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 (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 of Directors shall, without the necessity of a vote of the Association’s members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs

of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be 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 and in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 4. Damage and Destruction – Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (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 Lot and remove all debris therefrom within seventy-five (75) days after such damage or destruction.

Section 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 XI 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 (60) days after such taking, at least seventy-five percent (75%) of the Lot Owners 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. If the improvements are to be repaired or restored, the funds received by the Association shall be disbursed in the same manner as funds are disbursed for casualty damage or destruction as provided above. If the taking does not involve any improvements on the Common Property, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such awarded funds or remaking funds shall be deposited to the benefit of the Association.

Article XII Mortgage Provisions

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot number, therefore becoming an “Eligible Holder”), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first mortgage held, insured, or guaranteed by such Eligible Holder;

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

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

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

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Lot.

Section 4. Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, and so long as the U.S. Department of Housing and Urban Development ("HUD") is insuring or the Veterans Administration ("VA") is guaranteeing any mortgage in the Property, the following provisions apply in addition to and not in lieu of the foregoing. Unless two-thirds (2/3) of the first mortgages or Owners give their consent, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property which the Association owns, directly or indirectly (the granting or easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection) other than personal property of the Association;

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

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Property. (The issuance and amendment of architectural standards, procedures, rules and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection);

(d) Fail to maintain insurance, as required by this Declaration; or

(e) Use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws or Georgia law for any of the acts set out in this Section.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 5. Applicability of Article. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the mortgagee within thirty (30) days of the date of the Association's request.

Section 7. Amendment by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Article XIII **General**

Section 1. Enforcement. Each Owner and every occupant of a Lot shall comply strictly with this Declaration, the Bylaws, and the Rules and Regulations, as they may be lawfully amended or modified from time to time, and with any deed restrictions. Failure to comply with this Declaration, the Bylaws or Rules and Regulations shall be grounds for an action for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or, in a property case, by an aggrieved Owner. Failure to enforce any of the foregoing provisions shall not be a waiver of the right to enforce those provisions in the future. In addition to all other remedies available under Georgia law or under this Declaration, the Association acting through the Board, shall also have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, for violation of any duty imposed under the Declaration, the Bylaws or the Rules and Regulations, which shall be collected as provided herein for the collection of assessments. The Board shall not impose a fine unless and until the procedure outlined in the Rules and Regulations is followed.

Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors or its duly authorized agent, shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonable necessary, any structure, thing or condition which violates the Declaration, the Bylaws and the Rules and Regulations, and neither the Association, nor its directors, officers or agents shall be liable for or guilty of trespass therefor. Unless an emergency situation exists, the Board shall give the violating Owner ten (10) days' written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be immediately booted or towed after reasonable notice.

Additionally, the Association shall have the authority to record in the Gwinnett County land records a notice of violation identifying an uncured violation of the Declaration, the Bylaws or the Rules and Regulations regarding the Lot.

All costs incurred by the Association in enforcing the Declaration, Bylaws or Rules and Regulations, collecting fines, utilizing self-help and/or recording a notice of violation in the county land records, including reasonable attorney's fees, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 2. Duration. This Declaration shall run with and bind the Community for the maximum time permitted under Georgia law, and shall, to the extent so permitted, have perpetual duration.

Section 3. Amendment. This Declaration may be amended unilaterally at any time and from time to time by the Board of Directors (a) if such amendment is necessary to bring any provision into compliance with any applicable governmental statute, rule or regulation or judicial determination with which it is in conflict; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if 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 the lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure or guarantee mortgage loans on the Lots subject to this Declaration. However, any such amendment shall not adversely affect the title to any Owner's Lot unless the Lot Owner consents to the amendment in writing.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners of at least two thirds (2/3) of the Lots in the Community. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified in the amendment.

Section 4. Partition. The Common Property shall remain undivided, and no Lot Owner or any other Person shall bring any action for partition or division of the whole or any part of the Common Property without the written consent of all owners and all holders of all Mortgages encumbering any portion of the Community.

Section 5. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 6. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this declaration are declared to be severable.

Section 7. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 8. Preparer. This Declaration was prepared by Cathleen Robson Smith, Esq., Weinstock & Scavo, P.C., 3405 Piedmont Road, N.E., Suite 300, Atlanta, Georgia 30305.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of the Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Indemnification. In accordance with Section 14-3-850, et seq., of the Georgia Non-Profit Corporation Code, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the name of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association, against any and all expenses, including attorney fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be liable as Members of the Association) , and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right of indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or coroner officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is available at reasonable cost, as determined in the sole discretion of the Board.

Section 11. Books and Records. This Declaration, the Bylaws, copies of Rules and Regulations and use restrictions, membership register, books of account, and minutes of meetings of the Owners, the Board and of committees shall be made available for inspection and copying by any Owner or by his duly appointed representative and, by holders, insurers, or guarantors of any first mortgage, at their expense, at any reasonable time and for a purpose reasonably related to his or her interest as a member of the Association or holder, insurer, or guarantor of a first mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe. The Board shall establish reasonable rules with respect to: (a) notice to be given to the custodian of the records; (b) hours and days of the week when such an inspection may be made; and (c) payment of the cost of reproducing copies of documents. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a reasonable number of extra copies of documents at the expense of the Association.

Section 12. Financial Review. A review of the books and records of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, by a majority of the Lot Owners, the Owners may require that the accounts of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within ninety (90) days of the date of the request.

Section 13. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 14. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, any use restrictions, the Rules and Regulations, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 15. Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any Rules and Regulations or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 16. Conflicts. All governmental building codes, health regulations, zoning restrictions and the like applicable to the Community shall be observed. In the event of any conflict between any provision of any such governmental code, regulation or restriction and any provision of this Declaration, the more restriction provision shall apply.

IN WITNESS WHEREOF, the undersigned, being the duly appointed officers of Declarant herein, have executed this instrument and affixed the corporate seal this ____ day of _____, _____.

[Signatures appear on following page.]

DEER VALLEY COMMUNITY ASSOCIATION, INC.
a Georgia non-profit corporation

By: _____ (SEAL)

Title: _____

Attest: _____ (SEAL)

(Corporate Seal)

Signed, sealed and delivered

This ____ day of _____, _____.

Witness

Notary Public
My Commission Expires: _____

EXHIBIT "A"

LEGAL DESTRUCTION

TRACT 1

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lot 311 of the 7th Land District of Gwinnett County, Georgia and being more particularly described as follows:

To find the true point of beginning, begin at the land lot corners dividing Land Lots 310, 311, 317 and 318; thence southeasterly along the land lot line dividing Land Lots 310 and 311 882.13 feet to the true point of beginning; thence South 30° 40' 14" East 1226.11 feet to a point; thence South 29° 17' 40" West 1075.27 feet to a point; thence North 71° 04' 14" West 1622.07 feet to a point located on the easterly right-of-way of Settle Bridge Road; thence North 15° 04' 37" East 64.24 feet to a point; thence North 18° 38' 02" West 92.51 feet to a point; thence North 28° 16' 24" West 88.22 feet to a point; Thence North 34° 00' 11" West 341.45 feet to a point; thence leaving said right-of-way North 60° 22' 29" East 1933.35 feet to the true point of beginning.

Said tract or parcel of land contains 59.712 acres

LEGAL DESCRIPTION

TRACT 2

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 311 and 286 of the 7th Land District of Gwinnett County, Georgia and being more particularly described as follows:

Beginning at the land lot corner dividing Land Lots 310, 311, 317 and 318; thence southeasterly along the land lot line dividing Land lots 310 and 311 882.13 feet to a point; thence South 30° 40' 14" East 1226.11 feet to a point; thence South 29° 17' 40" West 1075.27 to the true point of beginning; thence South 71° 46' 20" East 164.31 feet to a point located in the centerline of Level Creek; thence southerly and westerly along the centerline of Level Creek 2850± feet to a point; thence leaving said centerline North 25° 58' 26" West 1382.37 feet to a point located on the easterly right-of-way of Settle Bridge Road; thence northerly along the easterly right-of-way of Settle Bridge Road the following courses and distances: North 28° 25' 52" East 75.90 feet to a point; thence North 37° 13' 06" East 154.74 feet to a point; thence North 40° 19' 32" East 132.50 feet to a point; thence North 45° 05' 03" East 201.80 feet to a point; thence North 42° 19' 44" East 47.93 feet to a point; thence North 34° 28' 57" East 55.35 feet to a point; thence leaving said right-of-way South 71° 04' 14" East 1622.07 feet to the true point of beginning.

Said tract or parcel of land contains 59.560 acres.

Deer valley\documents\declaration 9-30-03