

**AMENDED AND RESTATED BYLAWS  
OF  
WINDSONG PLANTATION PROPERTY OWNERS ASSOCIATION, INC.**

These Amended and Restated Bylaws of Windsong Plantation Property Owners Association, Inc. are made this 15 day of Mar, 200~~2~~<sup>3</sup>, upon recommendation of the Board of Directors, and with the approval a majority of the members present, in person or by proxy, at a meeting of Windsong Plantation Property Owners Association, Inc. at which a quorum is present.

**WITNESSETH:**

**WHEREAS**, Windsong Plantation is a residential subdivision created pursuant to those certain Residential Declaration of Protective Covenants and Restrictions for Windsong Plantation, Unit I and Unit II, recorded at Deed Book 1205, Page 313 *et seq.*, and Deed Book 1214, Page 113 *et seq.*, respectively, Henry County, Georgia records, and those certain Declaration of Covenants and Restrictions for Windsong Plantation, Unit III, Unit 4, Unit 5 Phase 1, Unit 5 Phase 2, Unit 6 and Unit 7, recorded at Deed Book 1435, Page 20 *et seq.*, Deed Book 1767, Page 182 *et seq.*, Deed Book 2255, Page 217 *et seq.*, Deed Book 2296, Page 9 *et seq.*, Deed Book 2529, Page 13 *et seq.*, and Deed Book 2528, Page 349 *et seq.*, respectively, Henry County, Georgia records (collectively hereinafter, the "Original Declarations");

**WHEREAS**, the Original Declarations, as previously amended, have been amended and restated as set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for Windsong Plantation, recorded, or to be recorded, in the Henry County, Georgia records (hereinafter, the "Declaration");

**WHEREAS**, Windsong Plantation Property Owners Association, Inc. (hereinafter, the "Association") is the "Association" as said term is used and defined in the Declaration;

**WHEREAS**, pursuant to Article XIV of those certain Bylaws of Windsong Plantation Property Owners Association (the "Original Bylaws"), said Original Bylaws may be amended at a regular or special meeting of the members of the Association by vote of a majority of a quorum of the members present in person or by proxy;

**WHEREAS**, the Board of Directors and members of the Association have determined it to be in the best interest of the Association to amend and restate the Original Bylaws of the Association as set forth hereinbelow;

**WHEREAS**, the following Amended and Restated Bylaws of the Association (the "Bylaws") have been approved by a majority of the members present, in person or by proxy, at a meeting of the Association at which a quorum was present.

**NOW, THEREFORE**, the Original Bylaws of the Association are hereby amended by striking the same in their entirety, and substituting therefor the following:

**AMENDED AND RESTATED BYLAWS**  
**OF**  
**WINDSONG PLANTATION PROPERTY OWNERS ASSOCIATION, INC.**

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ARTICLE I  
Definitions

Unless the context otherwise requires, the terms as used in these Bylaws shall have the same meanings as those terms defined in the Declaration. Additionally, the following terms shall have the following meanings:

Section 1. "Act" shall mean the Georgia Property Owners Association Act, O.C.G.A. § 44-3-220, *et seq.*, as the same may heretofore or hereafter be supplemented, amended or modified.

Section 2. "Articles of Incorporation" shall mean the Articles of Incorporation of the Association as the same now exist or as may hereafter be amended.

Section 3. "Eligible Votes" shall mean and refer to those membership votes eligible to be cast on the matter at hand. A vote which is for any reason suspended shall not be considered an Eligible Vote with respect to any matter.

Section 4. "First Mortgage" shall mean a first priority Mortgage and "First Mortgagee" shall mean the holder of a First Mortgage.

Section 5. "Managing Agent" shall mean the person, company, or other legal entity who undertakes the duties, responsibilities, and obligations of the management of the Association and the Community. The Managing Agent may be employed and terminated by a vote of the Board of Directors of the Association, subject to any contract as might exist.

Other terms shall have their natural meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code.

ARTICLE II  
General

Section 1. Applicability. These Bylaws provide for the governance of Windsong Plantation in accordance with the Articles of Incorporation and the Declaration and are applicable to the Common Property and the Lots comprising the Community. These Bylaws are binding on all present and future Owners, tenants, residents, or other persons occupying or using the Lots or portions of the Common Property in any manner. The mere acquisition, rental or act of occupancy of any part of the Common Property or the Lots will signify that these Bylaws are accepted, ratified and will be complied with. These Bylaws are subject to the provisions of the Act, the Georgia Nonprofit Corporation Code, the Articles of Incorporation, and the Declaration, as such may be amended from time to time.

Section 2. Name. The name of the corporation is Windsong Plantation Property Owners Association, Inc., (sometimes referred to hereinafter as the "Association").

Section 3. Purpose. The Association shall have the responsibility of administering the Community, establishing the means and methods of collecting the contributions to the Association expenses, arranging for the management of the Community, and performing all of the other acts that may be required to be performed by the Association pursuant to the Act and the Declaration. Except as to those matters which either the Act, the Declaration, or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association, the administration of the foregoing responsibilities shall be performed by the Board of Directors, as more particularly set forth below.

Section 4. Membership. As provided in the Declaration and the Act, the Owner of a Lot shall automatically become a Member of the Association upon taking title to the Lot and shall remain a Member for the entire period of ownership. As may be more fully provided below, a spouse of a Member may exercise the powers and privileges of the Member. If title to a Lot is held by more than one person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Lot. Membership does not include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Lot to which it pertains and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title.

Section 5. Voting. The membership of the Association shall consist of all Lot Owners. Each Lot shall be entitled to a vote which may be cast in accordance with the terms herein and the terms of the Declaration. A vote may be cast by the Owner, the Owner's spouse, or by a lawful proxy as provided below and shall be allocated as provided in the Declaration. When a Lot is owned by more than one (1) natural persons, if only one of those persons is present at a meeting, that person shall be entitled to cast the votes pertaining to the Lot. However, if more than one of those persons is present, the vote pertaining to the Lot shall be cast only in accordance with their unanimous agreement unless the Declaration or these Bylaws expressly provide otherwise; and such unanimous agreement shall be conclusively presumed if any one of them purports to cast the votes pertaining to the Lot without protest being made immediately by any of the others to the President or other person presiding over the meeting.

Section 6. Suspension of Voting Rights. The Board of Directors may suspend the voting rights of any Owner who is shown on the books and records of the Association or management accounts to be more than ten (30) days delinquent in the payment of any assessments due to the Association until such assessments have been paid. The Board may also suspend the voting rights of an Owner for the infraction of any provision of the Declaration, these Bylaws or any Rule or Regulation for the period of such infraction, plus an additional period not to exceed thirty (30) days. Any Owner whose voting rights have been suspended shall not be counted for purposes of establishing a quorum or be permitted to vote until such voting rights have been reinstated by the Association.

Section 7. Suspension of Use of Common Property. The Association shall be empowered to suspend temporarily an Owner's right to use the facilities as may be located on the Common Property or to benefit from any service provided or paid for by the Association in order to enforce compliance with the Declaration, these Bylaws or the Rules and Regulations of the

Association.

ARTICLE III  
Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the Members shall be held on a date and at a time and place established by the Board. At the annual meeting, reports of the activities, finances and budget projections of the Association shall be made to the Owners.

Section 2. Special Meetings. Special meetings of the Members for any purpose may be called at any time by the President, the Secretary, or the Treasurer, and shall be called by request of any two or more members of the Board of Directors, or upon written request of at least twenty-five percent (25%) of the Owners.

Section 3. Notice of Meetings. Notice shall be given to each Owner at least twenty-one (21) days prior to any annual meeting or regularly scheduled meeting and at least seven (7) days prior to any special meeting, and shall state the time, place and purpose of such meeting. Meetings may be held at such places within Henry County, Georgia as may be designated by the Board of Directors. Notices shall be delivered personally or mailed by United States Mail, postage prepaid, to each Owner at the address of his or her Lot or at such other address designated by such Owner by notice in writing to the Association.

Section 4. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or by proxy, shall be deemed a waiver of all objections to lack of notice or defective notice of the meeting, unless the Owner at the beginning of the meeting objects to the holding of the meeting or transacting business at the meeting. An Owner's attendance at a meeting shall also be deemed waiver of all objections to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the Owner objects to considering the matter when it is presented. The recitation in the minutes of any membership meeting that notice of such meeting was properly given shall be prima facie evidence that such notice was so given.

Section 5. Quorum. At all membership meetings, a quorum shall be deemed present throughout any meeting if Owners entitled to cast more than one-third (1/3) of the Eligible Votes with respect to all of the matters to be considered at such meeting are present in person or by proxy at the beginning of such meeting.

Section 6. Adjournment. Any meeting of the Owners may be adjourned from time to time by the vote of a majority of the Eligible Votes of Owners present in person or by proxy, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at an adjourned session, and no additional notice of such adjourned session shall be required other than by an announcement at the meeting at which such adjournment is taken. The quorum required by Section 5 hereof shall be required at the

adjourned session. Notwithstanding the above, when any membership meeting, either annual or special, is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.

Section 7. Proxy. Any Owner entitled to vote may do so by written proxy duly executed by the Owner setting forth the meeting at which the proxy is valid. To be valid, a proxy must be filed with the Secretary prior to the opening of the meeting for which it is to be used and must be dated. No proxy shall be revocable except by written notice delivered to the Association. Any proxy not dated or purporting to be revocable without such written notice shall be void.. A proxy shall be automatically revoked if the Owner who has given such proxy is in attendance at the meeting. A proxy shall also be automatically revoked upon the conveyance by an Owner of his Lot and no proxy shall be valid after eleven (11) months from the date of its execution.

Section 8. Consents. Any action which may be taken by a vote of the Owners may also be taken by written consent, without a meeting, provided that such action is taken in accordance with the provisions of the Georgia Nonprofit Corporation Code.

Section 9. Written Ballot. Any action to be taken at any annual or special meeting of Members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of any action shall be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter other than the election of directors, and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary and shall be included in the minutes of meetings of Members filed in the permanent records of the Association.

Section 10. Decision of Owners. Unless otherwise expressly provided in the Act, the Declaration, or these Bylaws, and provided a quorum is present, the affirmative vote of Owners in attendance in person or by proxy holding at least a majority of the Eligible Votes represented at the meeting shall be the act of the Owners. For purposes of these Bylaws, "majority" shall mean more than fifty percent (50%). Notwithstanding the foregoing, any action which by law or pursuant to the provisions of the Declaration requires the assent of a special percentage of the votes of the Owners greater than that herein specified, shall not be considered the act of the Owners unless such requisite percentage so prescribed by law or by the Declaration is obtained. In the event of any tie vote at any annual, special, or adjourned meeting, the President, or the Vice President in the absence of the President, shall cast a separate vote to break the tie.

Section 11. Conduct of Business. The President shall preside over all meetings of the

Owners and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions duly adopted as well as all other transactions occurring at such meetings.

ARTICLE IV  
Board of Directors

A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors consisting of not more than nine (9) directors nor less than three (3) directors who need not be Members of the Association. No Owner and his or her spouse may serve on the Board at the same time. No decrease in the authorized number of directors shall shorten the term of any incumbent director. Any Owner or spouse of a Owner who is more than sixty (60) days delinquent in the payment of any assessment or other amount owed to the Association shall not be eligible to serve as a director.

Section 2. Term of Office. At the first annual meeting of the membership following adoption of these Bylaws, the number of directors determined by the current Board shall be elected. The candidates totaling a simple majority of the total number of directors to be elected who receive the largest number of votes shall be elected to serve two (2) year terms and the remaining candidates necessary to fill the vacant director positions who receive the next largest number of votes shall be elected to serve one (1) year terms. Upon expiration of such initial terms, each successor director elected thereafter shall be elected to serve a term of two (2) years. Directors shall hold office for the term for which he or she was elected and until his or her successors are elected and qualified or until his or her earlier resignation, death or removal.

Section 3. Election of Directors. The Board of Directors may appoint a Nominating Committee which shall seek out nominations of candidates to be elected to the Board of Directors. The Nominating Committee shall consist of one (1) Board member and two (2) other Members of the Association. Nominations shall also be taken from the floor at the annual or special meeting at which the election shall take place. An Elections Committee shall be appointed by the Board of Directors to conduct the election of directors. Elections may be conducted at the annual meeting or by written mail-in ballot in accordance with the Georgia Nonprofit Corporations Code. Directors shall be elected by a plurality of the votes cast. Cumulative voting shall not be permitted. All ballots shall be kept in the records of the Association for at least three (3) years.

Section 4. Removal of Directors. At any regular or special meeting of the Association duly called, any one or more of the directors may be removed with or without cause by vote of a majority of the total Association vote and a successor may then and there be elected to fill the vacancy thus created for the term so remaining. Any such director whose removal has been proposed by the membership shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Any director who has not attended two (2) consecutive Board meetings may be removed from the Board by a majority vote of the directors present at a Board meeting, a quorum being had.

Section 5. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a director by vote of the Members shall be filled by a vote of the majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each person so selected shall serve for the remainder of the vacating director's term. Vacancies in the Board of Directors caused by removal of a director by vote of the Members shall be filled by the membership in accordance with Section 4 hereof.

Section 6. Compensation. No director shall be compensated for his services to the Association as a director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

B. Meetings.

Section 7. Organizational Meetings. The first meeting of a newly elected Board of Directors shall be held within thirty (30) days of election at such time and place as may be determined by the directors.

Section 8. Regular Meetings. Meetings of the Board of Directors shall be held without notice, on such dates and at such time and place as shall be determined from time to time by the Board. The Board may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by these means is deemed to be present in person at the meeting.

Section 9. Special Meetings. Special meetings of the Board of Directors may be called by the President, or by any two (2) directors, on not less than three (3) days' notice to each director given by mail, in person, by telephone or by facsimile, which notice shall state the time, date, place, and purpose of the meeting.

Section 10. Waiver of Notice. Any director may, at any time, in writing, waive notice of any meeting of the Board of Directors, and such waiver shall be deemed equivalent to the giving of such notice. Attendance at or participation by a director at any meeting of the Board of Directors shall constitute a waiver by him of any required notice to him of the meeting unless the director at the beginning of the meeting (or promptly upon his arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or consent to any action taken at the meeting. Whenever any director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be prima facie evidence that due notice of such special meeting was given such director as required hereunder and by Georgia law.

Section 11. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board of Directors and a record of all transactions and proceedings occurring at such meetings.

Section 12. Quorum. A quorum shall be deemed present throughout any meeting of the

Board of Directors if a majority of the number of directors is present at the beginning of such meeting. A decision of the Board of Directors shall be by a majority of those directors present at a duly called meeting and every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. The President may vote. If any Board of Directors meeting cannot be held because of the absence of a quorum, a majority of the votes present and voting may adjourn the meeting until a later time. The necessary quorum shall be required at the adjourned session. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Action Without A Meeting. Any action by the Board of Directors or by any committee appointed by the Board of Directors required or permitted to be taken at any meeting may be taken without a meeting if, prior to such action, written approvals of a majority of the directors or committee members are obtained.

Section 14. Voting, Tie Votes. At all meetings of the Board of Directors, each director, including the President, shall be entitled to cast one (1) vote. In the event of a tie vote by the Board of Directors, the President may, in addition to his or her vote as a Board Member, exercise a supplemental vote to break the tie vote.

C. Powers and Duties.

Section 15. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Community and may do all such acts and things as are not by the Declaration, Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the Members. Such powers and duties of the Board of Directors shall be exercised in accordance with and subject to all provisions of the Act, the Declaration, the Georgia Nonprofit Corporation Code, and these Bylaws, and shall include, by way of example and not limitation, the powers and duties to:

(a) Operate, care for, maintain, repair, and replace the Common Property and employ personnel necessary or desirable therefor.

(b) Adopt, modify, and repeal such reasonable Rules and Regulations as it deems necessary and appropriate for the governance of the Community including, but not limited to, the use of Lots and the Common Property and the personal conduct of the Members and their guests thereon, or the administration of the affairs of the Association and to impose sanctions for violations thereof, including, but not limited to, (i) monetary fines which the Board of Directors, in the exercise of its sole discretion, determines to be reasonable, (ii) suspension of voting rights, and (iii) suspension of rights to use the Common Property; provided, however, the membership may repeal and rescind any rule or regulation adopted by the Board upon call of a meeting and consent of a majority of the total number of Eligible Votes in the Association.

(c) Manage, control, lease as lessor, and otherwise deal with the Common Property, including the right to grant permits, licenses and easements over, under and across the Common Property for utilities, roads and other purposes reasonably necessary or useful for the

proper operation or maintenance of the Community, as well as the power to make shut-offs of common services and other interruptions of the normal functioning of the buildings to facilitate performance of any maintenance or repair work or the making of additions, alterations, or improvements by the Association or the Owners pursuant to provisions of the Declaration. The Board of Directors shall use reasonable efforts to disrupt the Owners and occupants as little as possible in exercising such power to make shut-offs and other interruptions.

(d) Enforce by any legal or equitable remedies available all obligations of an Owner or Owners to the Association. Such enforcement power shall include, without limitation, the power to (i) levy, as assessments, fines against Owners, as provided in these Bylaws and the Declaration, (ii) suspend the voting rights of Owners, and (iii) suspend the rights of Owners to use the Common Property.

(e) Borrow money for the purpose of repair or restoration of the Common Property and facilities without the approval of the Members of the Association, except as otherwise provided in the Declaration.

(f) Declare a director position on the Board of Directors to be vacant in the event a director shall be absent from two (2) consecutive regular meetings of the Board of directors.

(g) Take all other actions the Board of Directors deems necessary or proper for the sound management of the Community and fulfillment of the terms and provisions of the Act, the Declaration, and these Bylaws.

In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to perform and be responsible for any and all functions necessary or proper for the administration and operation of the Community, unless otherwise particularly and specifically given to the membership.

#### D. Committees.

Section 16. Architectural Review Board. The Board may establish an Architectural Review Board ("ARB") for the purpose of establishing and maintaining architectural standards in the Community. No Owner may make any structural alteration or shall undertake any exterior repainting or remodeling or addition to his residence without the prior written approval of the ARB in accordance with these Bylaws, the Declaration, and any Rules and Regulations.

Section 17. Additional Committees. The Board of Directors shall have the power and authority to create and establish other committees as it deems desirable. The members of any such committee shall be appointed by and shall serve at the pleasure of the Board of Directors.

ARTICLE V  
Officers

Section 1. Designation. The officers of the Association shall be a President, a Vice President, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one (1) office. All officers must be Members of the Association and directors.

Section 2. Election and Term. The officers of the Association shall be elected annually by the Board of Directors at the first meeting (organizational meeting) of the Board following the annual meeting of the Members and shall hold office for one year unless they shall resign or shall be removed, or are otherwise disqualified to serve.

Section 3. Removal and Resignation. Upon the affirmative vote of a majority of the directors, any officer may be removed, either with or without cause, and a successor may be elected. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of 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.

Section 4. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise may be filled by appointment of the Board. The officer elected to fill such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 5. President. The President shall preside at all meetings of the membership and the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments or contracts; and shall perform all other duties provided by the Georgia Non-Profit Corporation Code.

Section 6. Vice-President. The Vice-President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him or her by the Board.

Section 7. Secretary. The Secretary shall record the notes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it to all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform such other duties as required by the Board.

Section 8. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association, and shall disburse such funds as directed by resolution of the Board, or review the foregoing activities if done by a management agent retained by the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year if deemed necessary by the

Board; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at the annual meeting, and deliver a copy of each to the Members.

## ARTICLE VI Fiscal Matters

Section 1. Assessments. Owners shall pay assessments imposed pursuant to the provisions of the Declaration. In any year in which there is an excess of assessments over expenditures, the Board of Directors, without the necessity of a vote of the Owners, shall determine either to apply such excess or any portion thereof against and reduce the subsequent year's assessments, or to allocate the same to one or more reserve accounts.

Section 2. Fidelity Bonds. The Board of Directors may require that any manager, contractor or employee of the Association handling or responsible for Association funds furnish an adequate fidelity bond.

Section 3. Books and Records. The books and records of the Association shall be subject to inspection by any Member to the extent provided by and in accordance with the Georgia Nonprofit Corporation Code; provided, however, that the Declaration, Articles of Incorporation, and Bylaws of the Association shall be available for inspection and purchase, at a reasonable price, at the principal office of the Association during ordinary business hours.

Section 4. Annual Review. The financial books and records of the Association shall be reviewed annually by a certified public accountant. An audit need not be performed unless irregularities are discovered during the annual review.

## ARTICLE VII Rule Making and Enforcement

Section 1. Authority and Enforcement. The Board of Directors shall have the authority to make, modify, repeal, and enforce reasonable Rules and Regulations governing the conduct, use, and enjoyment of Lots and the Common Property, provided that copies of all such Rules and Regulations are furnished to all Owners. The Board shall have the power to impose reasonable monetary fines, as provided within the Declaration and these Bylaws, which shall constitute a lien upon the Lot of the violating Owner and otherwise be collectible as an assessment and to suspend an Owner's right to vote or to use any facilities as may be located on the Common Areas or to benefit from any services provided or paid for by the Association for violation of any duty imposed under the Declaration, these Bylaws, or any Rules and Regulations duly adopted hereunder.

Section 2. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through its Board of Directors, may elect to enforce any provision of the Act, the Declaration, these Bylaws, or the Rules and Regulations by self-help or by suit at law or in equity, or by enjoining any violation or by recovering monetary damages or both. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the

violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

ARTICLE VIII  
Miscellaneous

Section 1. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws or the Declaration shall be in writing and shall be deemed to have been duly given and become effective if delivered personally or if sent by U.S. Mail, first class postage pre-paid: to an Owner at the address which the Owner has designated in writing and filed with the Secretary or the Managing Agent or, if no such address has been designated, at the address of the Lot of such Owner; or to the Association, the Board of Directors or the Managing Agent at the principal office of the Association or the Managing Agent, if any, or at such other address as shall be designated by a duly given notice to the Owners.

Section 2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision hereof.

Section 4. Gender and Grammar. The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 5. Conflicts. In the event of conflicts between the Act, the Declaration, and these Bylaws, the Act and the Declaration shall control, in that order.

Section 6. Indemnification. Each director and officer of the Association who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, by reason of the fact that he is or was a director or officer of the Association, shall be indemnified by the Association against those expenses and costs which are allowed by the laws of the State of Georgia and that are actually and reasonably incurred by him or her in connection with such action, suit, or proceeding. To the extent obtainable, the Association shall maintain insurance on behalf of directors and officers against such liabilities asserted against and incurred by any such person in such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify the directors and officers against such liabilities under the laws of the State of Georgia.

Section 7. Amendment. These By-Laws may be amended at a regular or special meeting of the Board by a majority vote of the Board.

IN WITNESS WHEREOF, the undersigned officers of Windsong Plantation Property Owners Association, Inc. do hereby certify that these Amended and Restated Bylaws of Windsong Plantation Property Owners Association, Inc. were duly adopted by the Association and its Membership as of the day and year first above written.

**WINDSONG PLANTATION PROPERTY OWNERS ASSOCIATION, INC.**

BY: [Signature]  
PRESIDENT

ATTEST: [Signature]  
SECRETARY

SIGNED, SEALED AND DELIVERED ON  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007<sup>3</sup>.

[Signature]  
WITNESS

[Signature]  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: July 10, 2006



**FIRST AMENDMENT TO THE AMENDED AND RESTATED BYLAWS OF  
WINDSONG PLANTATION PROPERTY OWNERS ASSOCIATION, INC.**

This Amendment to the Amended and Restated Bylaws of Windsong Plantation Property Owners Association, Inc. (hereinafter the "Amendment") is made this 31<sup>st</sup> day of August, 2009 by Windsong Plantation Property Owners Association, Inc. (hereinafter the "Association") in accordance with the provisions of said Bylaws.

**WITNESSETH**

**WHEREAS**, Section 7 of Article VIII of the Amended and Restated Bylaws of Windsong Plantation Property Owners Association, Inc. (hereinafter the "Bylaws") provides for amendment of the Bylaws at a regular or special meeting of the Board by a majority vote of the Board; and

**WHEREAS**, a majority of the Board have approved this Amendment by affirmative vote at a regular or special meeting; and

**WHEREAS**, this Amendment does not eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the Declarant, any Builder, or any Mortgagee;

**NOW, THEREFORE**, the Bylaws of the Association are hereby amended as follows:

1. By adding the following Sections at the end of Article I of the Bylaws:

"Section 6. "Electronic Document" shall mean information created, transmitted, received or stored by electronic means and retrievable in human perceivable form including, without limitation, e-mail, web pages, electronic documents, and facsimile transmissions.

Section 7. "Electronic Signature" shall mean a signature created, transmitted, received or stored by electronic means and includes, but is not limited to, a Secure Electronic Signature.

Section 8. "Secure Electronic Signature" shall mean an electronic or digital method executed or adopted by a Person with the intent to be bound by or to authenticate a record, which is unique to the Person using it, is capable of verification, is under the sole control of the Person using it, and is linked to data in a manner that if the data is changed, the electronic signature is invalidated."

2. By adding the following Section at the end of Article II of the Bylaws:

"Section 8. Electronic Documents and Electronic Signatures.

(a) Electronic Documents. Whenever these Bylaws require that a document, record or instrument be "written" or "in writing", this requirement shall be deemed satisfied by an Electronic Document.

(b) Electronic Signatures. Whenever these Bylaws require a signature, an Electronic Signature satisfies that requirement only if:

(1) The signature is easily recognizable as a Secure Electronic Signature which is capable of verification, the signature is under the sole control of the signatory, and the signature is attached to the Electronic Document in such a way that the document cannot be modified without invalidating the signature; or

(2) The Board reasonably believes that the signatory affixed the signature to the document with the intent to sign the Electronic Document, and that the Electronic Document has not been modified since the signature was affixed.

(c) Verification and Liability for Falsification. The Board may require reasonable verification of any Electronic Signature or Electronic Document. Pending verification, the Board may refuse to accept any Electronic Signature or Electronic Document that, in the Board's sole discretion, is not clearly authentic. Neither the Board nor the Association shall be liable to any Member or any other person for accepting or acting in the reliance upon an Electronic Signature or Electronic Document that the Board reasonably believes to be authentic. Any Member or person who negligently, recklessly or intentionally submits any falsified Electronic Document or an unauthorized Electronic Signature shall fully indemnify the Association for actual damages, reasonable attorney's fees and expenses incurred as a result of such act.

3. By deleting Section 9 of Article III of the Bylaws in its entirety, and substituting the following in its place:

"Section 9. Written Ballot. Any action to be taken at any annual, regular or special meeting of Members may, in the Board's discretion, be taken without a meeting if approved by written ballot as provided herein. The Board shall deliver a written ballot to each Member entitled to vote on the matter by personal delivery, U.S. Mail, facsimile transmission, e-mail, or other electronic means. Owners shall deliver their vote by ballot by whatever means specified by the Board. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot of any action shall be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter other than the election of directors and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The result 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."

4. By deleting Section 1 of Article VIII of the Bylaws in its entirety, and substituting the following in its place:

"Section 1. Notices.

(a) Method of Giving Notice. Unless otherwise prohibited in these Bylaws, all notices, demands, bills, statements, or other communications shall be in writing and shall be given via (i) personal delivery to the addressee; (ii) United States mail, first class, postage prepaid; (iii) electronic mail; (iv) facsimile; or (v) a secure web site, provided that notice shall be deemed given via web site only upon proof that the addressee has retrieved the message.

(b) Addressee. Notice sent by one of the methods described in subparagraph (a) above shall be deemed to have been duly given:

(i) If to an Owner, at the address, electronic mail address or facsimile number which the Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Lot of such Owner;

(ii) If to the Association, the Board or the managing agent, at the postal address, facsimile or electronic mail address of the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary. The Secretary shall promptly provide notice to all Owners of any such change in address.

The electronic mail address designated by an Owner shall be revocable by the Owner by giving written notice to the Association. Any such designation shall be deemed revoked if (i) the Association is unable to deliver by electronic transmission two consecutive notices given by the Association in accordance with such designation; and (ii) such inability becomes known to the Secretary of the Association or to the transfer agent or other person responsible for the giving of notice; provided however, that the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. All such notices shall be deemed effective upon personal delivery, or, if mailed, on the postmarked date of the notice, or if by electronic transmission, on the day the transmission is received."

5. Except as herein modified and amended, the Bylaws shall remain in full force and effect.

**IN WITNESS WHEREOF**, the undersigned officers of the Association do hereby certify that this Amendment was duly adopted by the required vote of the Board of Directors as of the day and year first above written.

**WINDSONG PLANTATION PROPERTY OWNERS ASSOCIATION, INC.**

BY:   
PRESIDENT

ATTEST:   
SECRETARY

SIGNED, SEALED AND DELIVERED ON  
THIS 31<sup>st</sup> DAY OF August, 2009.

  
WITNESS

  
NOTARY PUBLIC  
MY COMMISSION EXPIRES: 8/19/2012

**DENISE R TEAL  
NOTARY PUBLIC  
HENRY COUNTY, GEORGIA**

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SUPERIOR COURT  
HENRY COUNTY, GA

PLEASE RETURN TO:  
Steven M. Winter, Esq.  
Weinstock & Scavo, P.C.  
Suite 300  
3405 Piedmont Road, N.E.  
Atlanta, Georgia 30305

STATE OF GEORGIA  
COUNTY OF HENRY

**AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS, AND RESTRICTIONS FOR WINDSONG PLANTATION**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,  
AND RESTRICTIONS FOR WINDSONG PLANTATION is made this 15 day of May,  
2002 by the affirmative vote of the Owners of at least two-thirds (2/3) of the Lots of the following Units in  
Windsong Plantation: Unit I, Unit II, Unit III, Unit 4, Unit 5 (Phase 1), Unit 5 (Phase 2), Unit 6, and Unit 7,  
respectively, in accordance with the then applicable Declarations governing such property.

**WITNESSETH**

WHEREAS, Atlanta Tech Center, Inc., a Georgia corporation, now known as Killearn Properties,  
Inc. of Ga., recorded that certain Residential Declaration of Protective Covenants and Restrictions on  
August 9, 1990, in Deed Book 1205, Page 313, et seq. of the Henry County, Georgia, land records  
(hereinafter, the "Unit I Declaration");

WHEREAS, Atlanta Tech Center, Inc., a Georgia corporation, now known as Killearn Properties,  
Inc. of Ga., recorded that certain Residential Declaration of Protective Covenants and Restrictions on  
September 6, 1990, in Deed Book 1214, Page 113, et seq. of the Henry County, Georgia, land records  
(hereinafter, the "Unit II Declaration");

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

**WHEREAS**, Killearn Properties, Inc. of Ga., a Georgia corporation, recorded that certain Declaration of Covenants and Restrictions on April 27, 1992 in Deed Book 1435, Page 20, et seq. of the Henry County, Georgia, land records (hereinafter, the "Unit III Declaration");

**WHEREAS**, Killearn Properties, Inc. of Ga., a Georgia corporation, recorded that certain Declaration of Covenants and Restrictions on November 16, 1993 in Deed Book 1767, Page 182, et seq. of the Henry County, Georgia, land records (hereinafter, the "Unit 4 Declaration");

**WHEREAS**, Killearn Properties, Inc. of Ga., a Georgia corporation, recorded that certain Declaration of Covenants and Restrictions on February 29, 1996 in Deed Book 2255, Page 217, et seq. of the Henry County, Georgia, land records (hereinafter, the "Unit 5 Phase 1 Declaration");

**WHEREAS**, Killearn Properties, Inc. of Ga., a Georgia corporation, recorded that certain Declaration of Covenants and Restrictions on April 24, 1996 in Deed Book 2296, Page 9, et seq. of the Henry County, Georgia, land records (hereinafter, the "Unit 5 Phase 2 Declaration");

**WHEREAS**, Killearn Properties, Inc. of Ga., a Georgia corporation, recorded that certain Declaration of Covenants and Restrictions on March 21, 1997 in Deed Book 2529, Page 12, et seq. of the Henry County, Georgia, land records (hereinafter, the "Unit 6 Declaration");

**WHEREAS**, Killearn Properties, Inc. of Ga., a Georgia corporation, recorded that certain Declaration of Covenants and Restrictions on March 21, 1997 in Deed Book 2528, Page 341, et seq. of the Henry County, Georgia, land records (hereinafter, the "Unit 7 Declaration");

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lot 14 of the 6<sup>th</sup> District of Henry County, Georgia, containing 12.50 acres more or less, according to the plat prepared by J. Christopher Lawler, Registered Professional Engineer, and Richard Loo, Registered Land Surveyor, dated July 6, 1990, and recorded at Plat Book 19, Page 2, of the Henry County, Georgia, land records, was, by recordation of the Unit I Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lots 14 and 15 of the 6<sup>th</sup> District of Henry County, Georgia, containing 30.98 acres more or less, according to the plat prepared by J. Christopher Lawler, Registered Professional Engineer, and Richard Loo, Registered Land Surveyor, dated August 14, 1990, and recorded at Plat Book 19, Pages 27 and 28, of the Henry County, Georgia, land records, was, by recordation of the Unit II Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lot 14 of the 6<sup>th</sup> District and Land Lots 3 and 4 of the 12<sup>th</sup> District of Henry County, Georgia, containing 33.86 acres more or less, according to the plat prepared by Broward Davis & Assoc., Inc., Registered Professional Engineers, was, by recordation of the Unit III Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lots 3 and 4 of the 12<sup>th</sup> District and Land Lots 13 and 14 of the 6<sup>th</sup> District of Henry County, Georgia, being more particularly described on the plat prepared by Broward Davis & Assoc., Inc., Registered Professional Engineers, recorded at Plat Book 23, Pages 32, 33, 34 and 35, of the Henry County, Georgia, land records, was, by recordation of the Unit 4 Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lot 3 of the 12<sup>th</sup> District and Land Lot 14 of the 6<sup>th</sup> District of Henry County, Georgia, being more particularly

described on the plat prepared by William E. Burton, Registered Professional Engineers, recorded at Plat Book 25, Page 61, of the Henry County, Georgia, land records, was, by recordation of the Unit 5 Phase 1 Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lot 3 of the 12<sup>th</sup> District of Henry County, Georgia, being more particularly described on the plat prepared by William E. Burton, Registered Professional Engineers, recorded at Plat Book 25, Page 113, of the Henry County, Georgia, land records, was, by recordation of the Unit 5 Phase 2 Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lot 4 of the 12<sup>th</sup> District of Henry County, Georgia, being more particularly described on the plat prepared by Broward Davis & Assoc., Inc., Registered Professional Engineers, recorded at Plat Book 26, Pages 83 and 84, of the Henry County, Georgia, land records, was, by recordation of the Unit 6 Declaration, made subject to the terms of such Declaration;

**WHEREAS**, the real property, being all that tract or parcel of land lying and being in Land Lot 4 of the 12<sup>th</sup> District of Henry County, Georgia, being more particularly described on the plat prepared by Broward Davis & Assoc., Inc., Registered Professional Engineers, recorded at Plat Book 26, Pages 80, 81 and 82, of the Henry County, Georgia, land records, was, by recordation of the Unit 7 Declaration, made subject to the terms of such Declaration;

**WHEREAS**, pursuant to Article XVI of each of the Unit I Declaration, the Unit II Declaration, the Unit III Declaration, the Unit 4 Declaration and the Unit 6 Declaration, and Article XV of the Unit 5 Phase 1 Declaration, Unit 5 Phase 2 Declaration, and the Unit 7 Declaration, the respective Declarations may be amended upon the affirmative vote of two-thirds (2/3) of the Owners within Windsong Plantation; and

**WHEREAS**, two-thirds (2/3) of such Owners have approved by affirmative vote the following Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Windsong Plantation;

**NOW, THEREFORE**, the Unit I Declaration, the Unit II Declaration, the Unit III Declaration, the Unit 4 Declaration, the Unit 5 Phase 1 Declaration, Unit 5 Phase 2 Declaration, the Unit 6 Declaration and the Unit 7 Declaration are hereby amended by striking and deleting the respective Declarations in their entirety and simultaneously substituting therefore the following Declaration of Covenants, Conditions, and Restrictions for Windsong Plantation (hereinafter referred to as the "Declaration").

**AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WINDSONG PLANTATION**

**STEVEN M. WINTER, ESQ.  
Weinstock & Scavo, P.C.  
3405 Piedmont Road, N.E.  
Suite 300  
Atlanta, Georgia 30305  
(404) 231-3999**

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ARTICLE I

Definitions

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

- (a) "Architectural Review Board" or "ARB" shall mean and refer to that certain Board as empowered in accordance with Article V hereof.
- (b) "Association" shall mean and refer to Windsong Plantation Property Owners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.
- (c) "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association, which shall be the appointed or elected body, as applicable, having such duties as are provided in this Declaration, the Bylaws, the Articles of Incorporation, the Georgia Nonprofit Corporation Code and under other applicable Georgia law.
- (d) "Builder/Owner" shall mean a person who is in the business and profession of constructing Dwellings and who has purchased a Lot for the purpose of construction and resale of a Dwelling thereon and not for the purpose of occupying such Dwelling as such person's residence.
- (e) "Building Guidelines" shall mean and refer to the guidelines established by the ARB, consistent with the Declaration.
- (f) "Building Setback Line" shall mean and refer to an imaginary line or lines parallel to any property line specifying the closest point from any property line that a building structure may be located.
- (g) "Bylaws" shall refer to the Bylaws of Windsong Plantation Property Owner's Association, Inc.
- (h) "Common Property" shall mean and refer to those areas of land shown on the Plats and intended to be devoted to the common use and enjoyment of the Owners, Lessees, Licensees or Occupants of real property in Windsong Plantation, and shall specifically include all areas designated as Green Areas on the Plats and all areas deceded to the Association by the Declarant.
- (i) "Community" or "Windsong Plantation" shall mean and refer to that certain real property and interests therein described and depicted on those certain plats recorded in Plat Book 19, Page 2; Plat Book 19, Pages 27 and 28; Plat Book 23, Pages 32, 33, 34, 35; Plat Book 25, Page 61; Plat Book 25, Page 113; Plat Book 26, Pages 83 and 84; and Plat Book 26, Pages 80, 81 and 82, of the plat records of Henry County, Georgia (hereinafter the "Plats").
- (j) "Declarant" shall mean and refer to Killearn Properties, Inc. of Ga., a Georgia corporation, formerly known as Atlanta Tech Center, Inc.
- (k) "Declaration" shall mean and refer to this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Windsong Plantation, as such document may be amended from time to time; provided all such amendments shall not be effective until recorded in the records of the Clerk of the Superior Court of Henry County, Georgia.
- (l) "Director" shall mean and refer to a member of the Board or Directors of the Association.

(m) "Dwelling" shall mean the single family detached structure, constructed or to be constructed on each Lot and all appurtenances and attachments thereto.

(n) "Lessee" shall mean and refer to the owner of a leasehold interest in part or all of Windsong Plantation.

(o) "Licensee" shall mean and refer to any person or entity having any right or rights in respect to real property in Windsong Plantation pursuant to a license granted by an Owner.

(p) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed hereon, shown as a single-family dwelling site the Plats. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, membership in the Association.

(q) "Majority" means those eligible votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

(r) "Member" shall mean and refer to a Person that is a member of the Association.

(s) "Mortgage" means 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 payment or satisfaction of an obligation.

(t) "Mortgagee" shall mean the holder of a Mortgage.

(u) "Occupant" shall mean and refer to any person or entity who occupies a part of Windsong Plantation and is not an Owner, Lessee or Licensee.

(v) "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. When the term Owner is used, it shall include all Builders/Owners, unless otherwise stated.

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

(x) "Rules and Regulations" shall mean and refer to those rules and regulations promulgated by the Board pursuant to this Declaration and the Bylaws, as such rules and regulations may be amended from time to time.

## ARTICLE II

### Association Membership and Voting Rights

Section 1. Membership. Every Person who is an Owner of any Lot that is subject to this Declaration shall be a Member of and have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. 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. Membership in the Association shall be automatic and mandatory for each Owner and all provisions of this Declaration shall be read to establish the mandatory and automatic nature of such membership.

Section 2. Voting. The Association shall have one (1) class of voting membership. Members shall be entitled to one (1) vote for each Lot. When more than one (1) Person holds an interest in any Lot, all such Persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

### ARTICLE III

#### Assessments

Section 1. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any 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) annual assessments or charges; (b) special assessments which are established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established 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, together with late charges, interest, costs, including, without limitation, court cost and reasonable attorney's fees actually incurred and other amounts allowed by law, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs, including, without limitation, reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for such portion thereto as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to the first Mortgagee nor secondary purchase money Mortgage taking title through foreclosure proceedings or deed in lieu of foreclosure.

Annual assessments shall be levied equally on all similarly situated 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.

Section 2. Purpose of Assessment. The assessments provided for herein shall be used for the general purpose of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of 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 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 thirty (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 Members of the Association eligible to vote. 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 for the

then current year shall continue for the succeeding year.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a Majority of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose. Special assessments shall be paid as determined by the Board and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Specific Assessments. The Board shall have the power to levy specific assessments as hereinafter provided. 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. The Board may specifically assess Lots 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) any common expenses benefiting less than all of the Lots shall be specifically assessed equitably among all of the Lots benefited as determined by the Board of Directors;

(b) any common expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the Licensees or Invitees of any such Lot or Lots shall be specifically assessed against the Lot or Lots, the conduct of any Occupant, Licensee, or Invitee of which occasioned any such common expenses;

(c) any common expenses significantly disproportionately benefiting all of the Lots shall be assessed equitably among all of the Lots in the Community as determined by the Board of Directors; and

(d) other than for limited Common Properties, which may be expressly designated as such in this Declaration and assigned to fewer than all Lots, nothing contained in subparagraphs (a) or (c) above shall permit the Association to specifically or disproportionately allocate common expenses for periodic maintenance, repair, and replacement of any portion of the Common Properties or Lots which the Association has the obligation to maintain, repair, or replace.

Section 6. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, or other costs, including, without limitation, reasonable attorney's fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes; (b) liens for all sums unpaid on a first Mortgage duly recorded in the land records of Henry County and all amounts advanced pursuant to such Mortgage and secured thereby in accordance with the terms of such instrument; or (c) liens of any secondary purchase money Mortgage covering a Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot.

A lien for assessments shall not be affected by any sale or transfer of a Lot; provided, however, a sale or transfer pursuant to a foreclosure of a first Mortgage shall extinguish a subordinate lien for assessment which became due and payable prior to such

sale or transfer. Any delinquent assessments that are so extinguished may be reallocated and assessed to all of the Lots as a common expense. A sale or transfer pursuant to a foreclosure does not relieve the purchaser or transferee of a Lot for, nor the Lot from, the lien of any assessments that became due and payable after the date of the transfer. The recording of this Declaration shall constitute record notice of the existence of the lien for unpaid assessments due hereunder, and no further recordation of any claim of lien for assessments is required.

Section 7. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid when due shall also include:

- (a) A late charge not in excess of the greater of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment thereof not paid when due;
- (b) Interest on each assessment or installment thereof and any late charge pertaining thereto at the rate of ten percent (10%) per annum from the date the same was first due and payable;
- (c) The costs of collection, including court costs, the expenses required for the protection and preservation of the Lot, and reasonable attorneys fees actually incurred; and
- (d) The fair rental value of the Lot from the time of the institution of an action until the sale of the Lot at foreclosure or until judgment rendered in the action is otherwise satisfied.

If any delinquent assessment or portion thereof is not paid within ten (10) days after written notice is sent to the Lot 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 legal proceedings may be instituted to enforce such lien and personal obligation. Such notice shall be sent by certified mail, return receipt requested to the Lot Owner, both at the address of the Lot and at any other address the Lot 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. The lien for such assessments may be foreclosed by the Association by suit, judgment, or foreclosure in the same manner as other liens for the improvement of real property. The Board, acting on behalf of the Association, shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber, and convey the same. The Association shall, in addition to and not in lieu of the foregoing remedy, have the right to bring an action against the Lot Owner to recover all assessments, interest, late fees, costs of collection (including court costs and reasonable attorneys fees actually incurred), fines, and other charges for which such Lot Owner is personally obligated pursuant to the terms hereof. The lien for assessments shall lapse and be of no further effect as to assessments or installments thereof, together with late charges and interest applicable thereto, which first became due and payable more than three (3) years prior to the date upon which the notice contemplated in this Section is given or more than three (3) years prior to the institution of an action therefore if an action is not instituted within ninety (90) days after the giving of the notice.

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 nor 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 or 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 charges, then to interest, and then to delinquent assessments.

Section 8. Statement from Association. Any Owner, mortgagee of a Lot, person having executed a contract for the purchase of a Lot, or a lender considering the loan of funds to be secured by a Lot, shall be entitled upon request to receive a statement from the Association or its management agent setting forth the amount of assessments past due and unpaid together with late charges, interest, attorneys fees and other costs 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 receipt from such request, to mail or otherwise furnish a statement regarding amounts due and payable at the expiration of such five-day period with respect to the Lot involved to such address as may be specified in the written request therefore shall cause the lien for assessments created hereunder to be extinguished and of no further force nor 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 \$10.00 fee may be required as a prerequisite to the issuance of each such statement, and the payment of the fee shall accompany any such request.

#### ARTICLE IV

##### Maintenance of Common Property

Section 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, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. The Association shall maintain all entry features for the Community including any landscaping and grassed areas adjacent thereto and pay the expenses for water and electricity, if any, provided to all such entry features and associated landscaping and grassed areas.

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 that 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 nor 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 nor 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 or 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 Responsibility. Except as provided in Section 1 above, upon the conveyance of a Lot to an Owner, all maintenance of the Lot and all Dwellings and improvements thereon (including the Dwelling), landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot at all times in a manner consistent with the community-wide standard and this Declaration. In the event that the Board of Directors of the Association determines that any Owner has failed or refused to discharge properly 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 repair or replacement, or if such repair or replacement is not capable of completion within a ten (10) day period, to 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 such 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 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 and which shall bind all Lots within the Community. The Board may, from time to time, without consent of the Members, promulgate, modify, or delete Rules and Regulations applicable to the Community including the Common Property and Lots. Such 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 in a regular or special meeting by a Majority of the Members of the Association eligible to vote.

Section 2. Residential Use. The Lots within the Community shall be and are restricted exclusively to single-family residential use and no trade nor business of any kind may be conducted in or from a Lot or any part of the Community either as a primary or accessory use of either the Lot or any portion of the Community; provided, however, an Owner or occupant may conduct such business activities within a Dwelling located thereon 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 dwelling unit; (b) the business activity does not regularly involve vehicles nor persons coming into the Community that do not reside in the Community; (c) the business activity does not involve having any tools of a particular trade stored or placed in any area which can be seen from another Lot or the Common Property; (d) the business activity conforms to all zoning requirements for the Community; (e) the business activity is consistent with the residential character of the Community; (f) the business activity does not require use of Common Property utilities; and (g) the business activity does not constitute a nuisance nor a hazardous or offensive use, as may be

determined in the sole discretion of the Board of Directors. The terms "business" and "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 or 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) a license is required for the activity. Leasing of a Lot shall not be considered a business nor business activity. The Board may issue rules regarding permitted business activities.

Section 3. Architectural Standards. No Dwelling, exterior construction, alteration, structure, improvement, addition, nor erection of any nature whatsoever shall be commenced or placed upon any part of the Community, except such as is installed by the Association, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No Dwelling, exterior construction, improvement, structure, addition, erection, nor 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 an Architectural Review Board. The ARB shall be composed of three (3) members; provided, however, that in the event the ARB be divided into two (2) subcommittees as provided for hereafter, each subcommittee shall be composed of three (3) members. The Board shall have the right to appoint and remove all members of the ARB with or without cause. The ARB may be established such that it is divided into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. The Board may employ architects, engineers, or other Persons as it deems necessary to enable the ARB to perform its review. The ARB may from time to time delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, who shall have full authority to act on behalf of the committee for all matters delegated. Written design guidelines and procedures may be promulgated for the exercise of this review, which guidelines may provide for a review fee.

The ARB shall have the right to approve or disapprove any submitted plans or specifications that are not in compliance with this Declaration, if they are incomplete or if the ARB reasonably determines that such plans and specifications are not consistent with the community-wide standard considering among other things, the following: (i) architectural character and nature, shape, color, size, material, location, and kind of all proposed improvements, taking in consideration the aesthetic quality of any Dwelling with respect to height, form, proportion, volume, siting, and exterior materials; (ii) adequacy of lot dimensions for proposed improvements; (iii) conformity and harmony of exterior design with neighboring Lots and improvements; (iv) relation of topography, grade, and finished ground elevations to that of neighboring Lots and improvements; (v) screening of mechanical and other installations; (vi) functional appropriateness with respect to vehicle handling, siting of buildings (both in relationship to one another and in relationship to buildings, existing or proposed, located on other Lots), drainage, utility service systems, and lighting; or (vii) extent and quality of landscaped areas. The ARB shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations. The ARB shall be entitled to stop any construction in violation of these restrictions.

Prior to the commencement of construction of improvements, additions, or structures on any Lot, including any Dwelling (hereinafter collectively called "improvements"), the Owner of such Lot shall submit detailed information in writing regarding the proposed improvements including site plans and two (2) full sets of final construction drawings and specifications (which shall be sealed and certified by duly licensed architect or engineer if so required by the ARB) (hereinafter the "Plans"), showing or stating all aspects of the proposed improvements including, but not limited to, the following: (i) location of all structures, street rights-of-way, and setback lines; (ii) location of all walks, driveways, and curve lines; (iii) all landscaping, including location, height, spread, type, and number trees and shrubs and location and type

of all ground cover and material and existing trees and limits of clearing and grading; (iv) location, height, intensity, and fixture type of all exterior lighting; (v) location, size, and type of all fencing; (vi) architectural floor plans, elevation, wall sections, and details of the Dwelling; (vii) building material and color information, including samples if requested; and (viii) size and square footage and height of the Dwellings and all other improvements. The ARB shall have the right to require Owners of Lots to submit plans and other documents in accordance with and to otherwise follow the procedures of the Windsong Plantation Architectural Review Process as provided in the Windsong Plantation Design Review Manual dated April 18, 1996, and incorporated herein by this reference, as such Manual now exists or as may be amended from time to time.

If construction has not commenced within one (1) year from the date the Plans are approved, then the approval given pursuant to this Article shall be deemed to be automatically revoked by the ARB, unless the ARB extends the time for commencing construction. In any event, all work covered by such approval shall be completed within nine (9) months of the commencement thereof unless the ARB extends the time for completion or such period of time as completion is rendered impossible or would result in great hardship because of strikes, fires, national emergencies, critical material shortages, or other intervening forces beyond the control of the Owner.

All improvements, including Dwellings, constructed, erected, placed, altered, remodeled, maintained or permitted on any Lot shall comply with any and all applicable federal, state, county and municipal zoning and building restrictions, including, but not limited to, grading, clearing, construction of impervious surfaces, building and other construction rules and regulations.

If the ARB fails to approve or to disapprove submitted Plans and specifications within forty-five (45) days after the Plans and specifications have been submitted to it, approval will not be required; and the Owner will be deemed to have fully complied with this Section. Approval of any Plans with regard to a Lot shall not be deemed to be a waiver of the ARB's right, in its discretion, to disapprove similar Plans and specifications or any features or elements included therein for any other Lot. 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. In the discretion of the ARB, 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. Any member of the Board or its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property to inspect for the purpose 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. If the ARB determines that such Plans have not been approved nor that the Plans are being followed or adhered to, the ARB may in its discretion give the Owner of such Lot written notice of such violation. If such violation is not corrected, the Board of Directors shall have the right to enjoin further construction and/or require the removal or correction of any work in place that does not comply with the approved Plans or this Declaration and to take such other action as may be allowed under this Declaration, the Bylaws or applicable law.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING NOR FOR STRUCTURAL DESIGN NOR FOR QUALITY OF MATERIALS; AND BY APPROVING SUCH PLANS AND SPECIFICATIONS NEITHER THE ARB, THE MEMBERS THEREOF, NOR THE ASSOCIATION ASSUMES NEITHER LIABILITY NOR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. NEITHER THE ASSOCIATION, THE ARB, THE BOARD, NOR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, NOR AGENTS OF ANY OF THEM SHALL BE LIABLE IN DAMAGES TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR

APPROVAL OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS BY REASON OF MISTAKE IN 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 ARB, THE BOARD, OR THE OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, AND AGENTS OF ANY OF THEM TO RECOVER 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.

Section 4. Building Setback Lines.

(a) Buildings. Buildings shall not be placed closer than the minimum setback lines shown on recorded plats.

(b) Driveways. No driveway shall be located nearer than five (5) feet to any interior property line, except that a backup turnaround pad may be located as near as one (1) foot to any interior property line.

(c) Fences. No fences of any kind shall be placed Nor constructed nearer to the front property line than the building setback line or the front corner of the residence, whichever is greater. No fence shall be permitted on the rear fifty (50) feet of any Lot which is on a lake, except that a fence may be constructed within one (1) foot of and parallel to each side Lot line and extending to the lake Lot line.

(d) Eaves, Steps, etc. For the purpose of this section, swimming pools, decks, uncovered porches, patios, eaves and steps shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a structure to encroach upon another Lot. Notwithstanding the foregoing, no structure of any type shall be constructed within fifty (50) feet of a lake.

Section 5. Buildings and Other Structures.

(a) Approval. Prior written approval of the ARB is required before construction commences on any building, structure, or other improvement on all Lots or other portions of the Community. Every building which is constructed upon a Lot shall be constructed in accordance with the Building Guidelines.

(b) Construction. After commencement of construction on any building on, or any improvements to, any Lot, the Owner, Lessee, Licensee, or Occupant so commencing such construction shall diligently prosecute the work thereon, to the end that the buildings and improvements shall not remain in a partly finished condition any longer than is reasonably necessary for completion thereof. The Owner, Lessee, Licensee, or Occupant of any Lot on which buildings or improvements are being constructed shall at all times keep all streets and rights-of-way contiguous to said Lot free from any dirt, mud, garbage, trash, or other debris which may be occasioned by construction of any buildings or improvements on such Lot.

(c) Building Materials. Exterior building materials shall be of natural wood, glass, brick, or stucco. Other materials may only be used if approved in writing by the ARB.

(d) Dwelling Size. The minimum square footage of the living area required for Dwellings shall be 1,500 square feet for all Lots.

(e) Garages. Each single family unit shall have a functional two-car garage attached to the residence, which shall be screened on sides which are visible from the street which runs in front of the Lot, in such a manner that objects located within the garage shall present a broken and obscured view from the outside thereof. All garage entrances shall face either a side Lot line or the rear Lot line, unless otherwise approved in writing by the ARB.

Section 6. Landscaping.

(a) Landscaping Plans. Every Lot on which a building is constructed shall be landscaped by the Owner, Lessee, Licensee, or Occupant in accordance with the Building Guidelines and approved in writing by the ARB.

(b) Installation. Landscaping as approved by the ARB shall be installed prior to occupancy or within ninety (90) days of substantial completion of the buildings, whichever date first occurs, unless the ARB shall approve in writing another final date of landscaping installation. In the event such landscaping is not so installed, the Association shall notify the Owner in writing by certified mail that said landscaping has not been installed. If landscaping is not installed within thirty (30) days from such notification, the Association shall have the right (but not the obligation) through its agents or employees to enter upon the property for the purpose of installing said landscaping. The costs incurred by the Association in installing such landscaping, plus a twenty-five percent (25%) allowance for overhead, shall be borne by the Owner and shall be paid on demand to the Association or such other persons or entities as designated by the Association. Until paid, the cost plus twenty-five percent (25%) overhead allowance shall become a lien upon such Lot and the improvements thereon, which may be foreclosed as a materialman's lien made on real property. Within fifteen (15) days following any request from any Owner or Lessee, the Association shall certify in writing whether any amounts are due and owing pursuant to this paragraph with respect to the real property of any such Owner or the leasehold interest of such lessee. At the option of the ARB, it may require a bond to be posted by the Owner prior to occupancy to ensure the installation of the landscaping.

(c) Maintenance. All landscaping shall be maintained in an attractive, sightly, and well-kept condition and in accordance with the Building Guidelines. In the event such landscaping is not so maintained, the Association shall notify the Owner in writing by certified mail that said landscaping is not being properly maintained. If such maintenance is not effected by the Owner within ten (10) days from such notification, the Association shall have the right (but not the obligation) through its agents or employees to enter upon the property for the purpose of maintaining, restoring, or repairing said landscaping. The costs incurred by the Association in maintaining, restoring or repairing such landscaping, plus a twenty-five percent (25%) allowance for overhead, shall be borne by the Owner and shall be paid on demand to the Association or such other persons or entities as designated by the Association. Until paid, the cost plus twenty-five percent (25%) overhead allowance shall become a lien upon such Lot and the improvements thereon, which may be foreclosed as a materialman's lien made on real property. Within fifteen (15) days following any request from any Owner or Lessee, the Association shall certify in writing whether any amounts are due and owing pursuant to this paragraph with respect to the real property of any such Owner or the leasehold interest of such lessee.

Section 7. Signs. No sign of any kind shall be erected by an Owner or occupant within the Community without the prior written consent of the ARB. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs; and one sign advertising the Lot for sale may be erected on each Lot. Such sign must measure 24" x 26" with 8' x 18" riders and 4" x 4" x 8' posts. Signs

and riders must be constructed of one-half inch (1/2") panels with rounded corners and must include cream borders and lettering. Posts must be constructed of pressure-treated wood and have angled tops. All signs, riders, and posts must be Eagle's Landing green; and posts must be screen printed with a gold eagle logo at the top.

**Section 8. Vehicles.** The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, dirtbikes, scooters, go-carts, trucks, campers, buses, vans, and automobiles. Unless and except to the extent that the occupants of a Lot shall have more vehicles than the number of parking areas within the garage, all vehicles shall be parked within a garage. Except in areas zoned for multifamily use, boats, trailers, campers, and other recreational vehicles shall not be parked, allowed to remain, or stored on any portion of the Community, except within the garage, placed behind the residence, or in an area designated by the Board; provided, however, in no event shall the vehicles be visible from the street which runs in front of the Lot.

No vehicle may be left upon any portion of the Community, except in a garage or on the driveway of the Lot, it is unlicensed, if it is in a condition such that it is incapable of being operated upon the public highways, or if such vehicle is placed upon any portion of the Community in violation of the Declaration, Bylaws, or any Rules and Regulations governing parking as may be adopted by the Board of Directors. The Association is expressly authorized to boot or tow away such vehicle, at an offending owner's sole cost and expense, after twenty-four (24) hours notice to the offending owner. Notwithstanding anything herein contained to the contrary, a vehicle may be immediately towed without notice at the offending owner's sole cost and expense under the following circumstances: (i) emergency, as determined by the Board in its sole discretion; (ii) within the six (6) month period immediately preceding a violation hereof, the offending owner has previously violated this Section 8 on at least one (1) prior occasion; or (iii) a vehicle is parked on Common Property outside its hours of operation in violation of Article V, Section 10(d) as further described below. Neither the Association, nor its agents, shall be deemed guilty or liable for any manner of trespass for such booting or removal

**Section 9. Traffic Regulations.** All vehicular traffic on all streets and paved areas within the Community shall be subject to the laws of the State of Georgia and Henry County, Georgia concerning operation of motor vehicles in public streets and paved areas. The Association is hereby authorized to promulgate, administer and enforce Rules and Regulations governing vehicular and pedestrian traffic, including reasonable safety measures and speed limits, within the Common Property. The Association shall be entitled to enforce such Rules and Regulations by establishing such enforcement procedures as it deems appropriate, including levying of fines for any violations thereof. All vehicles of any kind and nature which are operated on the streets or paved area within the Community shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all Owners and occupants of Lots.

**Section 10. Parking.**

- (a) **Compliance with Law.** Each Owner, Lessee, Licensee or Occupant shall comply with all governmental regulations.
- (b) **Off-street Parking.** Each Owner, Lessee, Licensee or Occupant shall provide adequate space and facilities for parking at least three (3) automobiles off of the street and within the boundaries of the Lot. "Adequate space" shall be defined as having minimum dimensions of nine (9) feet in width and twenty (20) feet in depth. No vehicle may be parked on any grassy area and/or sidewalk.
- (c) **Driveway, Parking Areas and Sidewalks.** All driveways, parking areas, and sidewalks shall be constructed of concrete. Use of any other material must be approved in writing by the ARB. Driveways shall be a minimum of nine (9) feet in width. Where curbs are required to be broken for driveway entrances, the curb shall be repaired in a neat and orderly fashion and in such a way as to be

acceptable to the ARB. All walkways, other than sidewalks, shall be constructed of concrete, stone, or brick and have a minimum width of thirty (30) inches.

(d) Overnight Parking. No vehicle may be parked, stored, or permitted to remain on Common Property outside its hours of operation. Vehicles parked in violation hereof shall be deemed a trespass and may be booted or immediately towed away, without notice, at the offending owner's sole cost and expense as further provided in Article V, Section 8 above.

Section 11. Leasing. Lots may be leased for residential purposes. All leases shall have a minimum term of at least one (1) year. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, Bylaws, and Rules and Regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing and shall provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's property.

Section 12. Occupants Bound. All provisions of the Declaration, Bylaws, and Rules and Regulations, which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned. Fines may be levied against Owners 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.

Section 13. Animals and Pets. No animals, pets, livestock, birds nor poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats and other usual household pets may be kept by an Owner on his respective Lot and within his respective Dwelling provided they are not kept, bred, nor maintained for any commercial purpose and do not endanger the health of or unreasonably disturb Owners of Lots within the Community. The Board of Directors shall have the right to adopt reasonable Rules and Regulations governing animals and pets kept by Owners of Lots in the Community, including the right to prohibit animals of a certain size, weight, or type. No structure for the care, housing, or confinement of any pet or animal shall be constructed or maintained on any part of the Common Property; and any such structures maintained on a Lot must be approved by the ARB pursuant to Article V of this Declaration. Pets and animals shall be on a leash at all times when walked or exercised in any portion of the Community, except on the Owner's Lot. The Owner of any pet or animal shall immediately remove such pet's or animal's excrement from any portion of the Common Property or any Lot not owned by the Owner of the animal or pet. In the event an animal or pet is deemed by the Board of Directors to be a nuisance or to be kept in violation of this Declaration, the Board of Directors shall have the right to require the Owner of such animal or pet to remove such animal or pet from the Community. The animal control authority shall be permitted to enter the Community to patrol and remove all pets and animals which are in violation of such animal control regulations or this Declaration.

Section 14. Temporary Structures. Other than temporary facilities as may be installed by a Builder/Owner with the Association's consent, no structure of a temporary character, whether a trailer, tent, shack, garage, barn, or other out building, shall be permitted, maintained, or used on any Lot at any time as a residence or for any other purpose, either temporarily or permanently, in the areas set aside on a recorded plat as Green Areas, unless approved in writing by the ARB.

Section 15. 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 Lot. No Lot within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or

other condition that will or may disturb the peace, quiet, safety, comfort, or serenity of the Owners and occupants of surrounding Lots, including barking dogs and excessively loud car audio systems. 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 nor animals nor device nor 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 nor other device, except such devices as may be used exclusively for security purposes, shall be located, installed, nor maintained upon the exterior of any Lot unless required by law.

Section 16. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which may tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Community.

Section 17. Satellite Dishes, Antennas and Similar Equipment. The installation of antennas, satellite dishes, and other similar or related equipment for the receipt or transmission of infrared, microwave, electronic, television, radio, or other signals shall be subject to such Rules and Regulations as are lawfully adopted from time to time by the Board of Directors. Such Rules and Regulations shall be enforced as if fully set forth herein.

Section 18. Tree Removal. No trees that are more than twelve (12) inches in diameter at a point three (3) feet above the ground shall be removed from any Lot without the prior written consent of the ARB. Additionally, no trees that have been planted by the Association or the Declarant shall be removed without the prior written consent of the ARB. Notwithstanding all of the above, no consent nor approval is required for the removal of any trees, regardless of their diameter, that are located within ten (10) feet of a drainage area, septic field, sidewalk, residence, or driveway.

Section 19. 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 nor permitted to remain where it may create a traffic or sight problem.

Section 20. Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related 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. Trash, garbage, debris, or other waste matter of any kind may not be dumped nor burned within the Community.

Section 21. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the ARB.

Section 22. Firearms. The use of firearms in the Community is prohibited. The term "firearms" includes without limitation "B-B" guns, pellet guns, and other firearms of all types.

Section 23. Utility Lines. All Dwelling connections for all utilities, including, but not limited to, water, sewerage, electricity, telephone, and television shall be underground from the proper connection points to the Dwelling in such a manner to be acceptable to the governing utility authority. Installation in a manner other than as prescribed herein shall not be permitted except upon written approval of the ARB.

Section 24. Air-Conditioning Units. Except as may be permitted by the ARB, no window air

conditioning units nor window fans may be installed.

Section 25. Lighting. Except as may be permitted by the ARB, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (b) one (1) decorative post light, (c) street lights in conformity with an established street lighting program for the Community; or (d) seasonable decorative lights at Christmas.

Section 26. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any Lot. Exterior sculpture, foundations, flags, and similar items must be approved by the ARB.

Section 27. Energy Conservation Equipment. No solar energy collector panels nor attendants 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 ARB.

Section 28. Gardens, Play Equipment and Pools. No vegetation garden, hammock, statuary, play equipment (including, without limitation, basketball goals), nor pool which has received the approval of the ARB, if required by this Declaration, and which is erected on any Lot may be located other than between the rear Dwelling line and the rear Lot line, without the prior written consent of the ARB.

Section 29. Mailboxes. The size, location, design, numbers, and type of material of all mailboxes or any other receptacle of any other kind to be located on Lots shall be approved in writing by the ARB prior to installation. The ARB shall not be required to approve more than one type of mailbox for all Lots in the Community. No alteration of any nature of a mailbox is permitted.

Section 30. Exteriors. Any change to the exterior color of any improvement located on a Lot, including, without limitation, the Dwelling, must have prior written approval from the ARB.

Section 31. Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

Section 32. Exterior Security Devices. Except as may be permitted by the ARB, no exterior security devices, including, without limitation, window bars, shall be permitted on any residence or Lot. Signs placed on the Lot, subject to the limitations provided in Section 4 hereof, 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.

## ARTICLE VI

### 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 obtain and shall obtain insurance for all insurable improvements whether or not located on the Common Property, if any, which the Association is obligated to maintain against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. This insurance, if obtained, shall provide at a minimum fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount as to be determined by the Board in its sole discretion. The Association may also insure as the it may deem desirable any other property owned by the Association, whether real or personal, against loss or damage by fire and such other hazards, with the Association as the owner and beneficiary of such insurance. The insurance coverage with respect to the Common Property shall be

written in the name of the Association, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance is carried. Premiums for all insurance carried by the Association are common expenses included in the maintenance assessments levied by the Association.

In addition to casualty insurance on the Common Property, the Board of Directors may elect to obtain and continue in effect, on behalf of all Owners, adequate blanket casualty and fire insurance in such form as the Board of Directors deems appropriate in an amount equal to the full replacement value, without deduction for depreciation or co-insurance, of all of the Lots, including the structural portion and fixtures thereof, owned by such Owners. Insurance premiums from any such blanket insurance coverage and any other insurance premiums paid by the Association shall be a common expense of the Association to be included in the maintenance assessments of the Owners, as levied by the Association. The insurance coverage with respect to the Lots shall be written in the name of the Association, and the proceeds thereof shall be payable to the Association as trustee for the Owners.

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 be in an amount to be determined by the Board in its sole discretion.

All insurance obtained by the Board of Directors 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 Community 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, nor suspended on account of any one or more individual Owners;

(iv) that no policy may be cancelled, subjected to nonrenewal, invalidated, nor 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 nonrenewal nor 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 (3) 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 nonrenewal nor substantially modified without at least thirty (30) days' prior written notice to the Association.

Section 2. Individual Insurance. It shall be the responsibility and obligation of each Owner to obtain insurance, at his own expense, affording liability coverage and/or fire, hazard and property damage coverage upon his Lot.

Section 3. Damage and Destruction -- Insured by Association.

(a) 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 in Article X, Section 1 of this Declaration 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 (75%) percent of the Members of the Association eligible to vote decide not to repair or reconstruct. 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 nor 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 nor reconstructed and no alternative improvements are authorized, then, and in that event, the undeveloped portion of the Community shall be maintained 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 sixty (60) days after such damage or destruction or, where repairs cannot be completed within sixty (60) 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 improvement on the Lot and remove all debris therefrom within sixty (60) days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article X, Section 1, of this Declaration.

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 damage or destroyed property.

Section 6. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacements of the property that may have been damaged or destroyed.

#### ARTICLE VII

##### Condemnation

In the event of 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 (75%) percent of the Members of the Association 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 provisions of Article VI, Section 3, above 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 VIII

##### 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 any 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. Special FHLMC Provision. So long as required by the Federal Home Mortgage Corporation and so long as the U.S. Department of Housing and Urban Development ("HUD") is insuring or the Federal Housing Administration ("FHA") or the Veterans Administration ("VA") is guaranteeing any Mortgage in the Community, the following provisions apply in addition to, and not in lieu of, the foregoing. Unless two-thirds (2/3) of the first Mortgagees 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 of 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, nor 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 2 shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration for any of the acts set out in this Section 2.

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 3. No Priority. No provision of this Declaration or the Bylaws gives nor 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 4. 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 5. Applicability of Article VIII. 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.

## ARTICLE IX

### Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than 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, 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.

Section 2. Easement for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress and use and enjoyment in and to the Common Property, if any, 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 suspend the voting rights of a Lot Owner and the right of an Owner to use the Common Property for any period during which any assessment, dues, or fines against such Owner's Lot remain unpaid and for a reasonable period of time for an infraction of the Declaration, Bylaws, or Rules and Regulations;

(ii) the right of the Association to charge reasonable admission and other fees for the use of the Common Property. Such fees may include, but are not limited to, fees relating to tennis teams, swim teams, private tennis and swim coaches not residents of Windsong Plantation, clubs, and organizations;

(iii) the right of the Association to borrow money for the purpose of improving

the Common Property, or any portion thereof, or for constructing, repairing, 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, that a Majority of the Members present at a meeting called for such purpose approve, and provided, however, that the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interest, options, easements, and privileges herein reserved or established for the benefit of any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, given by any Lot Owner encumbering any Lot or other property located within the Community; and

(iii) 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 at least two-thirds (2/3) of the votes of the Members of the Association present or represented by proxy at a meeting duly called for such purpose.

(b) Any Lot 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 Lot, if leased.

Section 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 may decide to have installed to service the Community. It shall be expressly permissible for the Association or its designee 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.

Section 4. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article X, Section 2, hereof, 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, policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be made only 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 that an Owner or occupant fails or refuses to cure the condition upon request by the Board.

Section 5. Easement for Maintenance. There is hereby reserved to the Association a perpetual easement across such portions of the Community, determined in the sole discretion of the Association, as is necessary to allow for the maintenance required under Article V. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at his sole expense.

Section 6. Easement for Entry Features. There is hereby reserved to the Association the perpetual, transferable, and alienable right and easement upon and over the Lots of the Community adjacent

to public streets and roads for the installation and maintenance of entry features, signs, lights, berms, trees, bushes, shrubbery, flowers, grass, and other landscaping. The easement and right herein reserved shall include the right to repair and replace such entry features, signs and lighting, to cut, remove and plant trees, shrubbery, flowers, grass and other vegetation, and to grade the land in such easement area.

Section 7. Easement for Law Enforcement/Fire Protection. The Association hereby grants to Henry County, Georgia, or such other governmental authority or agency as shall have from time to time jurisdiction over the Property with respect to law enforcement and fire protection, the perpetual, alienable and transferable right and easement upon, over, and across all of the Community, including all Lots and Common Property, for purposes of performing such duties and activities related to law enforcement and fire protection as shall be required or appropriate from time to time by such governmental authorities under applicable law.

## ARTICLE X

### General Provisions

Section 1. Right of Enforcement. Each Owner and Occupant of a Lot shall comply strictly with this Declaration, the By-Laws, the Development Guidelines, if any, and rules and regulations of the Association, as any of the same may be amended from time to time by the Board. In the event of a violation or breach or threatened violation or breach of any of the same, the Association or any aggrieved Owner, jointly and severally, shall have the right to proceed at law or in equity to compel compliance therewith or to prevent a threatened violation or breach thereof. In addition to such other rights as are specifically granted herein or in the By-Laws, the Board shall have the power to impose against the violating Owner reasonable monetary fines, which shall constitute a lien upon his Lot. The Association shall have the right to suspend an Owner's voting rights and to suspend an Owner's right to use the Common Property if the Owner is more than ten (10) days delinquent in the paying of any assessment or other charge owed to the Association. Any such suspension shall last for the period during which any assessments or other charges owed to the Association remain unpaid and for the duration of any violation of this Declaration, the By-Laws, the Development Guidelines, or the Rules and Regulations, and for an additional period not to exceed thirty (30) days. The Board shall have the right to record in the appropriate land records a Notice of Violation of the Declaration, the By-Laws, the Development Guidelines, or the Rules and Regulations of the Association and to assess the cost of recording and moving such Notice of Violation against the Owner who is responsible (or whose Occupant are responsible) for violating the foregoing. Except in the case of emergency situations as determined by the Board, the Board shall give the violating Owner ten (10) days' prior written notice of its intent to exercise the rights of enforcement set forth in this Declaration.

Failure by the Association or by any Owner to enforce any provision of this Declaration, the By-Laws, the Development Guidelines, or the Rules and Regulations shall in no event be deemed a waiver of the right to do so thereafter. If the restrictions are enforced by appropriate proceedings by any Owner, such Owner may be reimbursed by the Association for all or any part of the cost incurred, in the sole discretion of the Board of the Association, provided that the Association has received prior notice from the Owner of such proceedings. This Declaration and the provisions contained herein shall inure to the benefit of and be enforceable by (i) the Association and (ii) each Owner and his legal representatives, heirs, successors, and assigns.

Section 2. Self-Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of the

Community to abate or remove, using such force as may be reasonably necessary, any structure, thing, or condition which violates this Declaration, the Bylaws, or the Rules and Regulations. 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 towed after reasonable notice. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessment.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law.

Section 4. Acceptance of Additional Declarations of Covenants and Restrictions. In addition to those covenants imposed upon the Community by this Declaration, the Community is hereby made subject to those certain Declarations of Covenants and Restrictions imposed by the Declarant, dated August 8, 1990; August 23, 1990; April 22, 1992; November 1, 1993; January 11, 1996; April 22, 1996; March 7, 1997; and March 19, 1997, and recorded simultaneously with or subsequent to the Unit I-VII Declarations, respectively, in the records of Henry County, Georgia, as the same may be amended from time to time, provided, however, to the extent that said Declarations of Covenants and Restrictions imposed by the Declarant may conflict with the more specific provisions contained in this Declaration, this Declaration shall control. In addition to becoming Members of the Association, all Lot Owners shall become members of and pay the assessments levied by Eagle's Landing Community Association, Inc., formerly known as ATC Owners Association, Inc.

Section 5. 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 hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans to enable such 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, provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least two-thirds (2/3) of the Members of the Association eligible to vote. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein.

Section 6. Partition. The Common Property shall remain undivided, and no Lot Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written consent of all holders of all Mortgages encumbering any portion of the property, including, but not necessarily limited to, the Lots located within the Community.

Section 7. 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 8. 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, 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 9. 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 10. Preparer. This Declaration was prepared by Steven M. Winter, Esq., Weinstock & Scavo, P.C., 3405 Piedmont Road, N.E., Suite 300, Atlanta, Georgia 30305.

Section 11. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of George W. Bush, President of the United States.

Section 12. Indemnification. To the fullest extent allowed by Georgia law, the Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors 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 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 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 to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

Section 13. Notice of Sale or Lease. In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sale or lease, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

Section 14. 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 15. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, or any Rule or Regulation, 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 16. 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 Rule or Regulation promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case is not inconsistent with the overall scheme of development for the Community.

Section 17. Election to be Governed by the Georgia Property Owners Association Act. The Community shall be subject to and governed by the Georgia Property Owners Association Act, set forth in Article IV of Chapter 3 of Title 44 of the Official Code of Georgia Annotated, as the same now exists or may be amended from time to time.

IN WITNESS WHEREOF, the undersigned, on behalf of the Association, have executed this instrument and affixed their corporate seals this 15 day of May, 2002.

WINDSONG PLANTATION PROPERTY OWNERS ASSOCIATION, INC.,  
a Georgia nonprofit corporation

Signed, sealed and delivered in the presence of:

[Signature]  
Witness

Tracy Diane Hall  
Notary Public  
My Commission Expires: July 10, 2006



By: [Signature]

Print Title: President

Print Name: C. MARK BLAYLOCK

Attest: [Signature]

Print Title: Secretary, WP

Print Name: Brenda J. Pulliam

[CORPORATE SEAL]