

STATE OF GEORGIA  
COUNTY OF GWINNETT

MASTER DECLARATION OF  
RESIDENTIAL COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR A PORTION OF SUGARLOAF  
(SUGARLOAF COUNTRY CLUB)

THIS MASTER DECLARATION OF RESIDENTIAL COVENANTS, CONDITIONS AND RESTRICTIONS FOR A PORTION OF SUGARLOAF (the "Declaration") is made and entered into this 16th day of January, 1996 by SUGARLOAF PROPERTIES, INC., a Georgia corporation (the "Declarant").

WITNESSETH:

Declarant is the owner and developer of that certain real property located in Gwinnett County, Georgia and more particularly described on Exhibit A attached hereto and incorporated hereby by reference (the "Property"), which Property is being developed by Declarant as an exclusive residential community and club facility as a portion of the development known as Sugarloaf Country Club ("Sugarloaf").

Declarant desires to provide for the preservation and enhancement of the property values, amenities and opportunities in the Project and for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and/or described.

Although Declarant contemplates that separate easements, covenants, conditions and restrictions (which may include easements, covenants, conditions and restrictions similar to those herein contained) may be imposed with regard to the various phases or sections of the Project and that separate owners' associations may be established for some or all of the various phases of the Project, Declarant desires to impose pursuant hereto easements, covenants, conditions and restrictions upon all of the Property, with the understanding that, at the option of Declarant, additional restrictions may be imposed with regard to the various phases or sections of the Project.

NOW, THEREFORE, Declarant hereby subjects the Property to the easements, covenants, conditions, restrictions, charges and liens hereinafter set forth and hereby declares that (subject to certain rights of amendment, as hereinafter described) all of the Property shall be held, sold and conveyed subject to such easements, covenants, conditions, restrictions, charges and liens, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Project. Subject to the above-described rights of Declarant, such easements, covenants, conditions, restrictions, charges and liens shall run with the Property, and be binding on all parties having or acquiring any right, title or interest in the Property, or any part thereof and shall inure to the benefit of each owner of the Property or any part thereof.

ARTICLE I

DEFINITIONS

Section 1.1. Definitions. The following terms when used in this Declaration, or any amendment or supplement hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the following meanings:

- (a) "Additional Declaration" shall mean and refer to any Declaration of Residential Covenants, Conditions and Restrictions filed with the Clerk of the Superior Court of Gwinnett County, Georgia with regard to a certain Phase, section or portion of the Property, as more particularly described in Section 2.3 hereof.

- (b) "Architectural Changes Committee" shall have the meaning set forth in Section 9.13 hereof.
- (c) "Architectural Control Committee" shall mean and refer to the committee appointed by the Master Board to oversee the development and enforcement of architectural control standards and restrictions with respect to the Project and to perform certain other functions described in the Declaration.
- (d) "Architectural and Landscape Guidelines" shall have the meaning set forth in Section 9.3 hereof.
- (e) "Association" shall mean and refer to any one of the Owners' associations which may be formed in connection with an Additional Declaration with regard to the ownership and/or maintenance of property within the various Phases or sections to be developed in the Project.
- (f) "Association Member" shall mean and refer to an Association which is a Master Association Member.
- (g) "Certificate of Occupancy" shall mean and refer to any required certification issued by the appropriate governmental authorities as a prerequisite to occupancy of any structure on the Property.
- (h) "Club" shall mean and refer to the recreational and social club to be known as Sugarloaf Country Club to be located on the Club Property, as more particularly described in Section 13.2 of this Declaration.
- (i) "Club Facilities" shall have the meaning set forth in Section 13.2 hereof.
- (j) "Club Owner" shall mean and refer to the entity owning the Club and the Club Property, which, as of the date hereof is Sugarloaf Country Club, Inc., a Georgia corporation. The Club Owner shall be entitled to lease the Club Property and the Club Facilities (in whole or in part) to third party lessees or to enter into agreements with third parties pursuant to which such third parties agree to manage and operate the Club Property and the Club Facilities (in whole or in part). Notwithstanding any term or provision in this Declaration to the contrary, in connection with any such lease or management agreement that is hereafter entered into by the Club Owner, the Club Owner may assign and delegate (in whole or in part) to the third party lessee or manager the rights and obligations of the Club Owner under this Declaration; and in such case, the third party lessee or manager shall be entitled to act for and on behalf of the Club Owner hereunder relative to all such rights and obligations assigned and delegated.
- (k) "Club Property" shall mean and refer to the portion of the Property on which the Club will be developed and located, the boundary lines of which Club Property shall be shown on a Plat or Plats and shall contain the Golf Course.
- (l) "Common Area" or "Common Areas" shall mean and refer, singularly or collectively, as applicable, to all land, improvements and other properties which hereafter shall be deeded to or acquired by, in fee, from time to time by the Master Association for the common use and enjoyment of the Owners and the Occupants, including, without limitation, the Roadways, and that property identified and designated as "Common Area" on any recorded Plat or Plats of the Property or any part of it. In no event shall the Club Property or any portion thereof be considered part of the Common Area.
- (m) "Declarant" shall mean and refer to Sugarloaf Properties, Inc., a Georgia corporation, its successors in title and assigns, provided that any such successor-in-title or assign shall acquire for the purpose of development and/or sale all or substantially all of the remaining undeveloped or unsold

portions of the Property and, provided further, that in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance. Provided further, that upon such designation of such successor Declarant, all rights, duties and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

(n) "Declaration" or "Master Declaration" shall mean and refer to this Master Declaration of Residential Covenants, Conditions and Restrictions for a Portion of Sugarloaf as it may be amended and/or supplemented from time to time as herein provided.

(o) "Dwelling Unit" shall mean and refer to a portion of the Project, whether developed or undeveloped, intended for development, use and occupancy as an attached or detached dwelling for a single family. By way of illustration, but not limitation, each single-family, detached house on a Lot, each residence in a duplex, each patio home, each "zero lot line" home and each cluster home shall constitute a separate Dwelling Unit. Each Lot or Tract containing vacant land intended for development or land on which improvements are under construction shall be deemed to contain one (1) Dwelling Unit. Upon issuance of one or more Certificate(s) of Occupancy for a structure or structures constructed on a Lot or Tract, however, the Lot or Tract on which such structure(s) are constructed shall be deemed to have the number of Dwelling Units as Certificates of Occupancy issued for such structure(s). The Club Property does and shall be deemed to contain no Dwelling Units.

(p) "Entrance Monument Easements" shall mean and refer to the easements reserved by Declarant and granted to the Master Association in Section 10.8 hereof over, across and under certain areas of the Property, for the installation and maintenance of entrance monuments and related improvements for the Project, all as more particularly described in Section 10.8.

(q) "Golf Course" shall mean and refer to the golf course facility to be constructed within the Club Property, the boundary lines of which shall be defined by a Plat or Plats showing such golf course facility.

(r) "Improvement" shall have the meaning as set forth in Section 9.4 hereof.

(s) "Landscape Easements" shall mean and refer to the easements reserved by Declarant and granted to the Master Association in Section 10.8 hereof over, across and under certain areas of the Property, for the installation, maintenance, repair and removal of landscaping and landscaping amenities, including irrigation facilities, all as more particularly described in Section 10.8.

(t) "Lot" shall mean and refer to any numbered or lettered tract of land shown on any Plat which is a part of the Property and which shall be restricted for such uses as are consistent with this Declaration and any other restrictions covering the area wherein the tract is located. No tract of land shall become a "Lot" as that word is used herein until a Plat of the area on which the same is located is recorded with the Clerk of the Superior Court of Gwinnett County, Georgia. In no event shall the Club Property or any portion thereof be considered a Lot.

(u) "Maintenance Areas" shall have the meaning as set forth in Section 10.8 hereof.

(v) "Master Annual Assessments" shall have the meaning as set forth in Section 4.3 hereof.

(w) "Master Articles" shall mean and refer to the Articles of Incorporation of the Master Association, a copy of which is attached hereto as Exhibit B, as the same may be amended from time to time.

(x) "Master Association" shall mean and refer to Sugarloaf Residential Property Owners Association, Inc., a Georgia corporation, which Master Association has been established and exists to govern the ownership and maintenance of the Project and the enforcement of the provisions of this Master Declaration.

(y) "Master Association Member" shall mean and refer to any Person who is a member of the Master Association as set forth in Section 3.1 hereof. Master Association Members shall include the Association Members, Declarant for so long as Declarant owns any part of the Property and all Owners of Lots or other portions of the Property not subject to the jurisdiction of an Association.

(z) "Master Board" shall mean and refer to the Board of Directors of the Master Association.

(aa) "Master Bylaws" shall mean and refer to the Bylaws of the Master Association, a copy of which is attached hereto as Exhibit C, as they may now or hereafter exist.

(bb) "Member" shall mean and refer to each Owner who is a member of an Association formed with regard to a Phase, section or portion of the Property in which such Owner's property is located, all as more specifically provided in Section 3.4 hereof.

(cc) "Mortgage" shall mean and refer to any mortgage or deed of trust constituting a first lien on a Lot, Tract or Dwelling Unit.

(dd) "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

(ee) "Occupant" shall mean and refer to any person occupying all or any portion of a Lot, Tract or the Property for any period of time, regardless of whether such person is a tenant of the Owner of such Lot, Tract or portion of the Property.

(ff) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot, Tract or other portion of the Property, but excluding those having such interest merely as security for the performance of an obligation.

(gg) "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust or other legal entity.

(hh) "Phase" shall mean and refer to any phase, section or portion of the Property for which a separate Plat or Plats are recorded with the Clerk of the Superior Court of Gwinnett County, Georgia.

(ii) "Plat" shall mean and refer to any plat of the Property or any part of it which is recorded from time to time with the Clerk of the Superior Court of Gwinnett County, Georgia.

(jj) "Primary Residential Declaration" shall have the meaning set forth in Section 15.9 of this Declaration.

(kk) "Project" shall mean and refer to the residential development and private membership recreational and social club facility to be developed by Declarant as a portion of the development known as Sugarloaf, into which the Property is being developed.

(ll) "Property" shall mean and refer to that certain real property located in Gwinnett County, Georgia and more particularly described on Exhibit A attached hereto and incorporated herein by reference, as well as such additional property as may be made subject to the provisions of this Declaration pursuant to the provisions of Section 2.2 hereof.

(mm) "Roadways" shall mean and refer to the roads, streets, entrance ways and cul-de-sacs in the Subdivision, as shown on the Plats, and any other roads, streets, entrance ways and cul-de-sacs on the Property, all to be privately maintained by the Master Association or an Association as set forth in Section 6.6 hereof.

(nn) "Supplementary Declaration" shall mean and refer to any Supplementary Declaration of Covenants, Conditions and Restrictions filed with the Clerk of the Superior Court of Gwinnett County, Georgia to bring additional property within the coverage of this Declaration and the jurisdiction of the Master Association, as more particularly described in Section 2.2 hereof.

(oo) "Tract" shall mean and refer to any separate and identifiable tract of land which is a part of the Property, whether or not shown on a Plat, which is not a Lot or a part of the Club Property.

(pp) "Turnover Date" shall have the meaning set forth in Section 3.2 hereof.

## ARTICLE II

### PROPERTY

Section 2.1. Property Made Subject to this Declaration. This Declaration shall be governed by the provisions of the Georgia Property Owners' Association Act (O.C.G.A. §§ 44-3-220 *et seq.*) The Property is hereby made subject to this Declaration and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Master Association, any Association, each Owner and each party owning record title to any of the Property subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration.

Section 2.2. Additional Property. Declarant shall have the right, at its election without the consent of any Owner or Owners, to bring within the coverage of this Declaration and the jurisdiction of the Master Association any additional property. Such additions authorized hereby shall be made by filing of record with the Clerk of the Superior Court of Gwinnett County, Georgia, Supplementary Declarations of Covenants, Conditions and Restrictions with respect to such additional property. Each such Supplementary Declaration shall extend the scheme of this Declaration and the jurisdiction of the Master Association to such additional property and thereby subject such additional property to assessment for their just share of the Master Association's expenses. Such Supplementary Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character of the additional property and as are not inconsistent with the provisions of this Declaration. Nothing contained in this Section 2.2, however, shall be construed to obligate Declarant to bring any additional property within the coverage of this Declaration.

Section 2.3. Additional Declarations. In addition to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration, Declarant shall have the right, at its election without the consent of any Owner or Owners, to subject any Phase, section or portion of the Property owned by Declarant to additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens, by filing an Additional Declaration with the Clerk of the Superior Court of Gwinnett County, Georgia covering only such Phase, section or portion of the Property. Such an Additional Declaration may or may not provide for the establishment of an Association to govern the ownership and/or maintenance of the Property affected by and the enforcement of the provisions of such Additional Declaration. Whether or not an Association is formed pursuant to such Additional Declaration, the Master Association shall have the right and authority to enforce all controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens imposed by such Additional Declaration and any amendments thereto, whether or not such right and authority is expressly provided for in such Additional Declaration.

Section 2.4. Merger or Consolidation. Upon any merger or consolidation of an Association with another Association, the properties, rights and obligations of the Association may be transferred to another surviving or consolidated Association or, alternatively, the properties, rights and obligations of another Association may be added to the property, rights and obligations of such Association as the surviving corporation pursuant to a merger. The surviving or consolidated Association shall be considered an Association and shall administer the terms and provisions of this Declaration (to the extent they relate to the Phase(s) or section(s) of the Property over which such Association has jurisdiction) and the applicable Additional Declarations affecting the portions of the Property in the jurisdiction of such Association, together with the covenants and restrictions established upon any other properties, as one scheme. No such merger or consolidation, however, shall effectuate a revocation, change or addition to the terms and provisions of this Declaration or any Additional Declaration pertaining to the Property or any portion thereof except as specifically provided in this Declaration.

Section 2.5. Changes to this Declaration or Additional or Supplementary Declarations Requiring Declarant's Consent. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that, so long as Declarant owns any part of the Property, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplementary Declaration and/or any Additional Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE MASTER ASSOCIATION;  
MEMBERSHIP AND VOTING RIGHTS IN AN ASSOCIATION

Section 3.1. Membership in the Master Association. Each and every Association shall automatically become and be a Master Association Member upon the first conveyance by Declarant to an Owner of a Lot or Tract within the Phase or section of the Property over which such Association has jurisdiction. In addition, for so long as Declarant owns any part of the Property, Declarant shall be a Master Association Member. In addition, with respect to Lots or Tracts not subject to the jurisdiction of an Association, all Owners of such Lots or Tracts shall be Master Association Members; provided, however, the Club Owner shall not be a Master Association Member. The Master Bylaws shall control with respect to the determination of the proper exercise of voting rights with respect to portions of the Property owned by two (2) or more undivided interests.

Section 3.2. Classes of Voting Master Association Members. The Master Association shall have two classes of voting membership:

Class I. Class I Master Association Members shall be all Master Association Members with the exception of Declarant. Class I Master Association Members shall be entitled to one (1) vote for each Dwelling Unit located on the Lot or Tract owned by such Master Association Member, or, in the case of an Association Member, one (1) vote for each Dwelling Unit located on the Phase, section or portion of the Property within the jurisdiction of such Association Member.

Class II. The Class II Master Association Member shall be Declarant. The Class II Master Association Member shall be entitled to ten (10) votes for each Dwelling Unit located on the property in the Project owned by Declarant.

Notwithstanding anything contained herein to the contrary, the Class II Master Association Membership shall cease and be converted to a Class I Master Association Membership on the earliest to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that its Class II membership cease and be converted to Class I membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Master Board); or (c) January 15, 2016. The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover

Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class I Master Association Member.

Section 3.3. Voting, Quorum and Notice Requirement for the Master Association. The notice requirement for all actions to be taken by the Master Association Members at meetings of the Master Association shall be as set forth in the Master Bylaws. Except as may be otherwise provided in this Declaration or in the Master Bylaws, the presence in person or by proxy of more than fifty percent (50%) of the total votes existing in the Master Association shall constitute a quorum at all meetings of the Master Association. In the event a quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the quorum required at the first meeting. In the event a quorum is not present at the first subsequent meeting, another meeting may be called, subject to the same notice requirement, and the required quorum at such second subsequent meeting shall be one-fifth (1/5) of the quorum required at the original meeting.

Section 3.4. Membership in an Association. Wherever an Association shall have been established with respect to any Phase or section of the Property in connection with an Additional Declaration, each and every Owner of a Lot, Tract or Dwelling Unit within such Phase or section of the Property shall automatically become and be a Member of such Association.

Section 3.5. Classes of Members; Voting Quorum and Notice Requirements. The designation of classes of Members of an Association and provisions regarding voting, quorum and notice requirements and other applicable terms relating to membership in an Association shall be included in the Additional Declaration for the portion of the Property over which such Association has jurisdiction and/or in the Articles of Incorporation and/or Bylaws of such particular Association.

#### ARTICLE IV

#### MASTER ASSOCIATION ASSESSMENTS

Section 4.1. Covenant for Assessments. Each Owner of any Lot or Tract other than Declarant, by acceptance of a deed or other conveyance document creating in such Owner the interest required to be deemed an Owner, and the Club Owner, by acceptance of a deed or other conveyance document conveying the Club Property to the Club Owner, whether or not it shall be so expressed in any such deed or other conveyance document, shall be deemed to covenant and agree to pay to the Master Association: (1) annual assessments or charges (including Master Annual Assessments), such assessments to be fixed, established and collected from time to time as herein provided; (2) Special Assessments for capital improvements and other purposes, such assessments to be fixed, established and collected from time to time as herein provided; and (3) Special Individual Assessments levied against individual Owners, as may be fixed, established and collected from time to time as herein provided. The assessments described in (1), (2) and (3) of this Section 4.1 (the "Assessments"), together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection thereof, as herein provided, shall be a charge on the land and shall be a continuing lien upon each Lot, Tract or the Club Property, as the case may be, against which each such Assessment is made and shall also be the personal obligation of the Owner, at the time when the Assessment fell due, of the Lot, Tract or the Club Property, as the case may be, against which such Assessment is made. No Owner may exempt himself from liability for such Assessment or waive or otherwise escape liability for the Assessments by non-use of the Common Area or abandonment of his property. The personal obligation to pay any such Assessment, together with interest thereon, attorneys' fees, late charges, court costs and other costs of collection thereof, as herein provided, shall pass to the successors in title of such Owner whether or not expressly assumed in writing by such successors; provided, however that such personal obligation to pay Assessments and other costs and charges shall not pass to Mortgagees or trustees under Mortgages of such Owner who succeed to the title of such Owner. Notwithstanding anything to the contrary contained in the foregoing or elsewhere in this Declaration, Declarant shall be exempt from all Assessments relating to any Lot or Tract owned by Declarant.

Section 4.2. Purpose of Master Association Assessments. The assessments levied by the Master Association shall be used for the purposes of the carrying out of the rights and powers of the Master Association pursuant to the terms and provisions hereof and promoting the enjoyment and welfare of the Project, and, in particular, but without limitation, for the following:

- (a) Maintenance of the Roadways;
- (b) Maintenance of any other Common Areas and Maintenance Areas within the Project to the extent repair and maintenance thereof shall not have been delegated to or required of an Association having jurisdiction thereover;
- (c) Payment of all ad valorem taxes levied against the Common Areas and any other property owned by the Master Association;
- (d) Payment of all premiums on all insurance carried by the Master Association pursuant hereto or pursuant to the Master Bylaws;
- (e) Payment of all legal, accounting and other professional fees incurred by the Master Association in carrying out its duties as set forth herein or in the Master Bylaws, including all costs and expenses of the Architectural Control Committee;
- (f) Carrying out the powers and duties of the Master Board, as more particularly described in Article V hereof;
- (g) Carrying out all other purposes and duties of the Master Association and the Architectural Control Committee as stated in the Master Articles, the Master Bylaws and in this Declaration;
- (h) Approving the rubbish removal service companies to be used and paid for by the Owners of the Lots and Tracts; and
- (i) Payment for the installation, maintenance and repair of entrance gates and salaries and benefits of gate courtesy personnel.

Section 4.3. Payment of Master Annual Assessments; Due Dates. Each Owner of a Lot or Tract and the Club Owner shall pay to the Master Association the annual assessments levied by the Master Association (the "Master Annual Assessments") as hereinafter set forth.

(a) The Master Annual Assessment provided for herein as to any Lot or Tract shall commence as of the date of the conveyance by Declarant to an Owner other than Declarant of such Lot or Tract. The Master Annual Assessment for the first year in which a Lot or Tract is subject thereto shall be prorated based upon the number of days remaining in the calendar year from the date of such conveyance.

(b) The Master Annual Assessment provided for herein as to the Club Property shall commence as of June 1, 1997.

(c) Subject to the provisions of (a) and (b) above, the Master Annual Assessments as to each Lot or Tract and the Club Property shall be due and payable in equal installments biannually on such dates as may be fixed by the Master Board, in its sole discretion. Provided, however, the Master Board, without the approval of any Master Association Member or Owner, may provide that the Master Annual Assessments be paid in installments due more or less frequently than biannually, and thereafter the Master Annual Assessments shall be paid in such manner and on such dates as may be fixed by the Master Board, in its sole discretion.

Section 4.4. Amount of Master Annual Assessments.

(a) It shall be the duty of the Master Board annually to prepare a budget (the "Annual Budget") covering the estimated costs of operating the Master Association during the coming year, taking into consideration, among other things, the then current development and/or maintenance costs to be borne by the Master Association, estimated increases in development and/or maintenance costs and the future needs of the Master Association (which may include a reasonable contingency fund).

(b) The initial Annual Budget has been set by Declarant and, based upon such Annual Budget, the Master Annual Assessments until December 31, 1996, shall be One Thousand Two Hundred and No/100 Dollars (\$1,200.00) per Dwelling Unit for any Lot or Tract owned by any Owner other than Declarant (i.e., One Hundred and No/100 Dollars (\$100.00) per month). The Master Annual Assessments for each and every calendar year thereafter shall be set by the Master Board in accordance with (c) and (d) below.

(c) The Master Annual Assessment to be levied against the Club Property for a calendar year shall be determined by the Master Board annually in its sole discretion; provided, however, such Master Annual Assessment shall in no event be greater than ten percent (10%) of the Annual Budget for such calendar year.

(d) The Master Annual Assessment to be levied on any Lot or Tract for a calendar year shall be levied based upon the number of Dwelling Units on such Lot or Tract. All Dwelling Units shall be assessed at uniform rates. The Master Annual Assessment to be levied against each Dwelling Unit for a calendar year shall be in an amount as set by the Master Board in its sole discretion.

(e) The Master Board shall fix the amount of the Master Annual Assessment as to each Dwelling Unit and the Club Property for any calendar year and shall send written notice of the amount of and due date of each installment of such Master Annual Assessment to each Owner, including the Club Owner, at least thirty (30) days prior to January 1 of such calendar year.

(f) Should any Lot or Tract be conveyed by Declarant during a calendar year beginning prior to the Turnover Date, then the purchaser of such Lot or Tract shall pay to the Master Association at closing the amount of the Master Annual Assessment for the installment period in which the closing occurs on such Lot or Tract, prorated based upon the number of days remaining in such installment period. Should any Lot or Tract be conveyed by Declarant during a calendar year beginning after the Turnover Date, or be conveyed by any Owner other than Declarant during any calendar year, then the Master Annual Assessment applicable to such Lot or Tract shall be prorated between the buyer and seller thereof as of the date of closing of such conveyance.

(g) Declarant shall have the authority to reduce the Master Annual Assessment and any Special Assessments (i) on any Lot on which no structure has been completed (i.e., no Certificate of Occupancy has been issued), or (ii) on any Lot owned by a Featured Builder (as defined in Section 9.9) until such time as the Featured Builder sells or otherwise transfers ownership of its Lot.

Section 4.5. Payments by Declarant in Lieu of Master Annual Assessments. Notwithstanding the provisions of this Article IV, for calendar years beginning prior to the Turnover Date, in lieu of the payment of Master Annual Assessments, Declarant shall be responsible for paying for each such calendar year that portion of the annual expenses of the Master Association (excluding any reserves) which exceeds the total amount of the Master Annual Assessments paid by the Owners other than Declarant, including the Club Owner. For calendar years beginning after the Turnover Date, Declarant shall be responsible for paying Master Annual Assessments in the same manner as any other Owner of a Lot or Tract located in the Project, as more particularly described in this Article IV.

Section 4.6. Special Assessments. In addition to the Master Annual Assessments described in Section 4.3 and Section 4.4 above, the Master Board, without a vote of the Master Association Members, may levy in any assessment year or years a special assessment or assessments ("Special Assessments") for the purpose of defraying, in whole or in part, any costs incurred by the Master Association which are not paid for out of funds on hand in the Master Association or out of the Master Annual Assessments collected by the Master Association. Such costs may include, but shall not be limited to, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon or within the Common Area or Maintenance Areas, including fixtures and personal property related thereto, and the Roadways serving the Project. Notwithstanding the above, all fees and costs incurred by the Master Association in exploring or waging a complaint or suit against Declarant must be paid for out of a Special Assessment and, for this purpose only, such a Special Assessment must be approved by a vote of the Master Association Members entitled to cast no less than two-thirds (2/3) of all votes entitled to be cast by the Master Association Members. The amount of any Special Assessment levied against the Club Property shall not be greater than ten percent (10%) of the total Special Assessment to be levied against the Property. Special Assessments shall be assessed pursuant to this Section 4.6 against the Owners of Lots and Tracts on a pro rata basis based upon the number of Dwelling Units on the Lot or Tract owned by each Owner. Provided, however, Declarant shall not be obligated to pay any Special Assessments on Lots or Tracts owned by Declarant except with Declarant's prior written approval. The due date of any Special Assessment levied pursuant to this Section 4.6 shall be fixed in the Master Board resolution authorizing such Special Assessment. Upon the establishment of a Special Assessment, the Master Board shall send written notice of the amount and due date of such Special Assessment to each Owner, including the Club Owner, at least thirty (30) days prior to the date such Special Assessment is due.

Section 4.7. Special Individual Assessments. The Master Board may levy Special Assessments against individual Owners ("Special Individual Assessments") (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas and Maintenance Areas, including the Roadways, occasioned by the acts of Owner(s) and not the result of ordinary wear and tear or (ii) for payment of fines, penalties or other charges imposed against an individual or separate Owner relative to such Owner's failure to comply with the terms and provisions of this Master Declaration, the Master Bylaws or any rules or regulations promulgated hereunder, including, without limitation, penalties assessed by the Architectural Control Committee pursuant to the Architectural and Landscape Guidelines, reimbursement to the Architectural Control Committee for any sums it expends on an Owner's behalf pursuant to the Architectural and Landscape Guidelines, and reimbursement to the Master Association for all expenses incurred in connection with the enforcement of the provisions of Article XI. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 4.7 shall be fixed in the Master Board resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Master Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 4.8. Omission of Master Association. The omission of the Master Board, before the expiration of any year, to fix the Master Annual Assessments hereunder for that or the next year, shall not be deemed to waive or modify in any respect any of the provisions of this Declaration, or to release any Owner from the obligation to pay the assessment due from such Owner for that or any subsequent year, and the Master Annual Assessments fixed for the preceding year shall continue until new Master Annual Assessments are fixed.

Section 4.9. Collection Agent. At the option of the Master Board, a representative of the Master Association, or any third party agent of the Master Board, as designated by the Master Board, may act as collection agent for any and all Assessments (whether Master Annual Assessments, Special Assessments or Special Individual Assessments) imposed by the Master Association against the Owners.

Section 4.10. Owner's Personal Obligation for Payment of Assessments. The Master Annual Assessments, Special Assessments and Special Individual Assessments provided for herein shall be the personal and individual debt of the Owners (as of the due date of the applicable Assessment payment) to which such

Assessments relate. No Owner may exempt himself from liability for such Assessments by non-use of his property or the Common Area or otherwise. In the event of default in the payment of any such Assessment, the defaulting Owner shall be obligated to pay interest at the rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less, on the amount of the Assessment from the due date thereof until the date such Assessment and interest is paid, together with all costs and expenses of collection, including reasonable attorneys' fees. In addition, the delinquent Owner shall also pay such late charges as may have been theretofore established by the Master Board to defray the costs arising because of late payment.

Section 4.11. Assessment Lien and Foreclosure. All sums assessed in the manner provided in this Article IV but unpaid shall become, together with interest and late charges as provided in this Article IV and the cost of collection, including reasonable attorneys' fees, a continuing lien and charge on the portion of the Property and improvements thereon owned by the defaulting Owner (the "Defaulting Lot") as of the Assessment due date and shall bind such property and improvements then in the hands of the Owner, and the defaulting Owner, his heirs, devisees, personal representatives, successors, and assigns. The aforesaid lien shall be superior to all other liens and charges against such Defaulting Lot and the improvements thereon whatsoever except: (1) liens for ad valorem taxes on the Defaulting Lot, (2) the lien of any first priority Mortgage covering the Defaulting Lot and the lien of any Mortgage recorded prior to the recording of this Declaration, or (3) the lien of any secondary purchase money mortgage covering the Defaulting Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Defaulting Lot. The recording of this Declaration shall constitute record notice of the existence of the lien, and no further recordation of any claim of lien for assessments shall be required. Not less than ten days after notice is sent by certified mail, return receipt requested, to the owner of the Defaulting Lot both to the address of such lot and at any other address or addresses which the owner of the Defaulting Lot may have designated to the Master Association in writing, the lien may be foreclosed by the Master Association by any action, judgment, and foreclosure in the same manner as other liens for the improvements of real property. The notice shall specify the amount of the assessments then due and payable together with authorized late charges and interest accrued thereon. The Master Association shall have the power to bid on the Defaulting Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey the same. The lien for assessment shall lapse and be of no further effect, as to assessments or installments thereof, together with late charges and interest applicable thereto, which first become due and payable more than three years prior to the date upon which the notice as contemplated herein is given or more than three years prior to the institution of an action therefor if an action is not instituted within ninety days after the giving of the notice. Provided, however, the Master Board shall have the power to subordinate the aforesaid assessment lien to the lien of any Mortgage or to any other lien, and such power shall be entirely discretionary with the Master Board.

Section 4.12. Reserves. The Master Annual Assessments shall, as determined by the Master Board, include reasonable amounts as reserves for the future periodic maintenance, repair and/or replacement of all or a portion of the Common Areas or Maintenance Areas. All amounts collected as reserves, whether pursuant to this Section 4.12 or otherwise, shall be deposited by the Master Association in a separate interest bearing bank account to be held in trust for the purposes for which they were collected and are to be segregated from and not commingled with any other funds of the Master Association. Assessments collected as reserves shall not be considered to be advance payments of Master Annual Assessments.

Section 4.13. Certificate Regarding Assessments. The Master Association, or any third party agent of the Master Board, shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Master Association, or signed by an authorized representative of such third party agent, setting forth whether the assessments on a specified Lot, Tract or the Club Property have been paid. A properly executed certificate of the Master Association or such third party agent as to the status of assessments on a Lot, Tract or the Club Property is binding upon the Master Association as of the date of its issuance.

## ARTICLE V

THE MASTER BOARD

Section 5.1. Members of the Master Board. So long as Declarant owns any Lot, Tract or other portion of the Property, the members of the Master Board shall be appointed by Declarant. The number of members of the Master Board shall be as set forth in the Master Bylaws. So long as Declarant owns any Lot, Tract or other portion of the Property, Declarant may remove directors with or without cause and appoint new directors to replace those removed, in Declarant's sole discretion. At such time as Declarant owns no Lot, Tract or other portion of the Property, then the members of the Master Board shall thereafter be elected by a vote of the Master Association Members in accordance with the Master Bylaws. Notwithstanding the foregoing, Declarant may choose, in its sole discretion, to relinquish its right to appoint, remove and replace the members of the Master Board prior to the time that it owns no portion of the Property, whereupon the Master Association Members shall thereafter elect the members of the Master Board in accordance with the Master Bylaws. In addition, the Club Owner shall have the right at all times to appoint one (1) ex-officio member to the Master Board and such ex-officio member shall be entitled to notice of and the right to attend all meetings of the Master Board, but such ex-officio member shall not be a Master Association Member and shall have no voting or other rights incidental to membership in the Master Association or on the Master Board.

Section 5.2. Duties of the Master Board. The Master Board, for the mutual benefit of the Master Association Members and the Owners, shall have the following specific duties:

- (a) To maintain or cause to be maintained the Common Areas and Maintenance Areas, including, but not limited to, planting, mowing, pruning, fertilizing, preservation and replacement of the landscaping and the upkeep and maintenance of sidewalks, pathways, trails and other improvements in the Common Areas and Maintenance Areas, and the upkeep and maintenance of associated improvements, including irrigation systems not maintained by the Club Owner;
- (b) To own and maintain or cause to be maintained the Roadways;
- (c) To maintain or cause to be maintained swales and medians of the Roadways;
- (d) To maintain or cause to be maintained any sidewalks, pathways and trails in the Project;
- (e) To make available to each Master Association Member, upon written request by such Master Association Member, within ninety (90) days after the end of each year, an annual report of the Master Association and, upon resolution adopted by the Master Board or upon the written request of the Master Association Members holding at least three-fourths (3/4th) of the eligible votes of the Master Association at such time, to have such report audited (at the expense of the Master Association) by an independent certified public accountant, which audited report shall be made available to each Master Association Member, upon written request by such Master Association Member, within thirty (30) days after completion;
- (f) To pay for the cost of electricity for the street lights and irrigation to be located in the Project and the electricity serving any of the Common Areas and Maintenance Areas;
- (g) To cause to be kept a complete record of all its acts and corporate affairs;
- (h) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

- (i) As more fully provided in this Declaration:
  - (1) To fix the amount of the Master Annual Assessments;
  - (2) To send written notice of the Master Annual Assessments to each Owner;
- (j) To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. (A reasonable charge may be made by the Master Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);
- (k) To procure and maintain adequate liability insurance covering the Master Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Master Association;
- (l) Subject to Declarant's right to appoint the Architectural Control Committee, to appoint the Architectural Control Committee, all as more particularly provided in Article IX of this Declaration;
- (m) To approve the rubbish removal service companies to be used and paid for by the Owners of the Lots and Tracts in the Property; and
- (n) To enter into agreements or contracts with Persons for the installation, maintenance and repair of the entrance gates to the Project and the gate courtesy personnel, and the street signs, street lamps and other "street furniture" in the Project.

Section 5.3. Powers of the Master Board. The Master Board, for the mutual benefit of the Master Association Members and the Owners, shall have the following specific powers and rights (without limitation of other powers and rights such Master Board may have):

- (a) To enter into agreements with the appropriate governmental authorities to enable the Master Association to improve and maintain the Common Areas and Maintenance Areas or portions thereof;
- (b) To make reasonable rules and regulations for the use and operation of the Common Areas and Maintenance Areas, and to amend them from time to time;
- (c) To enter into agreements or contracts with insurance companies with respect to insurance coverage relating to the Common Areas and Maintenance Areas and/or the Master Association;
- (d) To enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Areas, Maintenance Areas and/or the Master Association;
- (e) Subject to the affirmative vote of no less than a majority of all votes present, in person or by proxy, at a duly held meeting of the Master Association Members at which a quorum is present, all in accordance with the Master Bylaws, to borrow funds to pay costs of operation of the Master Association, which borrowings may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Master Association assets, if the Master Association Members see fit; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not mortgage any portion of the Common Area without the prior written approval of Declarant;

- (f) To enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Master Association;
- (g) To sue or defend in any court of law in behalf of the Master Association;
- (h) To levy assessments in accordance with the provisions of Article IV hereof;
- (i) To adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property of the Master Association and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;
- (j) To exercise for the Master Association all powers, duties and authority vested in or delegated by this Declaration, the Master Bylaws, or the Master Articles to the Master Association and not reserved to the Master Association Members or Declarant by other provisions of this Declaration, the Master Bylaws or the Master Articles;
- (k) To declare the office of a member of the Master Board to be vacant in the event such member shall be absent, without the consent of the Master Board, from three (3) consecutive regular meetings of the Master Board;
- (l) To employ a manager or firm to manage the affairs and property of the Master Association, to employ independent contractors or such other employees as the Master Board may deem necessary, and to prescribe their duties and to set their compensation;
- (m) To enter into agreements or contracts with builders regarding the construction of Improvements on Lots located in the Project, and to require that all Owners building Improvements on Lots use only a Featured Builder (as defined in Section 9.9);
- (n) To retain the services of legal and accounting firms;
- (o) As more fully provided in this Declaration, to foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- (p) To cause all officers or employees having fiscal responsibilities to be bonded, as the Master Board may deem appropriate;
- (q) To the extent permitted hereby, to enforce the provisions of this Declaration and any Additional or Supplementary Declaration and any rules made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions or rules pursuant to the provisions of Section 4.7 hereof;
- (r) To contract with any third party or any Master Association Member (including, without limitation, Declarant) for performance, on behalf of the Master Association, of services which the Master Association is otherwise required to perform pursuant to the terms hereof, upon such terms and conditions and for such consideration as the Master Board may deem proper, advisable and in the best interests of the Master Association;
- (s) To employ or retain the services of professional architects or other Persons to serve on or advise the Architectural Control Committee and/or the Architectural Changes Committee;
- (t) To grant all necessary easements and rights-of-way over and across the Common Areas when in its sole discretion it deems such an action to be necessary and appropriate, including, but not

limited to, easements for the installation and maintenance of electrical, telephone, cablevision, water, sewerage and other utilities and drainage facilities and any easement to the Club Owner where consistent with the general use and operation of the Club Property; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not grant such an easement or right-of-way without the prior written approval of Declarant;

(u) To convey fee simple title to all or any part of the Common Area when in its sole discretion it deems such an action to be necessary and appropriate; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not convey any portion of the Common Area without the prior written approval of Declarant;

(v) To contract with any third party, including any other property owners association, for the sharing of costs of maintaining Maintenance Areas;

(w) To take any and all other actions, and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its obligations hereunder or for the operational protection of the Master Association;

(x) To contract with the Club Owner to provide for the sharing of the costs of maintaining the Roadways in the Project;

(y) To contract with the Club Owner to provide for the sharing of the costs of maintaining the irrigation systems which are or will be connected to the Golf Course irrigation systems and which irrigate or will irrigate the Common Areas and Maintenance Areas, and to provide for payment of the costs of providing water to the Common Areas and Maintenance Areas through such systems;

(z) To enforce the provisions of the Primary Residential Declaration to the same extent it can enforce the provisions of this Declaration; and

(aa) To adopt reasonable rules from time to time governing conduct of Owners, the Club Owner and other Persons occupying or otherwise located on the Property.

Notwithstanding anything contained herein to the contrary, none of the above-described rights and powers of the Master Board shall be obligatory on the part of the Master Board, and the failure or refusal by the Master Board to implement any such rights and powers shall not constitute a breach or default by the Master Board of any duties or obligations arising hereunder or otherwise owing to the Master Association Members.

**Section 5.4. Liability Limitations.** Neither Declarant, nor any Master Association Member, nor the Master Board, nor the Master Association, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Master Association or for a tort of another Master Association Member, whether or not such other Master Association Member was acting on behalf of the Master Association or otherwise. Neither Declarant, nor the Master Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Master Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof. The Master Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Master Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Master Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

Section 5.5. Reserve Funds. The Master Board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses and may establish separate, irrevocable trust accounts in order to better demonstrate that the amounts deposited therein are capital contributions and not net income to the Master Association. The aggregate deposits in such reserve funds shall not exceed an amount as may be reasonably determined by the Master Board to be necessary.

## ARTICLE VI

### PROPERTY RIGHTS IN THE COMMON AREA

Section 6.1. Owners' Easements of Enjoyment. Subject to the provisions of Section 6.5, every Owner, and each individual who resides with such Owner and guests of such Owner, shall have a right and easement of use and enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to such Owner's Lot or other property; PROVIDED, HOWEVER, such easement(s) shall not give such person the right to make alterations, additions or improvements to any part of any Common Area.

Section 6.2. Owners' Easements for Ingress and Egress. Every Lot or portion of the Property shall be conveyed with (and each Owner is hereby conveyed) a perpetual, non-exclusive right to use any Roadway which may be constructed by Declarant and conveyed to the Master Association as part of the Common Area for the purpose of providing access to and from each Lot or other portion of the Property.

#### Section 6.3. Title to the Common Area.

(a) Declarant shall dedicate and convey (by deed without warranty) the fee simple title to the Common Area to the Master Association, free and clear of all encumbrances and liens other than the lien of current taxes and assessments not in default, restrictive covenants and utility easements, and any other encumbrances and mineral interests outstanding and of record. The conveyance of any portion of the Common Area shall occur on the date that a Plat or Plats is recorded showing such portion of the Common Area. Common Area may be conveyed by Declarant to the Master Association in whole or in part from time to time.

(b) Nothing contained herein shall prevent Declarant, by Additional Declaration or otherwise, to dedicate and convey to any Association certain common areas to be owned by, operated, separately maintained and improved, by that Association, and to be subject to easements of use and enjoyment restricted solely to the Members of that Association.

(c) Notwithstanding the recordation of any Plat or any other action by Declarant or the Master Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public.

Section 6.4. Control of Common Areas. The Master Board shall have sole and exclusive control and authority over the usage of and guidelines with respect to the Common Areas. Provided, however, the Master Board, in its sole discretion, may by resolution or guideline permit an Association, the property under the jurisdiction of which shall include or be adjacent to a Common Area, to either (a) maintain or improve, in whole or in part, the Common Area or (b) promulgate regulations with respect to its Members' usage of the Common Area. Provided, however, any such authority delegated by the Master Association may be revoked, rescinded, or otherwise terminated at any time by the Master Association.

Section 6.5. Extent of Owners' Easements. The rights and easements of enjoyment of the Common Areas created hereby shall be subject to the following:

(a) The right of the Master Association or an Association to prescribe regulations governing the use, operation and maintenance of the Common Area (including limiting the number of

guests of Owners who may use such Common Area) subject to limitations established by Declarant or the Master Association, as applicable, on such right to impose regulations;

(b) Subject to the affirmative vote of no less than a majority of all votes present, in person or by proxy, at a duly held meeting of the Master Association Members at which a quorum is present, all in accordance with the Master Bylaws, the right of the Master Association, in accordance with the Master Articles and Master Bylaws, to borrow money for the purpose of improving the Common Area and facilities thereon and in aid thereof to mortgage the Common Area, provided the rights of such mortgagee in the Common Area shall be subordinate to the rights of the Owners hereunder with regard to the Common Area, and further provided that until such time as Declarant no longer owns any portion of the Property, the Master Association may not mortgage any portion of the Common Area without the prior written approval of Declarant;

(c) The right of the Master Association to take such steps as are reasonably necessary to protect the Common Area against foreclosure; and

(d) The right of the Master Board to grant easements upon, over, under and across, or convey fee simple title to, all or any part of the Common Area when in its sole discretion it deems such an action to be necessary and appropriate; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not grant easements upon, over, under and across, or convey fee simple title to, any part of the Common Area without the prior written approval of Declarant.

Section 6.6. Roadways. Pursuant to the provisions of this Declaration, the Roadways will be maintained by the Master Association; provided, however, the Master Association may delegate to an Association the obligation to maintain any Roadway which is entirely located over property within the jurisdiction of such Association. Such maintenance shall include, but shall not be limited to, repair of damage caused by movement of construction equipment or materials and paying the costs of all bonds, bond premiums and service agreements in connection therewith.

## ARTICLE VII

### INSURANCE; REPAIR AND RESTORATION; CONDEMNATION

Section 7.1. Board of Directors. The Master Board shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a) Fire. All improvements and all fixtures and personal property included in the Common Areas and Maintenance Areas and all personal property and supplies belonging to the Association shall be insured in an amount equal to the current replacement cost (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Master Board with the assistance of the insurance company providing coverage. The Master Board shall, at least annually, review the insurance coverage required herein and determine the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire or other hazards covered by a standard extended coverage endorsement, windstorm and water damage, vandalism and malicious damage and all perils covered by a standard "all risk" endorsement. In addition to the provisions and endorsements set forth in Section 7.3 and Section 7.4, the fire and casualty insurance described herein shall contain the following provisions:

- (1) standard "Agreed Amount" and "Inflation Guard" endorsements;
- (2) construction code endorsements if the Common Area becomes subject to a construction code provision which would require changes to undamaged portions of any

building thereby imposing significant costs in the event of partial destruction of such building by an insured peril;

(3) a waiver of subrogation by the insurer as to any claims against the Master Association, any officer, director, agent or employee of the Master Association, the Owners and their employees, agents, tenants and invitees; and

(4) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Master Association or by any failure of the Master Association to comply with any warranty or condition regarding any portion of the Property over which the Master Association has no control.

The fire and casualty insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Master Association, the Owners or Mortgagees; (2) loss payments are contingent upon action by the carrier's directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

(b) Public Liability. The Master Board shall also be required to obtain and maintain, to the extent obtainable, public liability insurance and officer's and director's liability insurance in such limits as the Master Board may, from time to time, determine to be customary for projects similar in construction, location and use as the Project, covering each member of the Master Board, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas and Maintenance Areas, or from service on the Master Board; provided, however, in no event shall the amounts of such public liability insurance ever be less than \$2,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the Property or any portion thereof, nor shall the amount of such officer's and director's insurance be less than \$2,000,000 unless such coverage is determined by the Master Board to be unreasonably expensive. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Master Board shall review such limits annually. Until the first meeting of the Master Board following the initial meeting of the Master Association Members, such public liability insurance shall be in amounts of not less than \$2,000,000 per occurrence for claims for bodily injury and property damage and such officer's and director's liability insurance shall be in amounts not less than \$2,000,000.

(c) Fidelity Coverage. The Master Board shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors (including without limitation any third party agent hired by the Master Board to perform duties of the Master Board) responsible for handling funds belonging to or administered by the Master Association. The fidelity insurance policy shall be written in an amount sufficient to provide protection which is in no event less than one and one-half times the Master Association's estimated annual operating expenses and reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages, including flood insurance and worker's compensation, as the Master Board shall determine from time to time desirable.

Section 7.2. Premium Expense. Premiums upon insurance policies purchased by the Master Board shall be paid by the Master Board and charged as a common expense to be collected from the Members pursuant to Article IV hereof.

Section 7.3. Special Endorsements. The Master Board shall make diligent efforts to secure insurance policies that will provide for the following:

- (a) recognition of any insurance trust agreement entered into by the Master Association;
- (b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days' prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Master Board without prior demand in writing that the Master Board cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Master Association, any Owner or any Mortgagee.

Section 7.4. General Guidelines. All insurance policies purchased by the Master Board shall be with a company or companies licensed to do business in the State of Georgia and holding a rating of "A VIII" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Master Association and shall be issued in the name of and provide that all proceeds thereof shall be payable to the Master Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Master Association, the Master Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 7.5. Insurance Proceeds. Subject to any limitations imposed by any applicable financing documents, the Master Association shall use the net proceeds of casualty insurance covered by it to repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Master Association remaining after satisfactory completion of repair and replacement shall be retained by the Master Association as part of the general reserve fund for repair and replacement of the Common Area and/or Maintenance Areas.

Section 7.6. Insufficient Proceeds. If the insurance proceeds received by the Master Association are insufficient to reimburse, to repair and/or replace any damage or destruction to person or property, the Master Board may levy a Special Assessment against the Owners to cover the deficiency.

Section 7.7. Owner's Personal Property. The Master Association, the Associations or Declarant shall not be liable in any manner for the safekeeping or condition of any personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at the Common Areas. Further, the Master Association, the Associations or Declarant shall not be responsible or liable for any damage or loss to any personal property of any Owner, his family, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase of, at such Owner's sole cost and expense, any liability or other insurance for damage to or loss of such property.

Section 7.8. No Obligation to Insure Owners' Property. By virtue of taking title to a Lot or Tract within the Project, each Owner acknowledges that neither the Master Association nor Declarant has any obligation to provide any insurance for any portion of such Lot or Tract or any Dwelling Unit or other property located thereon.

Section 7.9. Security. The Master Association may, in its sole discretion, but shall not be obligated to, provide certain security and fire protection measures, and maintain or support certain other activities within the Project designed to make the Project safer than it might otherwise be. Provided, however, should the Master Association provide, maintain or support any such measures or activities, then neither the Master Association, Master Board, Declarant, nor any successor of Declarant shall in any way be considered insurers or guarantors of security or fire protection within the Project, and neither the Master Association, Declarant nor any successor of Declarant shall be held liable for any loss or damage by reason or failure to provide or take any security or fire

protection measures or for the ineffectiveness of any such measures undertaken. Each Owner and Occupant of any Lot, Tract or Dwelling Unit and each tenant, guest and invitee thereof acknowledges and understands that neither the Master Association, Master Board, Declarant nor any successor of Declarant are insurers, and each such Owner, and Occupant of a Lot, Tract or Dwelling Unit and their tenants, guests and invitees hereby assume all risks for loss or damage to persons, property or contents belonging to any such persons.

Section 7.10. Condemnation. Whenever all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for and on account of such taking shall be paid to the Master Association. The Master Association, acting through the Master Board, shall have the right to negotiate and litigate the issues with respect to the taking and compensation affecting the Common Area, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, Tract, or other portion of the Property, hereby appoints the Master Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Area. All compensation and damages paid to the Master Association on account of such a taking shall be used to restore the Common Area, provided such restoration is possible, with the excess, if any, to be retained by the Master Association and applied to future operating expenses by the Master Board, in its sole discretion. Nothing herein is to prevent Owners whose Lots or other property are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, Tracts or other property, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Area. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Common Area, Lots, Tracts or other property without such allocation, the award shall be divided between affected Owners and the Master Board, as their interests may appear, by the Master Board in its sole discretion.

## ARTICLE VIII

### RESTRICTIONS

By Additional Declarations, Declarant may impose and file in regard to various Phases and/or sections of the Project controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens relating to, without limitation, types of permissible uses, types of improvements, general development and improvement standards and other matters. Without limiting the provisions that may be included in such Additional Declarations, the Property, each Lot or Tract situated thereon and the Common Area shall be occupied and/or used subject to the following:

Section 8.1. Residential Purposes Only. Each Lot shall be used exclusively for single-family, non-transient residential purposes; provided, however, Declarant shall have the right to use the Lots designated from time to time by Declarant for the purpose of construction and operation of construction offices and sales/marketing offices (and for related uses) for the Project. No trade, business or business activity of any kind shall be conducted upon a Lot or any part thereof except by Declarant as described hereinabove or except with the written approval of the Master Board. Provided, however, the Master Board may permit a business or business activity to be conducted on a Lot so long as such business, in the sole discretion of the Master Board, does not otherwise violate the provisions of this Declaration, does not create a disturbance and does not unduly increase traffic flow or parking congestion on the Property or in the Project. The Master Board may issue rules regarding permitted business activities. Leasing of a residence on a Lot shall not be considered a business or business activity.

Except those to be utilized by Declarant as described hereinabove, no structure shall be erected, placed, altered, used or permitted to remain on any Lot other than one attached or detached single-family private Dwelling Unit and one private garage for not less than two (2) vehicles, and only such accessory structures as are approved in advance in writing by the Architectural Control Committee pursuant to the Architectural and Landscape Guidelines. No Lot and no Improvements may be used for hotel or other transient residential

purposes. Each lease relating to any Lot or any Improvements thereon (or any part of either thereof) must be for a term of at least six (6) months, must be in writing, and must provide that the tenant is obligated to observe and perform all of the terms and provisions hereof applicable to such Lot and/or Improvements.

**Section 8.2. Building Envelopes.** No building on any Lot (including any stoops or porches, patios, terraces, etc.) and no swimming pool or tennis court on any Lot shall be erected or permitted to remain outside of the "Building Envelope" for that particular Lot as established by the Architectural Control Committee (as to each Lot, the "Building Envelope"). The Building Envelope approved for any Lot will be available from the Architectural Control Committee on an unrecorded map. The Architectural Control Committee shall have the right in its sole discretion to make exceptions to any Building Envelope to recognize any special topography, vegetation, Lot shape or dimension, or other site-related conditions. In the event any zoning or subdivision ordinance, floodway regulation or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of such requirements shall conform thereto.

**Section 8.3. Dwelling Unit Size.** The square footage requirements set forth below are for enclosed heated floor area and are exclusive of the areas in heated or unheated basements, vaulted ceiling areas and attics, unheated porches of any type, attached or detached garages, porte-cocheres and unheated storage areas, decks and patios.

Any Dwelling Unit erected upon any Lot shall contain not less than the following heated floor areas:

A. Lots Containing 15,000 Square Feet or More.

	<u>Minimum Total Heated Area</u>	<u>Minimum Ground Floor Heated Area</u>
1 Story	2,500	2,500
1½ story, split level, tri-level and others	2,800	2,400
2 story, 2½ story	3,000	1,500

B. Lots Containing Less Than 15,000 Square Feet.

	<u>Minimum Total Heated Area</u>	<u>Minimum Ground Floor Heated Area</u>
1 Story	2,300	2,300
1½ story, split level, tri-level and others	2,500	2,100
2 story, 2½ story	2,800	1,500

Notwithstanding the foregoing requirements, the Architectural Control Committee shall have the right (but not the obligation), because of restrictive topography, lot dimensions or unusual site related conditions or other reasons, to allow variances from such minimum square footage requirements of up to ten percent (10%) of such minimum square footage requirements by granting a specific written variance.

**Section 8.4. Dwelling Unit Height.** No Dwelling Unit erected upon a Lot shall contain more than two and one-half (2½) stories above ground level; provided, however, the Architectural Control Committee shall have

the right (but not the obligation), because of steep topography, unique Lot configuration or similar reasons, to allow Dwelling Unit heights greater than two and one-half (2½) stories on rear and side elevations.

Section 8.5. HVAC Equipment. No air conditioning or heating equipment or apparatus shall be installed on the ground in front of, or attached to any front wall of, any Dwelling Unit on a Lot. Additionally, air conditioning and heating equipment and apparatus on each Lot shall be screened from view from Roadways and the Golf Course as provided in the Architectural and Landscape Guidelines.

Section 8.6. Exterior Lighting. Exterior lighting on Lots shall be subject to the applicable requirements and limitations in the Architectural and Landscape Guidelines. Night lighting of tennis courts and other recreational facilities on Lots is not permitted.

Section 8.7. Fences and Walls. In addition to the restrictions contained elsewhere in this Declaration, no fence or wall (including densely planted hedges, rows or similar landscape barriers) (i) shall be erected, placed, maintained or altered on any Lot nearer to any Roadway fronting such Lot than the front building corner of the main Dwelling Unit constructed on such Lot (unless otherwise approved by the Architectural Control Committee) and (ii) shall not exceed six (6) feet in height, except fences enclosing approved tennis courts may be up to ten (10) feet in height if located at least twenty-five (25) feet from all Lot boundary lines. All fences and walls shall be maintained in a structurally sound and attractive manner. No fence or wall shall be erected on any Lot until the Architectural Control Committee has given its prior written approval of the color, size, design, materials and location for such fence or wall.

Section 8.8. Mail and Newspaper Boxes; House Numbers. Declarant shall provide to each Lot Owner a standard mailbox/newspaper box for such Owner's use on such Owner's Lot. No other mailbox or newspaper box shall be erected or maintained on any Lot. The location of the mailbox/newspaper box on a Lot must be approved in writing by the Architectural Control Committee. House numbers may be displayed on the Dwelling Unit and/or mailbox only as approved by the Architectural Control Committee.

Section 8.9. Animals. No animals, livestock or poultry shall be raised, bred or kept on any portion of the Property except that dogs, cats or other household pets may be kept, but not for any commercial purposes, provided that they do not create a nuisance (in the judgment of the Master Board) such as, but without limitation, by noise, odor, damage or destruction of property or refuse. The number of household pets kept or maintained outside the Dwelling Unit on a Lot shall not exceed three (3) in number, except for newborn offspring of such household pets which are all under nine (9) months in age. Dogs shall at all times whenever they are outside of a Dwelling Unit be on a leash or otherwise confined in a manner acceptable to the Master Board. Animal control authorities shall be permitted to enter the Project and the Property to patrol and remove pets and wild animals. All pets shall be registered, licensed and inoculated as required by law. No fenced dog enclosure or other structure for pets may be constructed or maintained on any Lot unless the same has been approved in writing by the Architectural Control Committee.

Section 8.10. Waste. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. During construction of Improvements on a Lot, all rubbish and debris shall be stored and disposed of in accordance with the rules and regulations established by the Architectural Control Committee.

Section 8.11. No Temporary Structures; Structure Materials. No residence or building of a temporary nature, including a construction trailer, shall be erected or allowed to remain on any Lot, and no metal, fiberglass, plastic or canvas tent, barn, carport, garage, utility building, storage building or other metal, fiberglass, plastic or canvas structure shall be erected on any Lot or attached to any residence. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used for storage, or for construction or sales offices.

Section 8.12. Sight Line Limitations. To the extent that governmental requirements shall not impose a stricter standard, no fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above Roadways shall be placed or permitted to remain on any corner Lot within the triangular

areas shown on the Plat as "Sight Triangles." The same sight line limitations shall apply on any Lot within the triangular area formed by (i) the line that runs from the point of intersection of (A) the edge of a Roadway's pavement and (b) the edge of the pavement of the driveway on such Lot for a distance of ten (10) feet along such Roadway pavement away from such driveway pavement, (ii) the line that runs from said point of intersection for a distance of ten (10) feet along such driveway pavement away from such Roadway pavement, and (iii) the straight line that connects the ending points of the lines described in the foregoing clauses (i) and (ii). No tree shall be permitted to remain within such triangular areas unless the foliage line is maintained at an appropriate height to prevent obstruction of sight lines.

Section 8.13. Utilities. All utilities and utility connections shall be located underground including but not limited to electrical and telephone cables and wires. Transformers, electric, gas or other meters of any type, or other apparatus shall be located at the rear of the buildings constructed on Lots or, if approved by the Architectural Control Committee in writing, located elsewhere on the Lot provided they are adequately screened as required by the Architectural Control Committee in accordance with the provisions of this Declaration.

Section 8.14. No Clothes Lines. No clothes lines of any description or type, and no outside drying of clothes, shall be allowed on any Lot.

Section 8.15. Sediment Control. Sufficient sediment control measures, including, but not limited to, installation and maintenance of silt fences, straw bale fences, storm water inlet protection and temporary seeding, in accordance with all applicable local, state, and federal regulations and to the extent deemed reasonably necessary by Declarant or the Architectural Control Committee, shall be taken by the Owner or Owner's builder to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion.

Section 8.16. Combination or Subdivision of Lots. Should the Owner of a Lot own an adjacent Lot(s) and desire that two (2) or more such Lots be considered as one Lot, then such Lots shall be considered as one Lot for the purposes of this Article VIII upon the recordation with the Clerk of the Superior Court of Gwinnett County, Georgia, of an instrument by such Owner expressing such intent (such instrument to refer specifically to this section in this Declaration and to identify the Lots to be considered as one Lot for purposes of this Article VIII, and a copy of such recorded instrument shall be promptly delivered by such Owner to the Architectural Control Committee); and in each such case, Building Envelopes, setback lines, and easements reserved in this Master Declaration shall be adjusted accordingly by the Architectural Control Committee. No Lot shall be subdivided by sale, lease or otherwise without the prior written consent of Declarant. Provided, however, Declarant reserves the right to change the size, boundaries or dimensions of any Lot owned by Declarant for any reason. Notwithstanding anything to the contrary contained herein, if two (2) or more such Lots shall be considered as one Lot pursuant to this Section 8.16, the Master Association (or its designated third party agent, if applicable) may charge Assessments to the Owner based upon the original number of Lots prior to their combination.

Section 8.17. No Septic Tanks or Wells. No septic tank shall be installed, used or maintained on any Lot. No well or individual water supply system shall be installed, used or maintained on any Lot for human domestic water consumption nor shall any well be connected in any manner whatsoever to the water mains, laterals or piping serving the Dwelling Unit which furnish domestic water from sources beyond the boundary lines of the Lot.

Section 8.18. Power Equipment. The use of motorized lawn mowers, lawn tractors, grass trimmers, garden tillers, chain saws and other motorized (including, but not limited to, electric and gasoline-powered engines) lawn and garden maintenance equipment shall be prohibited before 8:00 a.m. and after 8:00 p.m.

Section 8.19. Hoses, Pipes and Cables. Except for the temporary use of hoses and the like which are reasonably necessary in connection with normal lawn care, no hose, water pipe, sewer pipe, gas pipe, drainage

pipe, television cable or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground, unless such installation is expressly approved by the Architectural Control Committee.

Section 8.20. Recreational and Other Equipment.

(a) No recreational equipment (including, but not limited to, basketball backboards and hoops, trampolines, swing sets, tree houses, children's climbing or play apparatus and other equipment associated with either adult or juvenile leisure or recreation) shall be attached to the exterior of any Dwelling Unit or otherwise placed or kept on any Lot, except in accordance with the requirements as set forth in the Architectural and Landscape Guidelines.

(b) No such recreational equipment shall be located in such a manner as to constitute a nuisance or unsightly condition to adjoining Owners or to persons using the Golf Course.

(c) No such recreational equipment shall be located within fifty (50) feet of the Golf Course.

(d) Children's play toys and other moveable equipment of any type (such as lawn mowers, garden tools, etc.) shall not remain repeatedly overnight within any front yard of any Lot, or within the side yards of any Lot located on a Roadway corner, in such number or for such a long period of time as to create a continuing, unsightly condition.

(e) No all-terrain vehicles which are not designed for common use on streets in the metropolitan Atlanta, Georgia area, nor any motorbikes or mopeds, shall be driven in the Roadways, Golf Course or sidewalks of the Project. No golf carts shall be permitted to be driven in Roadways, sidewalks or the Golf Course, except within areas of the Golf Course and Roadways designated specifically by Declarant as golf cart paths or otherwise for golf cart use.

Section 8.21. Vegetable Gardens. Vegetable gardens shall not be permitted on any Lot unless placed in the rear portion of such Lot in such a manner as not to constitute a nuisance or unsightly condition to any adjoining Owners or to persons using the Golf Course. In no event shall any vegetable garden be located within fifty (50) feet of the Golf Course.

Section 8.22. Lawn Furniture and Statues. No lawn furniture or decorative items, such as statuettes or renderings of animate or inanimate objects, shall be maintained in the front or side yards of any Lot unless shielded from view by landscaping, a fence or a wall approved in advance in writing by the Architectural Control Committee.

Section 8.23. Window Coverings. Bedding materials, plastic sheets, towels or other similar non-standard window treatments shall not be hung or placed in or on any window on any Dwelling Unit located on any Lot, except on a short-term, temporary basis.

Section 8.24. Restricted Activities in Common Areas. No cutting of vegetation, dumping, digging, filling, destruction or other waste shall be committed on the Common Areas or Maintenance Areas. There shall be no obstruction of the Common Area or Maintenance Areas, nor shall anything be kept or stored in the Common Areas or Maintenance Areas, nor shall anything be altered, or constructed or planted in, or removed from, the Common Areas or Maintenance Areas, without the prior written consent of the Master Association. Each Owner or Occupant shall be liable to the Master Association and/or Declarant for any damage to any Common Area and/or Maintenance Area caused by the negligence or willful misconduct of the Owner or Occupant or his family, tenants, guests, agents, employees, or invitees. Provided, however, the provisions of this Section 8.24 shall not apply to Declarant in connection with Declarant's construction activities on the Property.

Section 8.25. Restricted Activities Regarding Lakes and Ponds. The Property will contain one or more lakes or ponds which may or may not be Common Area. With respect to construction of any Improvements on

any Lot that abuts a lake or pond, a silt fence or barrier shall be placed and maintained across each such Lot during the construction of any Improvements thereon in such manner as to protect the lake or pond from soil erosion and silt. Such fence or barrier shall be constructed prior to the commencement of any construction of Improvements, including clearing or grading, and shall remain in place until such time as the said Lot has been landscaped or stabilized in a manner that will protect the lake or pond from soil erosion and silt. No pesticides or other toxic, hazardous or harmful chemicals shall be used for any purposes whatsoever within thirty (30) feet of any lake or pond. Any such chemicals used or applied more than thirty (30) feet from any lake or pond shall be used or applied so as to prevent the spread or dissemination of such chemicals into the lake or pond. No piers, jetties, docks, boat houses, storage facilities or other similar structures shall be constructed or located on or in any portion of the lake or pond. No boats or other floating vessels shall be permitted in or on any portion of the lake or pond. No Person shall be allowed to swim or engage in related swimming activities within any lake or pond.

**Section 8.26. Signs.** No sign of any kind shall be displayed on any Lot or Tract except for sign(s) provided by Declarant or approved in writing by the Architectural Control Committee. The Architectural Control Committee shall have the power, but not the obligation, to adopt and issue from time to time sign guidelines, as part of the Architectural and Landscape Guidelines, to assist the Architectural Control Committee in reviewing and approving proposed signs to be erected on the Property. Provided, however, the foregoing shall not act to restrict or prohibit Declarant from erecting and maintaining signs and billboards advertising the Property, the Project or portions of either thereof, or for any other purpose, on any portion of the Property owned by Declarant or in the Common Areas and Maintenance Areas, or to restrict or prohibit the Master Association or any other Association from posting (a) temporary signs in the Maintenance Areas and Common Areas which reference Golf Course related activities or (b) permanent signs designed to aid in vehicular access and related information, or to restrict or prohibit the Club from erecting and maintaining temporary signs and billboards on the Property owned by Declarant or in the Common Areas and Maintenance Areas for the purpose of advertising or providing directions to or information about any golf tournament on the Club Property. Further provided, the foregoing shall not act to restrict the Club Owner from erecting and maintaining signs on the Club Property in connection with the Club, the Golf Course and activities related thereto.

**Section 8.27. Nuisances.** It shall be the responsibility of each Owner and Occupant of a Lot or Tract to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No Lot or Tract within the Project shall be used, in whole or in part, for the deposit, storage or burial of any property or thing that will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within any Lot or Tract, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Project. There shall not be maintained on any Lot or Tract any plants or animals or device or thing of any sort whose activity or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Project. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot or Tract unless required by law.

**Section 8.28. 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 might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any Lot or Tract, other than in enclosed garages.

**Section 8.29. Rules of the Master Board.** All Owners and Occupants of any Lot, Tract or other portion of the Property shall abide by all rules and regulations adopted by the Master Board from time to time. The Master Board shall have the power to enforce compliance with said rules and regulations by all appropriate legal and equitable remedies, and an Owner or Occupant determined by judicial action to have violated said rules and regulations shall be liable to the Master Association and/or Declarant for all damages and costs, including

attorneys' fees. Provided, however, except as provided in Section 9.12 below, the Master Board shall not have the power to impose restrictions, rules or limitations on Declarant or on the Club Property or the use thereof by the Club Owners, the members of the Club or any other Person.

Section 8.30. New Construction. Construction of new buildings only shall be permitted on Lots and Tracts, it being the intent of this covenant to prohibit the moving of any existing new or used building onto a Lot or Tract. Provided, however, nothing herein shall prohibit Declarant from moving an existing new or used building onto a Lot or Tract to be used for storage or for use as construction or sales offices and nothing herein shall prohibit Declarant or the Club from moving an existing new or used building onto the Club Property for use as a temporary golf shop, pool/tennis building, cart and club storage facility, locker room or food facility, or as an office for golf course maintenance or for storage of golf course maintenance equipment.

Section 8.31. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot or Tract must be continued with reasonable diligence to completion and no partially completed Dwelling Units or other Improvements shall be permitted to exist on any Lot or Tract, except during such reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced, unless a longer time is approved by the Architectural Control Committee. Any damage to the Roadways, curbs, sidewalks, pathways, trails or any part of any Common Area, Maintenance Area or any utility system caused by an Owner or Owner's builder or his subcontractors shall be repaired by such responsible Owner. Any builder of Improvements and his subcontractors on any portion of the Property shall keep such portion of the Property free of unsightly construction debris, in accordance with the construction rules established by the Architectural Control Committee (or, in the absence of such rules, in accordance with standard construction practices), and shall similarly keep contiguous public and private areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. The Master Board may levy a Special Individual Assessment against an Owner's property in the Project to pay for the cost of repairing any damage to Roadways, curbs, sidewalks, pathways, trails or any part of any Roadway, Common Area, Maintenance Area or utility system, to pay for the cost of cleaning public and private areas, including the Roadways in the Project, and to pay for the cost of the removal of garbage, trash or other debris, which are occasioned by the activities of an Owner or Owner's builder or his subcontractors during the construction of Improvements.

Section 8.32. No Change in Use of Club Property. The Club Property shall be used only for a golf course facility, club house and other uses, including but not limited to swimming pools and tennis courts, consistent with a club facility and no structure or other Improvement shall be erected, altered, placed or permitted thereon except as is consistent with the use of such property as a club facility.

Section 8.33. Parking.

- (a) No vehicles, trucks, vans, cars, trailers, construction equipment, etc. may be parked overnight on any Roadway within the Property.
- (b) Commercial-use vehicles and trucks not involved with construction activity on the Property and with carrying capacity and/or size designation greater than or equal to three-fourths (3/4th) ton, shall not be permitted to park overnight on the Roadways, driveways or otherwise within the Property, unless stored in an enclosed garage. No vehicle of any size which transports inflammatory or explosive cargo may be kept within the Property at any time. No vehicles that are not in a condition to be normally operated or that do not have a current registration tag may be stored or situated on any Lot for more than thirty (30) days unless stored in an enclosed garage.
- (c) The Owner of each Lot will be responsible for providing on such Owner's Lot a sufficient paved parking area for all vehicles normally parked and/or situated on or in regard to such Lot.

(d) No recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home or "camper" vehicle may be maintained, stored or kept on any portion of the Property, except in enclosed garages or in an enclosure specifically approved for such maintenance or storage by the Architectural Control Committee. Garage doors must be kept closed except when such doors or the garage are in use. Vehicles must be parked inside garages except when reasonably impractical.

(e) All vehicles must be parked so as not to impede traffic or damage vegetation.

(f) No construction office trailers may be placed, erected or allowed to remain on any Lots during construction, except as approved in writing by the Architectural Control Committee. Provided, however, nothing herein shall prohibit Declarant from erecting or moving temporary buildings onto Lots owned by Declarant to be used as construction or sales offices. Other construction vehicles (trucks, vans, cars, construction equipment, equipment trailers, etc.) may be left overnight on the Property (including any Lot or Roadway) only in accordance with such rules as may be established by the Architectural Control Committee.

Section 8.34. Grassed Areas to be Sodded. Unless the Architectural Control Committee shall first agree otherwise in writing, the grassed areas in the front yard of each Lot shall be covered with sodded grass of a type specified or approved by the Architectural Control Committee promptly following the completion of construction of a Dwelling Unit on each such Lot (unless an extension is granted with respect thereto by the Architectural Control Committee pursuant to the Architectural and Landscape Guidelines). With regard to corner Lots, the side yard fronting on the side Roadway also shall be covered with sodded grass of a type specified or approved by the Architectural Control Committee promptly following the completion of construction of a Dwelling Unit on each such corner Lot (unless an extension is granted with respect thereto by the Architectural Control Committee pursuant to the Architectural and Landscape Guidelines). With regard to Lots adjacent to the Golf Course, any front, back or side yard contiguous to the Golf Course shall be covered with sodded grass of a type specified or approved by the Architectural Control Committee promptly following the completion of construction of a Dwelling Unit on each such Lot (unless an extension is granted with respect thereto by the Architectural Control Committee pursuant to the Architectural and Landscape Guidelines).

Section 8.35. Governmental Requirements. Nothing herein contained shall be deemed to constitute a waiver of any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction of improvements on and/or use and utilization of any Lot shall continue to be applicable and shall be complied with in regard to the Lots. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to the Lot(s), Tract(s) or other portion of the Property owned by such Owner.

Section 8.36. Occupants Bound. All provisions of this Declaration, any Additional Declaration, the Primary Residential Declaration, and the Master Bylaws and any and all rules and regulations, use restrictions or Architectural and Landscape Guidelines promulgated pursuant hereto or thereto 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.

## ARTICLE IX

### ARCHITECTURAL AND LANDSCAPING CONTROL

Section 9.1. General. Notwithstanding anything contained in this Declaration to the contrary, no Improvements (as defined in Section 9.4), including, without limitation, site preparation on any Lot or Tract, change in grade or slope of any Lot or Tract, or erection of buildings or exterior additions or alterations to any building situated upon the Property, erection of or changes or additions in fences, hedges, walls and other structures, any landscaping, or any cutting of trees on any Lot or Tract, shall be commenced, erected or maintained on any portion of the Property, subject to the provisions of Section 9.7 hereof, until: (a) the

Architectural Control Committee, appointed as hereinafter provided, has approved the plans and specifications therefor and the location of such Improvements and has given its written approval for commencement of construction, all in accordance with the terms and requirements in the Architectural and Landscape Guidelines; (b) the fees set forth in or contemplated in this Article IX have been paid; and (c) the contracts identified in this Article IX have been executed. In addition to any standards established pursuant to this Declaration, Declarant may establish, by Additional Declarations, architectural and landscaping control standards, guidelines and restrictions in regard to various Phases or sections of the Property. The provisions of this Article IX shall not apply to the construction of any Improvements commenced, erected or maintained by Declarant on any Lot or Tract or upon any of the Common Areas or Maintenance Areas.

The Master Board may delegate to the Architectural Control Committee any powers or authority reserved or granted to the Master Board under this Article IX.

Section 9.2. Composition of Architectural Control Committee. So long as Declarant owns any Lot, Tract or other portion of the Property, the members of the Architectural Control Committee shall be appointed by Declarant. At such time as Declarant no longer owns any Lot, Tract or other portion of the Property or at such earlier date as Declarant releases its right to appoint the members of the Architectural Control Committee, the members of the Architectural Control Committee shall thereafter be appointed by the Master Board. The members of the Architectural Control Committee shall be appointed annually and will be composed of at least three (3) and not more than seven (7) individuals, the exact number of members of the Architectural Control Committee to be designated from time to time by the body then having the authority to appoint such members (Declarant or the Master Board, as the case may be). The members of the Architectural Control Committee need not be Owners of property in the Project. In the event of the death or resignation of any member of the Architectural Control Committee, the party or body then having the authority to appoint members to the Architectural Control Committee shall have full authority to designate and appoint a successor. Members of the Architectural Control Committee may be removed and replaced at any time, with or without cause, and without prior notice, by the party or body then having the authority to appoint such members. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the right, power and authority to employ and/or use the services of any related or third party architects, engineers or other professionals as it deems necessary or advisable, in its sole discretion, to carry out the duties and obligations of the Architectural Control Committee as described in this Article IX, and shall have the right to charge a reasonable fee from any appropriate Person for such services, as set forth in Section 9.8 hereof.

Section 9.3. Architectural and Landscape Guidelines.

(a) The Architectural Control Committee shall, from time to time, publish and promulgate architectural and design guidelines (the "Architectural and Design Guidelines"). The Architectural and Design Guidelines shall be explanatory and illustrative of the general intent of the development of the Property and are intended as a guide to assist the Architectural Control Committee in reviewing plans and specifications for Improvements (excluding only landscape Improvements, which are addressed in Section 9.3(b) hereof). The Architectural and Design Guidelines shall also set out, among other things, the procedures for submission, review and approval of plans and specifications (for the construction of non-landscape Improvements) to the Architectural Control Committee and the fees to be imposed by the Architectural Control Committee, as more specifically described in Section 9.8 hereof; and the Architectural and Design Guidelines shall address the Featured Builders, as more specifically described in Section 9.9 hereof. In any event, the Architectural and Design Guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of plans, specifications and other materials (for the construction of non-landscape Improvements) submitted to the Architectural Control Committee for approval.

(b) The Architectural Control Committee shall, from time to time, publish and promulgate landscape guidelines (the "Landscape Guidelines"). The Landscape Guidelines shall be explanatory and illustrative of the general intent of the landscape development of the Property and are intended as a

guide to assist the Architectural Control Committee in reviewing plans and specifications for landscape Improvements. The Landscape Guidelines shall also set out, among other things, the procedures for submission, review and approval of landscape plans and specifications to the Architectural Control Committee and the fees to be imposed by Architectural Control Committee, as more specifically described in Section 9.8 hereof. In addition, the Landscape Guidelines shall establish approved standards, methods and procedures for landscaping, landscape management and landscape maintenance in the Property, including the removal of trees. Such authorized standards, methods and procedures shall be utilized by Owners and their contractors and subcontractors, and the approval by the Architectural Control Committee of any landscaping plan or other landscaping improvement in connection with landscaping on a Lot, Tract or other portion of the Property shall be based upon the conformity of such plan or improvement with the Landscape Guidelines. In any event, the Landscape Guidelines shall not be binding upon the Architectural Control Committee, may be revised and amended at any time by the Architectural Control Committee, in its sole discretion, and shall not constitute, in every event, the basis for approval or disapproval of landscaping plans, specifications and other materials submitted to the Architectural Control Committee for approval.

(c) The Architectural Control Committee is also hereby authorized to publish and promulgate from time to time, and revise and amend at any time in its sole discretion, construction rules to be followed by all Owners and builders performing work or constructing or installing Improvements (including landscape Improvements) on the Property.

(d) The Architectural and Design Guidelines described in Section 9.3(a) hereof, the Landscape Guidelines described in Section 9.3(b) hereof and the construction rules described in Section 9.3(c) hereof shall herein collectively be referred to as the "Architectural and Landscape Guidelines." The Architectural Control Committee may issue and amend the Architectural and Landscape Guidelines from time to time and may publish and promulgate different Architectural and Landscape Guidelines for different Phases, sections or portions of the Property.

Section 9.4. Definition of "Improvements." The term "Improvement" or "Improvements" shall mean and include any and all man-made changes or additions to a Lot or Tract, including, but not limited to, the location, materials, size and design of all buildings (including any exterior devices attached to or separate from buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes, etc.); storage sheds or areas; roofed structures; parking areas; fences; "invisible" pet fencing; pet "runs," lines and similar leathers or enclosures; walls; irrigation equipment, apparatus and systems; landscaping (including cutting of trees); hedges; mass plantings; poles; driveways; ponds; lakes; changes in grade or slope; site preparation; swimming pools; hot tubs; jacuzzis; tennis courts; tree houses; basketball goals; skateboard ramps; and other sports or play apparatus; signs; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements. The definition of Improvements, however, does not include the replacement or repair of Improvements previously approved by the Architectural Control Committee, provided such replacement or repair does not change exterior colors, materials, designs or appearances from that which were previously approved by the Architectural Control Committee.

Section 9.5. Enforcement.

(a) It is Declarant's intent that the architectural control provisions of this Declaration and any Additional Declarations are to permit control of the architectural design and landscaping and to establish quality standards for construction and construction activity in the Project and to help preserve values of properties in the Project. All Owners, by purchasing property subject to this Declaration, acknowledge that a violation of any such provisions could result in irreparable harm and damage to other Owners of property in the Project and to Declarant, and to the values of their respective properties in the Project, a monetary measure of which harm and damage would be difficult to establish. Accordingly, the Master Association shall have the specific right (but not the obligation) to enforce and/or to prevent any violation of the provisions contained in this Article IX by a proceeding at law or in

equity against the person or persons violating or attempting to violate any such provisions. Declarant hereby specifically reserves and grants unto the Architectural Control Committee, the Master Board and any agent or member thereof, the right of entry and inspection upon any portion of the Property for the purpose of determination by the Architectural Control Committee or the Master Board whether there exists any construction of any Improvement which violates the terms of any approval by the Architectural Control Committee, the terms of the Architectural and Landscape Guidelines, the terms of this Declaration or any Additional Declaration, or the terms of any amendments hereto or thereto.

(b) As to nonconforming or unapproved Improvements, the Master Association may require any Owner to restore such Owner's Improvements to the condition existing prior to the construction thereof (including, without limitation, the demolition and removal of any unapproved Improvements) if such Improvements were commenced or constructed in violation of this Article. In addition, the Master Association may, but has no obligation to, cause such restoration, demolition and removal to be performed and to levy the amount of the cost thereof as a Special Individual Assessment against the Lot, Tract or portion of the Property upon which such Improvements were commenced or constructed. In the event that it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of the Architectural and Landscape Guidelines, the Master Association shall be entitled to recover court costs, attorneys' fees and expenses incurred by the Master Association and/or the Architectural Control Committee in connection therewith, which costs, fees and expenses may be levied as a Special Individual Assessment against the Lot, Tract or other portion of the Property upon which such Improvement was commenced or constructed.

Section 9.6. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and other submittals which conform (and which relate to improvements which will conform) with the requirements hereof and of the Architectural and Landscape Guidelines or to reject them as being inadequate or unacceptable within thirty (30) business days after receipt thereof, and provided such submittal was a full and complete submittal, in accordance with the Architectural and Landscape Guidelines, of all items that were to have been submitted to the Architectural Control Committee, and provided the Architectural Control Committee shall again fail to approve or disapprove of such plans, specifications and other submittals within ten (10) days after additional written request to act on such items is delivered to the Architectural Control Committee following the passage of such first above-described thirty (30) business day period, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming plans and specifications and other submittals, EXCEPT that the Architectural Control Committee has no right or power, either by action or failure to act, to waive or grant any variances relating to any mandatory requirements specified in this Declaration or any Additional Declaration, and EXCEPT FURTHER, that the Architectural Control Committee shall not be deemed to have waived any of the requirements set forth in Section 9.8, Section 9.9 or Section 9.10 hereof. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject or approve the balance. The Architectural Control Committee is authorized to request the submission of samples of proposed construction materials.

Section 9.7. Variances. Upon submission of a written request for same, the Architectural Control Committee may, from time to time, in its sole discretion, permit Owners to construct, erect or install Improvements which are at variance with restrictions, requirements or provisions of this Declaration or any Additional Declaration from which a variance is permitted, pursuant to the terms hereof or thereof. In any case, however, such variances shall be in basic conformity with and shall blend effectively with the general architectural style and design of the community and shall not materially change the scheme of restrictions herein set forth. Written requests for variances shall be deemed to be disapproved in the event the Architectural Control Committee has not expressly and in writing approved such request within thirty (30) business days of the submission of such request. No member of the Architectural Control Committee shall be liable to any Owner for any claims, causes of action, or damages arising out of the grant or denial of any variance to any Owner. Each request for a variance submitted hereunder shall be reviewed separately and apart from other such requests and

the grant of a variance to any Owner shall not constitute a waiver of the Architectural Control Committee's right to strictly enforce the covenants, restrictions and architectural standards provided hereunder or under any Additional Declaration against any other Owner.

Section 9.8. Fees Required by the Architectural Control Committee. The Architectural Control Committee, in its sole discretion, may require that each Person submitting plans and specifications for Improvements to the Architectural Control Committee pay one or more fees to the Architectural Control Committee or to Declarant, or to any designee of the Architectural Control Committee or Declarant, as a condition to commencement of construction of such Improvements. Such fee(s), including the amount(s), payee and purpose(s) thereof, shall be established by, and may be increased from time to time by, the Architectural Control Committee and shall be set forth in the Architectural and Landscape Guidelines.

Section 9.9. Featured Builders.

(a) The Architectural Control Committee may require, in its sole discretion, that each Person submitting plans and specifications to the Architectural Control Committee for the construction of Improvements also submit to the Architectural Control Committee a copy of a fully signed contract (for the construction of such Improvements) between the Owner of the relevant Lot and a builder who is featured by the Master Board or the Architectural Control Committee, in their sole discretion (herein, a "Featured Builder"; collectively, the "Featured Builders"), as a condition to the commencement of construction of any such Improvements.

(b) The Architectural Control Committee shall provide a list of Featured Builders in accordance with the provisions of the Architectural and Landscape Guidelines. To qualify as a Featured Builder, a builder must satisfy certain criteria and requirements established by the Architectural Control Committee and Declarant. However, the criteria and requirements established by the Architectural Control Committee and Declarant for a builder to qualify as a Featured Builder are solely for the Architectural Control Committee's and Declarant's protection and benefit and are not intended to, and shall not be construed to, benefit any Owner or any other party whatsoever. The Architectural Control Committee and Declarant make no representation, express or implied, to any Owner or any other party whatsoever with regard to the Featured Builders, including, without limitation, the existence, nature and extent (including coverage amounts and deductibles) of insurance policies that may be maintained by the Featured Builders from time to time, the solvency or financial status of the Featured Builders from time to time, the nature and amount of any bonds that may be maintained by the Featured Builders from time to time, the performance (or the ability to perform) by the Featured Builders of their contractual obligations (including any contractual obligations of any of the Featured Builders in favor of any Owner or any other party whatsoever), the compliance by the Featured Builders with building codes and other requirements, rules, laws and ordinances of federal, state and local governmental and quasi-governmental bodies and agencies relating to the construction of homes and other activities engaged in by the Featured Builders from time to time, and the compliance by the Featured Builders with any licensing requirements imposed by federal, state and local governmental and quasi-governmental bodies and agencies from time to time. Furthermore, neither the Architectural Control Committee nor Declarant, nor the officers, directors, members, employees, agents or affiliates of either of them, shall have any responsibility whatsoever for any sum that any Owner or any other party may deposit with a Featured Builder, including, without limitation, any earnest money or other deposit that any Owner may deliver to a Featured Builder. The selection of a Featured Builder by an Owner shall be conclusive evidence that such Owner is independently satisfied with regard to any and all concerns such Owner may have about the Featured Builder's qualifications. Owners shall not rely on the advice or representations of the Architectural Control Committee, Declarant or the officers, directors, members, employees, agents or affiliates of either of them in that regard.

Section 9.10. No Construction Without Payment of Fees and Use of a Featured Builder. Notwithstanding anything contained in this Article IX to the contrary, plans and specifications for Improvements to be constructed on a Lot, Tract or other portion of the Property shall not be deemed to have been properly

submitted unless and until any and all fees required by the Architectural Control Committee to be paid in connection with such Improvements, as provided in Section 9.8 above, shall have been paid to the Architectural Control Committee or Declarant as required. In addition, such plans and specifications shall not be deemed to have been properly submitted unless a copy of a fully signed contract between the Owner of the relevant Lot and a Featured Builder for construction of such Improvements (if required by the Architectural Control Committee), as provided in Section 9.9 above, shall have been submitted to the Architectural Control Committee.

Section 9.11. Club Improvements. Notwithstanding the provisions of this Article IX, construction and installation of any Improvements in connection with the development of the Club and the Club Facilities, including the construction and development of a club house, swimming pools, tennis courts and other Improvements on the Club Property, commenced prior to the Turnover Date, shall not be subject to the provisions of this Article IX, and such Improvements on the Club Property may be constructed and the Club Property may be developed prior to the Turnover Date without any submission, review and approval of plans and specifications or the approval of any other matters in connection therewith by the Architectural Control Committee. Provided, however, Improvements on the Club Property, including any renovations, changes and additions to existing Improvements on the Club Property, but excluding any revisions or changes to the Golf Course, commenced on or after the Turnover Date shall be subject to the provisions of this Article IX, and plans and specifications for any such Improvements shall be submitted, reviewed and approved by the Architectural Control Committee in the same manner and in accordance with the same terms and conditions as any other Improvements on the Property. Any revisions or changes to the Golf Course, whether made at any time before or after the Turnover Date, are not subject to the provisions of this Article IX.

Section 9.12. Notices and Submittals. Notices and submittals to the Architectural Control Committee shall be in accordance with the notice provisions set forth from time to time in the Architectural and Landscape Guidelines.

Section 9.13. Separate Committee for Changes to Existing Improvements. The Master Board shall have the right, power and authority, in its sole discretion, to appoint a committee separate and apart from the Architectural Control Committee to review plans and specifications for any and all renovations, changes and additions to existing Improvements located on a Lot, Tract or other portion of the Property (herein, the "Architectural Changes Committee"). Should the Master Board appoint such an Architectural Changes Committee, then the Architectural Control Committee shall relinquish to the Architectural Changes Committee its authority to review plans and specifications for any such changes to existing Improvements, and the Architectural Changes Committee shall be solely responsible for review and approval of the same. The composition of the Architectural Changes Committee shall be determined by the Master Board in its sole discretion and the procedure for submission, review and approval of plans and specifications to and by the Architectural Changes Committee shall be set forth in the Architectural and Landscape Guidelines. Notwithstanding the foregoing, nothing herein shall be deemed to obligate the Master Board to appoint an Architectural Changes Committee, and until an Architectural Changes Committee is appointed, the Architectural Control Committee shall be responsible for reviewing and approving or disapproving all plans and specifications for renovations, changes and additions to existing Improvements in accordance with the provisions of this Article IX and the Architectural and Landscape Guidelines.

Section 9.14. Limitation of Liability. No member of the Architectural Control Committee or the Architectural Changes Committee shall be liable for claims, causes of action or damages (except where occasioned by willful misconduct of such member) arising out of services performed pursuant to this Article IX. Neither the Architectural Control Committee, nor the Architectural Changes Committee (if applicable), nor the members thereof, nor the Master Association, nor any other Association, nor Declarant, nor any officers, directors, members, employees, agents or affiliates of any of them, shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval of, or the failure to approve or disapprove of, any plans and specifications. The approval of plans and specifications by the Architectural Control Committee or the Architectural Changes Committee (if applicable) shall not be deemed or construed as a representation or warranty of the Architectural Control Committee or the

Architectural Changes Committee (as the case may be), Declarant, or any officer, director, member, employee, agent or affiliate of any of them, (i) that Improvements constructed in accordance with such plans and specifications will comply with applicable zoning ordinances, building codes, or other governmental or quasi-governmental laws, ordinances, rules and regulations or (ii) as to the structural soundness, quality, durability, suitability, fitness or proper functioning of Improvements constructed in accordance with such plans and specifications; and any responsibility or liability therefor is hereby disclaimed. Every person who submits plans and specifications, and every Owner, agrees that he will not bring any action or suit against Declarant, the Master Association, any Association, the Architectural Control Committee, the Architectural Changes Committee (if applicable), the Master Board, or the officers, directors, members, employees, agents or affiliates of any of them, to recover any such damages and hereby releases, demises, and quitclaims 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. Declarant shall be the sole party responsible for the performance of Declarant's obligations under this Declaration, and no other person, firm or entity, including, without limitation, any entity affiliated with Declarant, shall have any obligation or liability for Declarant's obligations under this Declaration.

Section 9.15. Miscellaneous. Members of the Architectural Control Committee and, if applicable, the Architectural Changes Committee, in the sole discretion of the party or body appointing such members (i.e., either Declarant or the Master Board, as the case may be) may be compensated for their services. The Master Association shall reimburse members of the Architectural Control Committee and the Architectural Changes Committee (if applicable) for reasonable out-of-pocket expenses associated with their activities hereunder. All costs, expenses and attorneys' fees of the Architectural Control Committee and the Architectural Changes Committee (if applicable), including those incurred in connection with the exercise of their enforcement or other powers as provided herein, shall be borne by the Master Association; provided, however, nothing herein shall be deemed to negate the Master Association's right to an award of court costs, attorneys' fees and expenses in accordance with Section 9.5 hereof.

## ARTICLE X

### EASEMENTS AND OTHER RIGHTS

Declarant, in addition to any other easements granted or reserved herein, hereby reserves unto itself, its successors and assigns, and grants to the Master Association and any other persons or entities hereinafter set forth, the following non-exclusive easements on, upon, over, across, through and under the Property. In addition, Declarant hereby reserves unto itself, its successors and assigns, the right, on behalf of itself and the Master Association, to grant additional easements on, upon, over, across, through and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Project, including, but not limited to, easements in favor of Declarant, the Master Association, the Associations, the Club, the Club Owner, any designees of the foregoing, the Owners, and all their family members, guests, invitees and lessees and to various governmental and quasi-governmental authorities and agencies and private concerns for the purposes and uses hereinafter specified.

Section 10.1. Easements and Cross-Easements on Common Areas. Declarant, for itself, its designees and the Master Association, reserves the right to impose upon the Common Areas henceforth and from time to time such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, surveillance services, governmental and quasi-governmental purposes, sewer, water, gas, drainage, irrigation, lake maintenance, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and the like as it deems to be in the best interests of, and necessary and proper for, the Project or any portion thereof.

Section 10.2. Use of Common Areas. Declarant declares that the Common Areas are subject to a perpetual nonexclusive easement in favor of Declarant, the Master Association and their designees, the Associations, the Owners and all their family members, guests, invitees and lessees, and appropriate governmental and quasi-governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as the same are reasonably intended in accordance with the terms of this Declaration and any Additional Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such area is subject to this easement.

Section 10.3. Right-of-Way Over Roadways. Declarant hereby reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, successors and assigns, and grants to the Master Association, the Associations, their agents, employees, lessees, invitees, designees, successors and assigns, and to each Owner of a Lot or Tract, their family members, guests, invitees, successors and assigns, and to each Occupant of a Lot or Tract, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Roadways for the purpose of providing access, ingress and egress to and from, through and between the Property.

Section 10.4. Right of the Master Association and Declarant to Enter Upon the Common Areas and Maintenance Areas. Declarant hereby reserves for the benefit of itself, its successors in interest and assigns, and grants to the Master Association and all agents, employees or other designees of Declarant or the Master Association an easement for ingress, egress and access to enter upon or over the Common Areas and Maintenance Areas for the purposes of inspecting any construction, proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Declarant or the Master Association, as appropriate. Such easement includes an easement in favor of the Master Association and Declarant to enter upon the Common Areas and Maintenance Areas now or hereafter created to use, repair, maintain and replace the same for the purposes for which they are initially designated or for such purposes as they are hereafter redesignated or as Declarant otherwise determines them to be reasonably suited. Notwithstanding the foregoing, nothing contained herein shall be interpreted as imposing any obligation upon the Master Association or Declarant to maintain, repair, or construct Improvements which an Owner or Association is required to maintain, construct or repair.

Section 10.5. Easement for Encroachments. Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Master Association, the Associations, the Owners, their successors and assigns, and to the Occupants of Lots or Tracts, easements for encroachments, to the extent necessary, in the event any portion of the Improvements located on any portion of the Property now or hereafter encroaches upon any of the remaining portions of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement(s) for encroachment shall include an easement(s) for the maintenance and use of the encroaching Improvements in favor of Declarant, the Master Association, the Associations, the Owners and all their designees.

Section 10.6. Easement Regarding Golf, Tennis, or Other Recreational Use. Declarant, the Club's members, and visitors to the Club shall have a perpetual, non-exclusive easement in their favor to use the Roadways and entrance ways and other Common Areas as necessary during any use of the Club golf, tennis or other facilities or as a spectator, worker or purveyor at or for any tournament or activity in connection therewith for the purposes of ingress, egress and access to such facilities. In addition, Declarant hereby dedicates and reserves for the benefit of the Club, its members, visitors, agents and employees, nonexclusive perpetual easements over, across and under certain portions of the Property, indicated and shown on the Plats as being reserved as easements for the benefit of the Club or the Golf Course (for example, labelled as "Golf Course Easement" or "Easement for Golf Cart Tunnel"), for the following purposes, including the installation, maintenance, repair and removal thereof:

- (i) rights-of-way for pedestrian access, ingress and egress to and from the Golf Course; and

- (ii) rights-of-way for golf cart, golfing individuals and maintenance vehicle access, ingress and egress to and from the Golf Course.

Any disputes as to the extent of any of the above-described easements during the term of this Declaration shall be determined by Declarant in its sole and absolute discretion. Declarant reserves the right to impose upon the Property such other easements as are required for the enjoyment of the Club, golf, tennis or other facilities.

Section 10.7. Easements for Errant Golf Balls; Limitation of Liability. Every Lot, Tract, Common Area and all other portions of the Property are hereby burdened with an easement in favor of any golfer for the purpose of retrieving errant golf balls. The Master Association shall not be responsible or liable in any way for any disputes between an Owner and any person using the Golf Course. All Owners, by acceptance of delivery of a deed to the respective Lot, Tract or other portion of the Property, for themselves, their contractors, subcontractors, guests and invitees, successors in interest and assigns, assume all risks associated with errant golf balls, and all Owners agree and covenant for themselves, their contractors, subcontractors, guests and invitees, successors in interest and assigns, not to make any claim or institute any action whatsoever against Declarant, the Master Association, the Club, the Club Owner, the architect of the Golf Course, or any officers, directors, employees, agents or affiliates of any of them, or their respective assigns, arising or resulting from any errant golf balls or any damages that may be caused thereby.

Section 10.8. Maintenance Areas.

Declarant hereby reserves, for the benefit of itself, its successors in interest and assigns, and grants to the Master Association, its successors and assigns, the following nonexclusive perpetual easements over certain areas of the Property as hereinafter described for the purposes hereinafter described:

- (i) Easements for the purposes of landscaping and maintaining entry ways and erecting and maintaining entrance monument(s) for the Project, over, across and under those portions of the Property shown and designated as "Entry Easement" on the Plats (herein referred to as the "Entrance Monument Easements"). Declarant and/or the Master Association shall have the right to landscape and maintain the areas of the Property so designated as entry ways to the Project, to erect and maintain entrance monument(s) thereon bearing the name of the Project, and to erect and maintain lighting for such monument(s), plantings, landscaping, irrigation systems and other improvements typically used for entry ways.
- (ii) Easements for the installation, maintenance, repair and removal of landscaping and landscaping amenities, including signage, monuments and irrigation systems, over, across and under those portions of the Property shown and designated as "Landscape Easements" on the Plats (herein referred to as "Landscape Easements").
- (iii) Easements for the installation, maintenance, repair and removal of Roadways, street lights, sidewalks, pathways and trails, over, across and under those portions of the Property shown and designated as "Roadway Easements," "Sidewalk Easements," "Pathway Easements" and "Trail Easements," as appropriate, on the Plat (herein referred to as the "Roadway Easements," "Sidewalk Easements," "Pathway Easements" and "Trail Easements," as appropriate).

All of the above-described areas and items shall herein be referred to as the "Maintenance Areas." The Master Association shall maintain the Maintenance Areas to a consistent standard of maintenance typical of a first-class development.

Section 10.9. Easements for Common Driveways. Certain groups of Lots in the Project may be served by Common Driveways, as herein defined, which will run over and across certain areas of the Property, as hereinafter described. The Lots which are part of a group which will be served by a Common Driveway and are therefore subject to the provisions of this Section 10.9 will be specified in the Additional Declarations for the

Phases in which such Lots are located. Provided, however, the Owners of certain Lots shall have the right, but not the obligation, to have such Lots be served by a Common Driveway and therefore included within the designated group of Lots using such Common Driveway, which Lots will also be specified in the Additional Declarations for the Phases in which such Lots are located and which Lots shall herein be referred to as "Optional Lots." All Lots served by one Common Driveway, including those Optional Lots whose Owners have chosen to be served by such Common Driveway, shall herein be referred to as a "Group."

Declarant hereby reserves, for the benefit of itself, its agents, employees, designees, successors and assigns, and grants to the Master Association, its agents, employees, designees, successors and assigns, and to each Owner of a Lot in a particular Group, their successors and assigns, a perpetual non-exclusive easement over, across and under the area of the Property shown and designated as "Common Driveway and Utility Easement" (herein referred to as such) on the Plat of such Group and running to such particular Group. The above-described easement is hereby reserved and granted for the purposes of (a) paving, maintaining and repairing a Common Driveway to be erected on such easement area (the "Common Driveway"), and (b) laying, maintaining, repairing and replacing utility lines over, under and across such easement area, which non-exclusive easement shall include the right to go upon such easement area and any portion of the Property in the area of or adjacent to such easement area necessary to perform such work; provided, however, and notwithstanding the foregoing, no utility lines or equipment shall be placed or maintained within the Common Driveway area without the express prior written approval of the Architectural Control Committee, and absent such approval, utility lines servicing the Common Drive Lots shall access those Lots exclusively from publicly dedicated rights-of-way. In addition, Declarant hereby grants to each Owner of a Lot in a Group, their successors and assigns, a perpetual, non-exclusive easement over and across any areas of the Property necessary for such Owner to tie his Lot into the Common Driveway and Utility Easement serving his Lot (the "Tie-In Easement"), which Tie-In Easement may also be used for the above-described purposes.

Declarant hereby reserves, for the benefit of itself, its agents, employees, designees, successors and assigns, and grants to the Master Association, its agents, employees, designees, successors and assigns, and to each Owner of a Lot in a particular Group, their family members, guests, invitees, successors and assigns, and to each Occupant of a Lot in a particular Group, a perpetual, non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the above-described Common Driveway and Utility Easement serving such Group, and over and across any Tie-In Easement necessary, for the purpose of providing access, ingress and egress to and from the Lots in such Group.

Any Owner or Occupant of a Lot within a Group may and must use only the Common Driveway and Utility Easement serving such Group as its means of access to a public Roadway. Within the Common Driveway and Utility Easements and the Tie-In Easements, no structure, planting or other material shall be placed or permitted to remain which could interfere with the use of the Common Driveway and Utility Easements and the Tie-In Easements for the above-stated purposes.

The Owner of each Lot within a Group shall pay for its attributable share of the construction of that Group's Common Driveway in accordance with the provisions of the Architectural and Landscape Guidelines.

Each Common Drive Lot shall face the public Roadway (and not the Common Driveway) directly adjacent to such Lot.

Each Owner of a Common Drive Lot shall pay annually to the Master Association, within ten (10) days of the Master Board sending notice thereof to Owner, an amount (the "Common Drive Reserve Assessment") to be held in escrow and used by the Master Board to pay for maintenance and repair of the Common Driveway. The Common Drive Reserve Assessment shall be set annually by the Master Board in its discretion. If at any time the amount in reserve is insufficient for the Master Board's then contemplated or actual expenses for repair or maintenance of the Common Drive, the Master Board may make a Special Assessment as to the Owners of Common Drive Lots pursuant to the provisions of Section 4.6 of the Declaration to pay for such repair or maintenance and replenish the reserve.

The Owner of each Lot in a Group shall have the right to lay, maintain, repair and replace within the Common Driveway and Utility Easement, and within any Tie-In Easement as necessary, utility lines servicing its Lot, provided, that any such work shall be carried out in such a way so as not to interfere with the other Owners' reasonable use of the Common Driveway, and provided further that any Owner performing such work and causing disturbance to the pavement, concrete, landscaping or other features of the Common Driveway and Utility Easement, or to other property in the Project, shall repair the same to its condition prior to such work.

Section 10.10. Utility and Drainage Easements. The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on the Plats, including, but not limited to, those certain easements shown and designated on the Plats as:

- (a) "Utility Easement";
- (b) "Public Storm Drainage Easement";
- (c) "Sanitary Sewer Easement"; and
- (d) "Sanitary Sewer Right-of-Way."

Such easements are hereby reserved for the use of Declarant, its successors and assigns, and are hereby established for the use of the Master Association, its successors and assigns.

Additionally, Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Master Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along (a) a 10-foot strip of land adjacent to the front, side and rear boundary lines of all Lots within the Property and (b) all Landscape Easements, for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, gas, telephone service, cable service, water, irrigation, sanitary sewer and drainage facilities, storm drainage and/or other utilities. Within the above-described easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation of utilities or which may change the direction or flow of drainage channels in the easements. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 10.11. Irrigation Easements. Declarant hereby reserves, for the benefit of itself, its successors and assigns, and grants to the Master Association and the Club Owner, their successors and assigns, non-exclusive perpetual easements over, across and under those portions of the Property shown and designated as "Irrigation Easement" on the Plats for the installation, maintenance, repair and removal of irrigation systems to service the landscaping to be installed and maintained in the Landscape Easement areas and on the Golf Course (herein referred to as the "Irrigation Easements"). Within the Irrigation Easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation, repair and maintenance of irrigation systems. This reservation of easements shall not prohibit the construction of driveways, at locations approved by the Architectural Control Committee, over such easements.

Section 10.12. Declarant's Right to Assign Easements; Maintenance of Easement Areas. Declarant shall have the right to assign and convey, in whole or in part, the easements reserved by it hereunder. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property pursuant hereto, including any Improvements in such areas, which are not to be maintained by the Master Association, an Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Declarant and/or the Master Association may exercise the rights reserved in Section 11.2 hereof for the purpose of enforcing the provisions of this Section 10.12. Notwithstanding the above, the Master Association, an Association and/or

Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas on any Lot or Tract.

Section 10.13. Easement Reserved for the Master Association, the Associations and Declarant. Full rights of access, ingress and egress are hereby reserved by Declarant for itself and the Master Association at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Article X as well as the maintenance and repair rights described in Article XI below and for the carrying out by Declarant or the Master Association of the rights, functions, duties and obligations of each hereunder; provided, that any such entry by Declarant or the Master Association upon any Lot or portion of the Property shall be made with the minimum inconvenience to the Owner of such property as is reasonably practical, and any damage caused as a result of the gross negligence of Declarant, the Master Association or their employees or agents shall be repaired by Declarant or the Master Association, as the case may be, at the expense of Declarant or the Master Association, as the case may be.

Section 10.14. Additional Easements. Declarant shall have the right to grant over, under, across and upon any portion of the Property owned by Declarant, and the Master Board shall have the authority, in its sole discretion, to grant over, under, across and upon the Common Areas, such easements, rights-of-way, licenses and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be desirable for the development of the Project, by the execution, without further authorization, of such grants of easement or other instruments as may from time to time be necessary or desirable. Such easements may be for the use and benefit of persons who are not Master Association Members or Owners. After such time as the members of the Master Board are no longer appointed by Declarant, the Master Board shall cooperate with Declarant and execute such grants of easements over the Common Areas as may be desirable to Declarant for the development of the Project and the preservation and enhancement of Declarant's interest therein.

Section 10.15. No Merger of Easements. The easements hereby established shall not be terminated by merger or otherwise, except upon execution and recordation of an instrument specifically terminating any such easement.

## ARTICLE XI

### MAINTENANCE BY OWNERS

Section 11.1. Duty of Maintenance. Except for those portions, if any, of a Lot or Tract which the Master Association or an Association may elect to maintain or repair hereunder or under any applicable Additional Declaration, the Owner of any Lot or Tract shall have the duty and responsibility, at such Owner's sole cost and expense, to keep the Lot(s) or Tract(s) owned by such Owner, including Improvements thereon and ground and drainage easements or other rights-of-way incident thereto, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration (to the extent applicable), and in any applicable Additional Declaration, in accordance with the provisions of the Architectural and Landscape Guidelines, and in a well-maintained, safe, clean and attractive condition at all times. Such maintenance, as to unimproved and improved Lots or Tracts, shall include, but shall not be limited to, the following:

- (1) Prompt removal of all litter, trash, refuse and waste;
- (2) Keeping land, including any lawns and shrub beds, well maintained and free of trash, uncut grass and weeds;
- (3) Keeping all sediment resulting from land disturbance or construction confined to the respective Owner's property; and
- (4) Complying with all governmental health and police requirements.

In addition, such maintenance, as to improved Lots or Tracts, shall include, but shall not be limited to, the following:

- (1) Lawn mowing on a regular basis;
- (2) Tree and shrub pruning;
- (3) Watering by means of a lawn sprinkler system and/or hand watering as needed;
- (4) Keeping exterior lighting and mechanical facilities in working order;
- (5) Keeping lawn and garden areas alive;
- (6) Removing and replacing any dead plant material;
- (7) Maintenance of natural areas and landscaping in accordance with the Architectural and Landscape Guidelines;
- (8) Keeping parking areas and driveways in good repair;
- (9) Repainting of Improvements; and
- (10) Repair of damage and deterioration to Improvements, it being understood and agreed that if any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date such damage or destruction occurs, the Owner of the Lot or Tract on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with plans and specifications approved by the Architectural Control Committee and otherwise in accordance with the terms and provisions of this Declaration and of each Additional Declaration applicable thereto) or remove such damaged Improvements and restore the Lot or Tract to its condition existing prior to the construction of such Improvements.

Notwithstanding anything contained herein to the contrary, the above-described maintenance responsibilities as to any Lot or Tract shall commence only upon a Plat showing such Lot or Tract being recorded with the Clerk of the Superior Court of Gwinnett County, Georgia and upon the conveyance of such Lot or Tract by Declarant.

Section 11.2. Enforcement. If an Owner of any Lot or Tract has failed in any of the duties or responsibilities of such Owner as set forth in this Article XI, then the Master Board and Declarant, jointly and severally, may give such Owner written notice of such failure and such Owner must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested), perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner as described in this Article XI. Provided, however, this cure period shall be extended for a time not to exceed sixty (60) days so long as Owner shall have commenced to cure such nonconformity and shall diligently prosecute the same. Should any such Owner fail to fulfill this duty and responsibility within such period, then the Master Association, acting through its authorized agent or agents, or Declarant (so long as it owns any portion of the Property), acting through its authorized agent or agents, jointly or severally, shall have the right and power to enter onto the premises of such Owner and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any Person. The Owner of the Lot or Tract on which such work is performed shall be liable for the cost of such work, together with interest on the amounts expended by the Master Association or Declarant in performing such work computed at the highest lawful rate as shall be permitted by law from the date(s) such amounts are expended until repayment to the Master Association or Declarant, as the case may be, and for all costs and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder, and such

Owner shall reimburse the Master Association or Declarant, as the case may be, on demand for such costs and expenses (including interest as above provided). If such Owner shall fail to reimburse the Master Association or Declarant, as the case may be, within thirty (30) days after the mailing to such Owner of a statement for such costs and expenses, then, without limitation of any other rights of the Master Association or Declarant, the Master Association may impose a Special Individual Assessment against such Owner. Declarant has the right to assign to the Master Association the rights of Declarant under this Section 11.2.

## ARTICLE XII

### RIGHTS OF MORTGAGEES

Section 12.1. Rights of Mortgagees. Any Mortgagee, at such Mortgagee's written request given to the Master Association, shall have the following rights, to wit:

(a) To be furnished at least one copy of the annual financial statement of the Master Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;

(b) To be given notice by the Master Association of the call of any meeting of the Master Association Members, and to designate a representative to attend all such meetings;

(c) To be given prompt written notice of any delinquency in the payment of assessments or charges owed by an Owner of a Lot, Tract and/or Dwelling Unit subject to the Mortgage of such Mortgagee, where such delinquency has continued for a period of sixty (60) days, or notice of any other default under this Declaration, the Master Bylaws or any rules and regulations promulgated by the Master Association by any Owner owning a Lot, Tract or Dwelling Unit encumbered by a Mortgage held by the Mortgagee;

(d) To be given prompt written notice of any casualty loss or loss by eminent domain or other taking of the Common Areas or any Lot, Tract or Dwelling Unit encumbered by a Mortgage held by the Mortgagee;

(e) To be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Master Association;

(f) To be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and

(g) To be given prompt written notice of any proposed action which would require the consent of a specified percentage of votes of the Master Association Members.

Whenever any Mortgagee desires the provisions of this Section to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Master Association by certified mail, return receipt requested, addressed to the Master Association and sent to its then current address, identifying the property in the Project upon which any such Mortgagee holds any Mortgage or identifying any property in the Project owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it and which notice shall designate the place to which notices are to be given by the Master Association to such Mortgagee.

Section 12.2. Books and Records. Any Mortgagee will have the right to examine the books and records of the Master Association during any reasonable business hours.

Section 12.3. Payment of Taxes and Insurance Premiums. The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common

Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Master Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Master Association.

Section 12.4. Names and Addresses of Mortgagees. Upon request, each Owner shall be obligated to furnish to the Master Association the name and address of the holder of any Mortgage encumbering such Owner's Lot, Tract and/or Dwelling Unit.

Section 12.5. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Master Board to respond to or consent to any action shall be deemed to have approved such action if the Master Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Master Board's request.

Section 12.6. Assessment Lien Priority. Notwithstanding the rights of Mortgagees as set forth in this Article XII, nothing herein shall be construed as giving the lien of a Mortgage priority over an assessment lien as described in Section 4.11 hereof. Provided, however, the Master Board shall have the power to subordinate such an assessment lien to the lien of any Mortgage in its sole discretion.

## ARTICLE XIII

### THE CLUB AND GOLF COURSE

Section 13.1. Owners' Covenants. With respect to the Club, the Club Property and the Golf Course, the Owners of property in the Project shall be subject to the additional covenants that are set forth in this Article XIII.

Section 13.2. The Club. The Club Property is being developed by Declarant as a private club and recreational area in conjunction with the development of the Property. Declarant or other parties may from time to time develop club facilities within the Club Property (including, without limitation, the Golf Course, a clubhouse, tennis courts and swimming pools) (the "Club Facilities"). The Club Facilities shall be developed and provided at the discretion of Declarant. The Club Owner at any particular time shall have the exclusive right to determine from time to time, in its sole discretion and without notice or approval of any change, how and by whom the Club Facilities shall be used, if at all. By way of example, but not limitation, the Club Owner shall have the right to approve users and determine eligibility for use of the Club Facilities, to reserve use rights for future purchasers of property in the Project, to terminate any or all use rights, to change, eliminate or cease operation of any or all of the Club Facilities, to transfer any or all of the Club Facilities or the operation thereof to anyone (including, without limitation, a member-owned or equity club) and on any terms, to limit the availability of use privileges, and to require the payment of a purchase price, a membership contribution, an initiation fee, dues and other charges for use privileges.

The Club Property is a part of the Property and is hereby made subject to the covenants, conditions, restrictions, easements, charges and liens contained in this Declaration as more particularly set forth herein. The Club, the members of the Club, their visitors, guests and invitees shall have certain perpetual non-exclusive easements over the Property as set forth in Article X hereof; provided, however, such easements, as they relate to the use of the Common Areas by the Club or its members, their visitors, guests and invitees, shall be only as to those portions of the Common Areas necessary for such persons' use. Each Owner acknowledges that the use of the Common Areas by the Club or its Members, their visitors, guests and invitees may increase the number of people using the Common Areas. Any disputes as to what constitutes a normal purpose or what portions of the Common Areas are necessary for such persons' use shall, during the term of this Declaration, be determined by Declarant in its sole and absolute discretion. Declarant reserves the right, in its sole discretion and with no other approval being required, to impose upon the Common Areas such other easements which are required for the use and enjoyment of the Club Property. The location of a Lot, Tract or Dwelling Unit within the Property may result in nuisances or hazards to such Lot, Tract or Dwelling Unit, or to persons on, making use of or in transit to

or from such Lot, Tract or Dwelling Unit, or to property on such Lot, Tract or Dwelling Unit, as a result of normal Club operations. Each Owner covenants for itself, its successors in interest and assigns, and its contractors, subcontractors, guests and invitees that it shall assume all risks associated with such location, including, but not limited to, the risk of property damage or personal injury arising from stray golf balls or actions incidental to such Club activities, and shall indemnify and hold harmless the Master Association, any Association, Declarant, the Club Owner, the Club, the Golf Course Architect, any other entity owning or managing the Golf Course or the Club, and any of their officers, directors, agents or employees, from any and all liabilities, claims or expenses, including attorneys' fees and expenses, arising from such property damage or personal injury. Nothing in this Section 13.2 shall restrict or limit any power of Declarant, the Club Owner or any entity owning or managing the Golf Course to change the design of the Golf Course, and such changes, if any, shall not nullify, restrict or impair the covenants contained herein.

**NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, NEITHER THE CLUB NOR ANY OF THE CLUB FACILITIES WILL BE COMMON AREA UNDER THIS DECLARATION, AND THE OWNERSHIP OF A LOT OR TRACT (WHETHER OR NOT CONTIGUOUS TO THE CLUB PROPERTY) AND/OR MEMBERSHIP IN THE MASTER ASSOCIATION OR ANY ASSOCIATION DOES NOT IN ANY WAY CONFER ANY OWNERSHIP INTEREST IN OR ANY EASEMENT OR RIGHT TO USE THE CLUB, THE CLUB PROPERTY OR ANY CLUB FACILITIES OR AMENITIES, AND NO SUCH INTEREST, RIGHT, EASEMENT OR RIGHT OF USE IS CREATED UNDER THIS DECLARATION BY IMPLICATION OR OTHERWISE. THE CLUB MAY HAVE MEMBERS WHO ARE NOT OWNERS OR MEMBERS OF THE MASTER ASSOCIATION OR ANY ASSOCIATION.**

Section 13.3. Golf Course. While Owners shall have the right of quiet enjoyment to their portion of the Property, there shall be no activity on any Lot or other portion of the Property which is contiguous to the Club Property or within a distance of one hundred feet (100') from any boundary of the Club Property that unreasonably disturbs play, or the enjoyment of the Golf Course, by members and guests thereof, including, without limitation, undue noise, unsightly trash and debris, or any other noxious or offensive activity. Typical noises and activities associated with normal construction activities on Lots or other portions of the Property shall, however, be permitted except during the Golf Tournaments, as herein defined. In addition to the provisions in Section 8.7 herein or other provisions in this Declaration, no fencing shall be constructed or maintained on any Lot or other portion of the Property which is (i) contiguous to the Club Property and (ii) within ten (10) feet from any boundary of the Club Property, without the prior written consent of the Club Owner and the Architectural Control Committee.

Section 13.4. Golf Tournaments. In addition to the restrictions set forth in Section 13.3 above (which shall apply at all times), during any tournament on the Golf Course which tournament is sponsored, permitted or sanctioned by the Club Owner, including, without limitation, any PGA TOUR tournament sanctioned by PGA TOUR, INC. and any LPGA tournament (a "Golf Tournament"; in the plural, "Golf Tournaments"), there shall be no unusual construction or other activity on any portion of the Property, whether or not contiguous to the Club Property, that, in the reasonable judgment of the Club Owner, disturbs play in, or conduct of, the Golf Tournament, including the enjoyment thereof by spectators. Provided they comply with applicable governmental laws, rules and regulations, the Club Owner and its designees, including the sponsor of any Golf Tournament (if such party is named as a designee hereunder for such purpose by the Club Owner), shall be entitled to restrict the rights-of-way (other than any rights-of-way that have been publicly dedicated) and access to other areas contiguous to or near the Club Property during the period of any Golf Tournament; provided, however, Owners, their guests and invitees, shall at all times have at least one means of ingress and egress from their property in the Project to a public right-of-way. All Owners acknowledge that during the Golf Tournaments, parking facilities for spectators and guests may be located off the premises of the Club Property, including within the Property, and traffic congestion may occur.

Section 13.5. Construction Limits. With respect to portions of the Property which are contiguous to the Club Property:

- (a) Reasonable efforts shall be made to screen locations of construction material storage areas, chemical toilets, dumpsters and other unsightly items from the line of sight of the Golf Course;
- (b) All construction areas shall be kept in good order; all debris shall be placed in trash receptacles or dumpsters (which shall be emptied as necessary during construction in order to prevent spillage of debris on the ground) or handled as otherwise directed by the Architectural Control Committee; and
- (c) Except for drainage required by governmental authorities, no permanent open trenches will be located adjacent to the Club Property. Any trenches required by governmental authorities shall be designed so as to minimize any adverse aesthetic impact on the Club Property and the Property.

Section 13.6. Daily Construction Operations. During any Golf Tournament, no exterior work will be allowed on any portion of the Property if such work, in the reasonable judgment of the Club Owner, would disturb play in, or conduct of, the Golf Tournament, including the enjoyment thereof by spectators. For purposes of illustration only, such prohibited construction work during any Golf Tournament shall include pile driving, hammering, jack-hammering, sawing (by means of a power or chain saw), and similar noisy activities. Additionally, no blasting in or on the Property will be permitted during any Golf Tournament.

Section 13.7. Excavation. Any trenches located within a distance of ten feet (10') from any boundary of the Club Property must be closed overnight unless effectively barricaded, lighted and marked to indicate a hazardous condition.

Section 13.8. Construction Vehicles and Parking. Construction parking will be restricted to the Roadway side of any property contiguous to the Club Property (i.e., away from the common boundary with the Club Property).

Section 13.9. Construction Access Across or Over Golf Course. In order to prevent damage to the Golf Course, at no time will access be allowed across or over the Golf Course for storage or transportation of labor or materials or location of construction equipment other than in connection with construction easements approved in advance in writing by the Club Owner.

Section 13.10. Noise. No radios, tape or record players, musical instruments, telephones, horns or bells shall be operated in an unreasonably loud manner on any portion of the Property which, in the reasonable judgment of the Club Owner, would disturb play on or the use of the Golf Course.

Section 13.11. Signage. No signs will be allowed on the Golf Course side of any Lot, Tract or Common Area contiguous to the Club Property other than emergency or warning signs established by Declarant, the Club Owner or the Master Board.

Section 13.12. Additional Construction Restrictions on Portions of the Property Adjacent to the Club Property. The following additional restrictions shall also apply to construction activity on portions of the Property contiguous to the Club Property:

- (a) The contractor shall schedule and perform work in a good and workmanlike manner and use reasonable efforts to minimize any detrimental impact on play in, or the conduct of, any golfing activity or Golf Tournament, including the enjoyment thereof by spectators;
- (b) No work will be allowed that will restrict access to the Club Property (except in the event of an emergency) unless such work is coordinated with, and approved by, the Club Owner, which approval shall not be unreasonably withheld;

(c) Except in cases of emergency, reasonable efforts shall be made to assure that no work will be allowed on major master sewer or storm drainage lines located within a distance of fifty (50) feet from any boundary of the Club Property, during the period beginning thirty (30) days before, and extending until the completion of, any Golf Tournament; and

(d) The contractor shall exercise reasonable care to restore any area affected by his construction activities to its original condition.

Section 13.13. Pets. The ownership and maintenance of pets by Owners within the Property shall be in compliance with all applicable local laws, ordinances, rules and regulations and such other applicable rules and regulations as may be promulgated from time to time by the Master Board. Without limitation, each pet within the Property shall be kept on a leash whenever such pet is not on its owner's property and shall be kept off the Club Property and the Golf Course at all times.

Section 13.14. View of Golf Course and Club Property. The view of the Golf Course and the Club Property from Lots, Tracts and Dwelling Units on Lots may be impaired by scoreboards, tents and other temporary or permanent obstructions or structures installed or erected within the boundaries of the Club Property and the Common Areas in connection with Golf Tournaments and other uses of the Golf Course and the Club Property. No Owner shall be entitled to assert any claim or to bring any action relative to any such impairment of view of the Golf Course and the Club Property.

Section 13.15. Enforceability. The rights and obligations to implement the enforcement of the provisions of this Article XIII and of those portions of the other covenants, conditions and restrictions herein contained that are directed to the protection of and enjoyment of the Club Property, the Golf Course and the orderly conduct of the Golf Tournaments shall be and are hereby delegated to and become the sole responsibility of the Club Owner, its successors and assigns and designees (which may include the operator of the Club Property and the sponsor of any Golf Tournament, if any such party is named as a designee hereunder for such purpose by the Club Owner); provided, however, the Master Board shall also have the right, but not the obligation, to enforce any of the provisions of this Article XIII.

## ARTICLE XIV

### RIGHT OF FIRST REFUSAL

Section 14.1. Applicability. Except for sales and conveyances by Declarant, no unimproved Lot may be sold by any Owner except in compliance with the provisions of this Article XIV. Notwithstanding the above, nothing in this Article XIV shall be construed to make the provisions of this Article XIV applicable with respect to the Club Property or any portion thereof.

Section 14.2. Right of First Refusal. Before any unimproved Lot (or any ownership interest therein) may be sold to any Person other than Declarant or its successors, the Owner or Owners of such Lot shall first offer in writing to sell the Lot to Declarant or its successors at a price equal to: (1) the contract purchase price paid by such Owner for such Lot (excluding all finance charges related to the purchase) increased by the percentage increase, from the closing date of such Owner's purchase of such Lot to the date of such written offer to sell the Lot to Declarant or its successors, in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84 = 100) issued by the U.S. Bureau of Labor Statistics (the "CPI"), less (2) the costs of removing all liens and encumbrances on the Lot and customary seller's closing costs. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. For the purposes of this Article XIV, a Lot shall be considered as unimproved unless and until any proposed Improvements to such Lot have been approved by the Architectural Control Committee and the good faith commencement of the construction of such Improvements (i.e., at a minimum, completion of footings and foundation of the approved residence and bona fide evidence of total expenditures for Improvements to the Lot of at least \$50,000.00) shall have occurred. Upon receipt by an Owner of a bona

fide offer to purchase an unimproved Lot, such Owner shall send to Declarant a copy of such bona fide offer along with written notification that such Owner is offering the Lot for sale to Declarant pursuant to this right of first refusal. If Declarant or its successor does not accept or reject in writing said offer of sale within thirty (30) days from the date of receipt of the same, then the Owner or Owners of such Lot shall have the right to sell the Lot to the third party making such bona fide offer pursuant to such bona fide offer, without any further additional obligation to offer the Lot to Declarant. Declarant shall have this right of first refusal with regard to each bona fide offer which an Owner receives for the purchase of an unimproved Lot. Any Owner who buys an unimproved Lot from another Owner shall be governed by the provisions of this Article XIV and the waiver of the right of first refusal with respect to any sale shall not limit Declarant's rights of first refusal with respect to any subsequent sale of any unimproved Lot. Provided, however, the right of first refusal reserved by Declarant pursuant to this Section 14.2 shall be valid and enforceable with respect to any unimproved Lot only for a period of fifteen (15) years from the date of the first conveyance of such Lot from Declarant to an Owner other than Declarant, and upon the expiration of said fifteen (15) year period, the Owner or Owners of such Lot shall have the right to sell the unimproved Lot to any third party without the obligation to offer the Lot to Declarant. Further provided that this Section 14.2 shall not be applicable with respect to any foreclosure sale of a first lien deed of trust or first lien mortgage on an unimproved Lot or deed in lieu thereof which is made and delivered in good faith. In each instance where an offer to purchase an unimproved Lot is presented to Declarant by an Owner pursuant to the right of first refusal granted herein, Declarant shall determine in its sole discretion and on a case by case basis whether to exercise its right of first refusal, and such determination may be made on such basis and for such reason as Declarant in its sole discretion shall choose. Should an Owner fail to comply with the provisions of this Section 14.2 and sell an unimproved Lot without first offering said Lot to Declarant in accordance with the terms hereof, then the purchaser of such unimproved Lot shall purchase such Lot subject to the right of first refusal herein granted, and Declarant shall thereafter at any time have the right to purchase such Lot, whether or not it is subsequently improved, from the purchaser thereof at the price as set forth in this Section 14.2, and shall also be entitled to any other rights and remedies available at law or in equity for the violation of this Section 14.2.

Section 14.3. Death of an Owner; Gift. The personal representative, heirs, successors and assigns of any Owner who dies while owning any unimproved Lot, or the donee of a gift of a Lot from an Owner, shall become an Owner subject to the terms and conditions of this Declaration and any subsequent sale, transfer and conveyance of such Lot shall be governed by the provisions of this Article XIV.

Section 14.4. Transfers to Declarant. In the event that Declarant exercises its right of first refusal pursuant to Section 14.2 hereof, the closing of the conveyance of such Lot shall occur within sixty (60) days after receipt by the Owner of written notice from Declarant or its successors that it elects to exercise its right of first refusal with respect to such Lot. At the closing, Declarant shall make payment to such Owner of the purchase price as described in Section 14.2 above, in cash or cash equivalent. The Owner shall deliver to Declarant a general warranty deed conveying fee simple marketable title to the Lot free and clear of all exceptions except those that existed at the time of the acquisition of the Lot by such Owner, the lien of ad valorem taxes for the current year and any other exceptions which may be approved by Declarant. In the event the closing occurs after the death of an Owner, Declarant may, in its discretion, require the personal representative of the Owner to post such bonds or other assurances as Declarant may deem reasonable in order to protect Declarant from any loss which might be caused by the failure to pay any federal or state inheritance tax or the failure to pay the claims of any creditors who may have a lien on the Lot superior to Declarant's rights as a purchaser of said Lot.

Section 14.5. No Further Documentation Required. The right of first refusal reserved by Declarant in this Article XIV shall run with the title to each Lot in the Project and be binding upon each purchaser of a Lot from Declarant and upon any subsequent Owner of a Lot, whether such Owner purchased such Lot from Declarant or from a third party. The provisions of this Article XIV shall constitute record notice to all purchasers of Lots in the Project of the right of first refusal herein reserved, and no additional language in any deed of conveyance of a Lot and no recording of any additional instrument shall be required to make all Owners of Lots in the Project subject to the provisions of this Article XIV.

## ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.1. Duration. This Declaration and the controls, covenants, restrictions and standards set forth herein shall run with and bind the Property and any Owner, and shall inure to the benefit of every Owner of a Lot in the Property and every Owner of any other portion of the Property, including Declarant, and their respective heirs, successors, and assigns, for a term of twenty (20) years beginning on the date this Declaration is recorded with the Clerk of the Superior Court of Gwinnett County, Georgia. At the end of such twenty (20) year period, the easements, covenants, conditions and restrictions set forth herein shall automatically be extended for successive period(s) of twenty (20) additional years, unless prior to the expiration of a respective period, by two-thirds (2/3) vote of the Master Association Members, there shall be adopted a resolution to terminate these covenants and restrictions. Owners may vote in person or by proxy at a meeting duly called for such purpose at which a quorum is present, written notice of which shall have been given to all Owners at least thirty (30) days in advance of the date of such meeting, which notice shall set forth the purpose of such meeting. Pursuant to O.C.G.A. § 44-5-60(d), to terminate these covenants and restrictions pursuant to this Section 15.1, said two-thirds (2/3) of the Master Association Members shall execute a document containing a legal description of the Property, a list of the names of all Owners of the Property, and a description of which covenants and restrictions shall be terminated, which may be incorporated by reference to another recorded document. By signing such document, each such Person shall verify that he or she is an Owner of Property affected by the covenant or restriction. Such document shall be recorded in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia no sooner than but within two (2) years prior to the expiration of the initial twenty (20) year period or any subsequent twenty (20) year period. The Clerk of the Superior Court of Gwinnett County, Georgia shall index the document under the name of each record Owner appearing in the document. The foregoing shall not limit the right of Declarant to amend and/or supersede, in whole or in part, the terms and provisions hereof, as such right in favor of Declarant is described in Section 15.2 below.

Section 15.2. Amendment. Subject to the limitations hereinafter contained, this Declaration shall be amended only by the agreement of Owners of Lots to which two-thirds (2/3) of the votes in the Master Association pertain; provided, however, that, during any such time as there shall exist an unexpired option to add any additional property to the Master Association or during any such time as the Declarant has the right to control the Master Association under this Declaration, the agreement shall be that of the Declarant and the Owners of Lots to which two-thirds (2/3) of the votes in the Master Association pertain, exclusive of any vote or votes appurtenant to any Lot or Lots then owned by the Declarant. Notwithstanding the above, during such time as the Declarant shall own at least one Lot primarily for the purpose of sale of such Lot, no amendment shall be made to the instrument without the written agreement of the Declarant if such amendment would impose a greater restriction on the use or development of the Lot or Lots owned by the Declarant. Any such vote shall be taken at a duly held meeting of the Master Association Members at which a quorum is present, all in accordance with the Master Bylaws. Any amendment or modification upon which the vote of Master Association Members is required pursuant to this Section 15.2 shall become effective when an instrument executed by the Master Association Members voting for such amendment or modification is filed of record with the Clerk of the Superior Court of Gwinnett County, Georgia; provided, however, such an amendment or modification, in lieu of being executed by the Master Association Members voting for such amendment or modification, may contain a certification of the Secretary of the Master Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Master Association Members, as provided in this Section 15.2. Unless agreed upon by all Owners of Lots and the Mortgagees of all Lots, no amendment to this Declaration shall change the boundaries of any Lot, the number of votes in the Master Association pertaining thereto, or the liability for common expenses pertaining thereto. The approval of any proposed amendment by a Mortgagee shall be deemed implied and consented to if the Mortgagee fails to submit a response to any written proposal for an amendment within thirty (30) days after the Mortgagee receives notice of the proposed amendment sent by certified mail, return receipt requested.

Section 15.3. Enforcement. The Master Association, an Association, Declarant or any Owner shall have the right, but not the obligation, on its own behalf or on behalf of others, to enforce the provisions of this

Declaration or any Additional Declaration. Enforcement of the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens for which provision is made in this Declaration shall be by a proceeding at law or in equity (or otherwise, as provided in this Declaration) against any person or persons violating or attempting to violate any such control, covenant, condition, restriction, easement, development guideline, charge or lien, either to restrain such violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Master Association, an Association, Declarant or any Owner to enforce any such control, covenant, condition, restriction, easement, development guideline, charge or lien shall in no event be deemed a waiver of the right to do so thereafter or of any other or future violation of any thereof. The prevailing party in any motion at law or in equity instituted by the Master Association or other Association to enforce or interpret the limitations, restrictions, conditions or covenants herein shall be entitled to all costs incurred in connection therewith, including, without limitation, reasonable attorneys' fees.

Section 15.4. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses or phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that the remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 15.5. Notice. Except as otherwise set forth herein expressly, whenever written notice to an Owner, Master Association Member or Member (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner, Master Association Member or Member appearing on the records of Declarant, the Master Association or the Association of which such Owner is a Member. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. Declarant's address as of the date of recording of this Declaration is P.O. Box 1898, Dulute, Georgia 30136-8444.

Section 15.6. Titles. The titles, headings and captions which have been used throughout this Declaration are for convenience only and are not to be used in construing this Declaration or any part thereof.

Section 15.7. No Exemption. No Owner or other party may exempt himself from the coverage hereof or obligations imposed hereby by non-use of such Owner's Lot(s) or other property located within the Project or the Common Area.

Section 15.8. Changes to Plans for the Project. Nothing contained herein shall be deemed to incorporate, by reference or otherwise, any plans or proposals promulgated by Declarant with respect to the development of the Project, and Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Additional Declaration, reserves the right to change any plans for the Project at any time and from time to time as Declarant may determine to be necessary based upon Declarant's continuing research and design program and/or market conditions, and any plans for the Project shall not bind Declarant or its successors and assigns to adhere to such plans in the development of the Property or any part thereof. In addition, Declarant reserves the right to change, from time to time, the uses and densities that exist on any portion(s) of the Property owned by Declarant, subject to the covenants, conditions and restrictions contained in this Declaration and any Additional Declaration.

Section 15.9. Declaration of Covenants, Conditions and Restrictions for Sugarloaf Farms Residential (the "Primary Residential Declaration"). This Declaration is intended to supplement that certain Declaration of Covenants, Conditions and Restrictions for Sugarloaf Farms Residential recorded in Book 10841 at Page 0069 with the Clerk of the Superior Court of Gwinnett County, Georgia (the "Primary Residential Declaration"), as it applies to the Property. Every Owner, by acceptance of an interest in any portion of a Lot or Tract subject to this Declaration, and every Club Owner, by acceptance of an interest in any portion of the Club Property,

acknowledge that such Owner or Club Owner, as the case may be, is subject to the Primary Residential Declaration in addition to this Declaration.

Section 15.10. Delegation of Powers, Duties and Authority of the Master Board. In addition to any references contained in any specific sections of this Declaration to the delegation by the Master Board of its powers, duties and authority hereunder, the Master Board generally shall have the right to delegate any of its powers, duties and authority hereunder to any related or third party agent, as the Master Board, in its sole discretion, deems reasonable, necessary, or desirable.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed under seal by its duly authorized member as of the day and year first above written.

Signed, sealed and delivered  
in the presence of:

*E. Weiskin*  
Witness

SUGARLOAF PROPERTIES, INC.

By:

*[Signature]*  
President

Attest:

By:

*[Signature]*  
Secretary

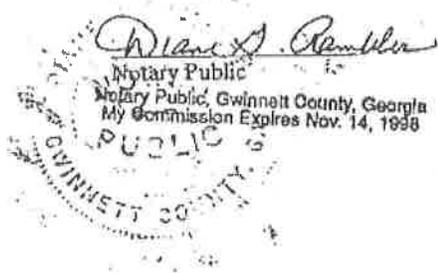


Exhibit "A"  
 Legal Description  
 Sugarloaf Properties, Inc. Parcels "A" and Parcel "B"

All that tract or parcel of land lying and being in Land Lots 120 and 121, 157 through 159, 162 through 164 and 200 and 201, 7th District, Gwinnett County, Georgia being more particularly described as follows:

Parcel "A"

Beginning at the Land Lot corner common to Land Lots 119, 120, 159 and 160, said point being identified as a pine tree stump at the northwestern lot corner of Lot 13 of Cardinal Lake Subdivision Block "AA" as recorded in Plat Book J, Page 37, Gwinnett County public records, as shown on the boundary survey of Sugarloaf as prepared by Greenhorne & O'Mara, Inc. for Crescent Resources, Inc., dated October 27, 1994; thence run South 55°14'29" East, a distance of 1558.53 feet to a point being on the northwestern property line of property recorded in Deed Book 253, Page 162, aforesaid public records, said point also being the TRUE POINT OF BEGINNING; thence leaving said northwestern property line run North 14°02'24" West, a distance of 51.23 feet to a point; thence North 50°07'31" West, a distance of 51.93 feet to a point; thence North 21°18'11" West, a distance of 34.56 feet to a point; thence North 03°10'51" East, a distance of 39.35 feet to a point; thence North 19°39'33" West, a distance of 32.45 feet to a point; thence North 08°35'10" East, a distance of 58.50 feet to a point; thence North 03°59'31" West, a distance of 23.52 feet to a point; thence North 49°30'19" West, a distance of 56.14 feet to a point; thence North 49°30'19" West, a distance of 12.77 feet to a point; thence North 30°33'02" West, a distance of 102.03 feet to a point; thence North 23°17'31" West, a distance of 46.94 feet to a point; thence North 46°17'34" West, a distance of 86.09 feet to a point; thence North 22°19'17" West, a distance of 55.38 feet to a point; thence North 23°54'03" West, a distance of 50.02 feet to a point; thence North 25°19'09" West, a distance of 62.99 feet to a point; thence North 00°53'44" East, a distance of 69.86 feet to a point; thence North 25°33'59" West, a distance of 55.66 feet to a point; thence North 04°19'02" East, a distance of 58.01 feet to a point; thence North 10°18'28" West, a distance of 48.81 feet to a point; thence North 14°50'58" East, a distance of 93.72 feet to a point; thence North 15°49'25" West, a distance of 34.03 feet to a point; thence North 04°43'17" East, a distance of 59.69 feet to a point; thence North 23°42'31" West, a distance of 73.31 feet to a point; thence North 60°11'43" West, a distance of 72.14 feet to a point; thence North 35°40'11" West, a distance of 151.16 feet to a point; thence North 48°56'10" West, a distance of 62.14 feet to a point; thence North 30°46'48" West, a distance of 36.98 feet to a point; thence North 61°40'47" West, a distance of 90.02 feet to a point; thence North 32°33'25" West, a distance of 80.67 feet to a point; thence North 03°48'07" West, a distance of 74.63 feet to a point; thence North 36°56'10" West, a distance of 128.99 feet to a point; thence North 77°36'45" West, a distance of 312.77 feet to a point; thence North 38°48'41" West, a distance of 65.67 feet to a point; thence North 15°30'58" West, a distance of 129.04 feet to a point; thence North 34°32'01" West, a distance of 127.53 feet to a point; thence North 01°29'29" West, a distance of 666.94 feet to a point; thence North 44°57'25" East, a distance of 89.12 feet to a point; thence North 68°17'15" East, a distance of 113.23 feet to a point; thence North 23°10'19" West, a distance of 145.47 feet to a point; thence North 63°30'43" East, a distance of 72.29 feet to a point; thence 309.09 feet along a curve to the northwest, said curve having a chord of North 32°58'42" East, a distance of 294.67 feet and a

radius of 290.00 feet to a point; thence South 77°47'06" East, a distance of 33.50 feet to a point; thence South 07°55'28" East, a distance of 43.68 feet to a point; thence South 84°26'02" East, a distance of 31.73 feet to a point; thence North 47°10'48" East, a distance of 230.72 feet to a point; thence North 20°59'47" West, a distance of 253.27 feet to a point; thence North 17°49'17" East, a distance of 194.87 feet to a point; thence North 26°15'48" East, a distance of 165.70 feet to a point; thence North 14°33'01" West, a distance of 109.37 feet to a point; thence North 03°12'21" West, a distance of 43.30 feet to a point; thence North 79°25'53" West, a distance of 137.34 feet to a point; thence North 67°59'23" West, a distance of 101.49 feet to a point; thence North 21°17'56" West, a distance of 77.56 feet to a point; thence North 31°44'41" East, a distance of 226.01 feet to a point; thence North 10°56'33" East, a distance of 242.87 feet to a point; thence North 00°30'09" East, a distance of 166.43 feet to a point; thence North 27°27'20" West, a distance of 824.36 feet to a point; thence North 07°40'42" East, a distance of 112.10 feet to a point; thence North 70°25'16" West, a distance of 147.28 feet to a point; thence 347.40 feet along a curve to the southeast, said curve having a chord of North 46°02'14" East, a distance of 335.11 feet and a radius of 375.00 feet to a point; thence North 72°34'36" East, a distance of 87.12 feet to a point; thence 89.18 feet along a curve to the south, said curve having a chord of North 83°33'56" East, a distance of 88.64 feet and a radius of 232.50 feet to a point; thence South 85°26'45" East, a distance of 33.52 feet to a point; thence 13.63 feet along a curve to the southwest, said curve having a chord of South 42°02'45" East, a distance of 12.37 feet and a radius of 9.00 feet to a point; thence 67.03 feet along a curve to the east, said curve having a chord of North 04°33'15" East, a distance of 67.00 feet and a radius of 600.00 feet to a point; thence 13.63 feet along a curve to the northwest, said curve having a chord of South 51°09'16" West, a distance of 12.37 feet and a radius of 9.00 feet to a point; thence North 85°26'45" West, a distance of 33.52 feet to a point; thence 108.36 feet along a curve to the south, said curve having a chord of South 83°33'56" West, a distance of 107.70 feet and a radius of 282.50 feet to a point; thence South 72°34'36" West, a distance of 87.12 feet to a point; thence 218.65 feet along a curve to the southeast, said curve having a chord of South 57°50'17" West, a distance of 216.25 feet and a radius of 425.00 feet to a point; thence North 49°17'30" West, a distance of 137.45 feet to a point; thence North 88°30'14" West, a distance of 70.39 feet to a point on the southeastern property line of Deed Book 10381, Page 8, aforesaid public records; thence along the southeastern and northeastern property line of said Deed Book 10381, Page 8, the following courses and distances: thence North 32°45'48" East, a distance of 145.08 feet to an iron pin found (1/2 inch rebar); thence North 30°57'37" West, a distance of 548.55 feet to an iron pin found (1/2 inch rebar); thence North 66°22'39" West, a distance of 216.94 feet to an iron pin found (1/2 inch rebar); thence leaving said property line run North 43°38'34" East, a distance of 190.64 feet to a 4" x 4" concrete monument found, said point being at the southeast property corner of Loye W. Payne as shown on the aforementioned boundary survey of Sugarloaf; thence North 26°55'08" West, along the southeastern property line of said Loye W. Payne a distance of 77.30 feet to a point; thence leaving said southeastern property line run North 43°24'09" East, a distance of 238.02 feet to a point; thence North 00°55'05" West, a distance of 61.24 feet to a point; thence North 17°38'14" West, a distance of 601.83 feet to a point; thence North 01°27'57" West, a distance of 378.66 feet to a point; thence North 00°04'40" East, a distance of 319.86 feet to a point; thence South 89°26'02" West, a distance of 159.66 feet to a point, said point hereinafter being known as "Point-A"; thence North 00°33'58" West, a distance of 24.00 feet to a point; thence North 89°26'02" East, a distance of 159.93 feet to a point; thence North 00°04'40" East, a distance of 136.40 feet to a point; thence North 35°18'15" East, a distance of 68.74 feet to a point; thence North 54°57'30" East, a distance of 64.08 feet to a point; thence North 67°33'32" East, a distance of 135.02 feet to a point; thence 104.04 feet along a curve to

the northeast, said curve having a chord of South 23°31'51" East, a distance of 103.71 feet and a radius of 380.00 feet to a point; thence South 31°22'27" East, a distance of 42.80 feet to a point; thence South 57°22'07" West, a distance of 115.48 feet to a point; thence South 12°46'11" East, a distance of 1183.98 feet to a point; thence South 19°15'47" East, a distance of 232.01 feet to a point; thence South 46°25'05" West, a distance of 358.06 feet to a point; thence South 06°00'25" East, a distance of 81.46 feet to a point; thence South 41°07'52" East, a distance of 297.90 feet to a point; thence South 69°57'44" East, a distance of 129.84 feet to a point; thence South 87°19'54" East, a distance of 239.91 feet to a point; thence North 78°37'11" East, a distance of 167.03 feet to a point; thence 29.99 feet along a curve to the west, said curve having a chord of North 13°37'27" West, a distance of 29.98 feet and a radius of 425.00 feet to a point; thence North 15°38'44" West, a distance of 83.31 feet to a point; thence 624.59 feet along a curve to the east, said curve having a chord of North 12°59'01" East, a distance of 598.92 feet and a radius of 625.00 feet to a point; thence North 41°36'45" East, a distance of 80.76 feet to a point; thence North 48°23'15" West, a distance of 200.00 feet to a point; thence North 41°36'45" East, a distance of 599.42 feet to a point; thence North 84°57'12" East, a distance of 1011.32 feet to a point; thence South 06°50'15" East, a distance of 190.81 feet to a point; thence 14.43 feet along a curve to the northwest, said curve having a chord of South 39°01'43" West, a distance of 12.93 feet and a radius of 9.00 feet to a point; thence North 84°57'11" East, a distance of 35.08 feet to a point; thence 33.33 feet along a curve to the north, said curve having a chord of North 83°42'20" East, distance of 33.33 feet and a radius of 775.01 feet to a point; thence 14.24 feet along a curve to the northeast, said curve having a chord of North 52°10'27" West, a distance of 12.80 feet and a radius of 9.00 feet to a point; thence North 06°50'15" West, a distance of 195.60 feet to a point; thence North 69°28'35" East, a distance of 129.41 feet to a point; thence North 06°15'00" East, a distance of 198.24 feet to a point; thence North 00°40'01" West, a distance of 80.44 feet to a point; thence North 00°45'06" East, a distance of 79.60 feet to a point; thence North 12°29'32" West, a distance of 77.02 feet to a point; thence North 04°22'59" West, a distance of 76.37 feet to a point; thence North 06°57'43" East, a distance of 89.63 feet to a point; thence North 05°29'07" West, a distance of 91.04 feet to a point; thence North 05°38'16" West, a distance of 89.05 feet to a point; thence North 15°00'15" West, a distance of 89.61 feet to a point; thence North 18°41'32" West, a distance of 750.08 feet to a point; thence South 66°46'38" West, a distance of 35.62 feet to a point; thence North 55°47'28" West, a distance of 47.15 feet to a point; thence South 52°14'01" West, a distance of 32.98 feet to a point; thence North 28°25'02" West, a distance of 45.15 feet to a point; thence North 85°39'35" West, a distance of 53.27 feet to a point; thence South 74°40'24" West, a distance of 439.61 feet to a point; thence South 47°40'32" West, a distance of 192.37 feet to a point; thence South 20°12'10" West, a distance of 263.34 feet to a point; thence South 39°19'35" West, a distance of 81.21 feet to a point; thence South 52°28'57" West, a distance of 540.77 feet to a point; thence South 60°27'26" West, a distance of 126.28 feet to a point; thence South 75°08'37" West, a distance of 132.02 feet to a point; thence South 82°53'24" West, a distance of 158.10 feet to a point; thence North 88°58'26" West, a distance of 76.00 feet to a point; thence North 59°14'42" West, a distance of 53.73 feet to a point; thence North 52°03'55" West, a distance of 52.32 feet to a point; thence North 20°58'11" West, a distance of 58.50 feet to a point; thence South 80°15'56" West, a distance of 159.58 feet to a point; thence 68.62 feet along a curve to the east, said curve having a chord of North 06°13'54" West, a distance of 68.50 feet and a radius of 330.00 feet to a point; thence North 87°17'19" East, a distance of 158.79 feet to a point; thence North 10°39'45" East, a distance of 60.59 feet to a point; thence North 39°26'06" East, a distance of 51.85 feet to a point; thence North 41°04'38" East, a distance of 52.54 feet to a point; thence North 60°03'50" East, a distance of 65.51 feet to a point; thence North 79°22'15"

East, a distance of 69.50 feet to a point; thence North 77°11'01" East, a distance of 103.12 feet to a point; thence North 62°26'27" East, a distance of 105.98 feet to a point; thence North 57°50'07" East, a distance of 96.40 feet to a point; thence North 49°47'45" East, a distance of 74.80 feet to a point; thence North 52°55'02" East, a distance of 157.73 feet to a point; thence North 49°40'20" East, a distance of 87.26 feet to a point; thence North 43°34'52" East, a distance of 153.47 feet to a point; thence North 35°09'44" East, a distance of 614.90 feet to a point; thence North 56°28'49" East, a distance of 142.80 feet to a point; thence South 83°58'02" East, a distance of 292.57 feet to a point; thence North 82°17'02" East, a distance of 251.92 feet to a point; thence South 72°57'55" East, a distance of 449.14 feet to a point; thence North 49°11'46" East, a distance of 259.17 feet to a point on the southeastern property line of Deed Book 129, Page 339, aforesaid public records, said point also being on the Land Lot Line common to Land Lots 199 and 200; thence South 29°43'13" East, along said common Land Lot Line a distance of 72.76 feet to a point, said point being the Land Lot corner common to Land Lots 163, 164, 199 and 200 as shown on aforesaid boundary survey of Sugarloaf; thence North 60°08'58" East, along the Land Lot Line common to Land Lots 164 and 199, a distance of 159.89 feet to a point; thence leaving said Land Lot Line run South 68°38'51" East, a distance of 1750.00 feet to a point; thence 281.54 feet along a curve to the southwest, said curve having a chord of South 64°11'29" East, a distance of 281.26 feet and a radius of 1810.00 feet to a point; thence South 30°15'53" West, a distance of 50.00 feet to a point; thence 273.76 feet along a curve to the southwest, said curve having a chord of North 64°11'29" West, a distance of 273.49 feet and a radius of 1760.00 feet to a point; thence North 68°38'51" West, a distance of 111.90 feet to a point; thence South 54°54'14" West, a distance of 204.05 feet to a point; thence South 01°54'00" East, a distance of 213.12 feet to a point; thence South 66°28'56" East, a distance of 32.83 feet to a point; thence South 02°58'59" East, a distance of 159.60 feet to a point; thence South 87°20'02" West, a distance of 70.38 feet to a point; thence 50.04 feet along a curve to the west, said curve having a chord of South 02°39'58" East, a distance of 50.00 feet and a radius of 375.00 feet to a point; thence North 87°20'02" East, a distance of 52.58 feet to a point; thence South 05°16'44" East, a distance of 151.92 feet to a point; thence South 72°45'07" East, a distance of 126.86 feet to a point; thence South 50°31'46" East, a distance of 450.08 feet to a point; thence South 39°54'50" East, a distance of 77.66 feet to a point; thence South 30°25'08" East, a distance of 637.79 feet to a point; thence South 38°06'19" East, a distance of 78.71 feet to a point; thence South 69°05'58" East, a distance of 38.21 feet to a point; thence South 60°45'20" East, a distance of 60.66 feet to a point; thence South 29°15'06" East, a distance of 40.88 feet to a point; thence South 37°54'02" West, a distance of 92.64 feet to a point; thence South 52°50'19" West, a distance of 104.75 feet to a point; thence South 72°00'57" West, a distance of 99.17 feet to a point; thence North 51°14'36" West, a distance of 90.08 feet to a point; thence South 41°13'02" West, a distance of 167.56 feet to a point; thence North 48°46'58" West, a distance of 40.03 feet to a point; thence North 41°13'02" East, a distance of 171.70 feet to a point; thence North 35°09'54" West, a distance of 449.26 feet to a point; thence North 63°50'26" West, a distance of 196.49 feet to a point; thence South 09°29'02" West, a distance of 76.63 feet to a point; thence South 18°15'08" West, a distance of 110.18 feet to a point; thence North 79°17'46" West, a distance of 96.11 feet to a point; thence 50.71 feet along a curve to the north, said curve having a chord of North 74°00'46" West, a distance of 50.64 feet and a radius of 275.00 feet to a point; thence North 68°43'47" West, a distance of 45.39 feet to a point; thence 14.14 feet along a curve to the northeast, said curve having a chord of North 23°43'47" West, a distance of 12.73 feet and a radius of 9.00 feet to a point; thence South 21°16'13" West, a distance of 68.00 feet to a point; thence 14.14 feet along a curve to the southeast, said curve having a chord of North 66°16'13" East, a distance of 12.73 feet and a

radius of 9.00 feet to a point; thence South  $68^{\circ}43'47''$  East, a distance of 45.39 feet to a point; thence 59.94 feet along a curve to the north, said curve having a chord of South  $74^{\circ}00'46''$  East, a distance of 59.85 feet and a radius of 325.00 feet to a point; thence South  $79^{\circ}17'46''$  East, a distance of 87.50 feet to a point; thence South  $21^{\circ}16'13''$  West, a distance of 106.47 feet to a point; thence South  $06^{\circ}57'59''$  East, a distance of 70.97 feet to a point; thence South  $35^{\circ}12'11''$  East, a distance of 219.49 feet to a point; thence South  $31^{\circ}02'59''$  East, a distance of 97.77 feet to a point; thence South  $22^{\circ}49'35''$  East, a distance of 95.82 feet to a point; thence South  $14^{\circ}19'59''$  East, a distance of 52.47 feet to a point; thence North  $41^{\circ}13'02''$  East, a distance of 237.98 feet to a point; thence South  $48^{\circ}46'58''$  East, a distance of 40.03 feet to a point; thence South  $41^{\circ}13'02''$  West, a distance of 189.40 feet to a point; thence South  $36^{\circ}48'05''$  East, a distance of 188.74 feet to a point; thence South  $48^{\circ}23'14''$  East, a distance of 220.22 feet to a point; thence South  $35^{\circ}37'35''$  East, a distance of 54.56 feet to a point; thence South  $11^{\circ}16'16''$  East, a distance of 355.74 feet to a point; thence South  $41^{\circ}21'41''$  East, a distance of 63.12 feet to a point; thence South  $77^{\circ}31'56''$  East, a distance of 131.29 feet to a point on the western property line of Deed Book 4694, Page 74, aforesaid public records; thence along the western property line of said Deed Book 4694, Page 74 the following courses and distances: South  $18^{\circ}47'00''$  West, a distance of 223.17 feet to a point; thence South  $11^{\circ}16'23''$  West, a distance of 86.66 feet to a point; thence South  $03^{\circ}56'23''$  West, a distance of 187.41 feet to a point; thence South  $27^{\circ}53'04''$  East, a distance of 59.93 feet to a point; thence South  $02^{\circ}23'25''$  East, a distance of 73.04 feet to a point; thence South  $32^{\circ}14'19''$  West, a distance of 89.87 feet to a point; thence South  $63^{\circ}23'53''$  West, a distance of 38.00 feet to a point; thence South  $89^{\circ}57'47''$  West, a distance of 88.98 feet to a point; thence South  $51^{\circ}21'13''$  West, a distance of 177.84 feet to a point; thence South  $07^{\circ}03'35''$  East, a distance of 139.01 feet to a point; thence South  $21^{\circ}44'56''$  East, a distance of 237.83 feet to a point; thence South  $33^{\circ}43'37''$  East, a distance of 133.38 feet to a point; thence South  $57^{\circ}54'43''$  East, a distance of 304.58 feet to a point; thence South  $77^{\circ}42'33''$  East, a distance of 309.07 feet to a point; thence South  $35^{\circ}38'41''$  East, a distance of 716.89 feet to a point on the western right-of-way line of Meadow Church Road (80 ft. right-of-way) as recorded in Deed Book 259, Page 686, aforesaid public records; thence along the western right-of-way line of said Meadow Church Road the following courses and distances: 225.81 feet along a curve to the southeast, said curve having a chord of South  $28^{\circ}58'44''$  West, a distance of 224.96 feet and a radius of 750.00 feet to a point; thence South  $20^{\circ}21'14''$  West, a distance of 650.26 feet to a point; thence South  $20^{\circ}38'20''$  West, a distance of 1089.30 feet to a point; thence 273.70 feet along a curve to the east, said curve having a chord of South  $16^{\circ}27'03''$  West, a distance of 273.45 feet and a radius of 1872.17 feet to a point; thence leaving said western right-of-way line run along the north property line of Deed Book 1316, Page 60; Deed Book 4694, Page 74; Deed Book 1316, Pages 60 and 61; Deed Book 378, Page 217; and Deed Book 253, Page 162, aforesaid public records the following courses and distances: South  $61^{\circ}16'23''$  West, a distance of 422.06 feet to a rock at fence post; thence South  $60^{\circ}05'38''$  West, a distance of 920.70 feet to an iron pin found (1 inch rebar); thence North  $64^{\circ}48'03''$  West, a distance of 119.41 feet to an iron pin found (1 inch rebar); thence North  $57^{\circ}15'13''$  West, a distance of 199.59 feet to an iron pin found (1/4 inch rebar); thence North  $57^{\circ}15'43''$  West, a distance of 199.84 feet to a point; thence North  $39^{\circ}45'03''$  West, a distance of 64.61 feet to an iron pin found (3/4 inch rebar); thence South  $61^{\circ}59'12''$  West, a distance of 165.51 feet to a point; thence South  $51^{\circ}57'57''$  West, a distance of 93.74 feet to an iron pin found (1/2 inch rebar); thence South  $17^{\circ}50'45''$  West, a distance of 408.43 feet to an iron pin found (1 1/2 inch rebar); thence South  $01^{\circ}21'40''$  East, a distance of 215.90 feet to an iron pin found (1 inch rebar); thence South  $02^{\circ}24'45''$  West, a distance of 236.93 feet to an iron pin found (1 inch rebar); thence South  $06^{\circ}09'36''$  West, a distance of 492.31 feet to an iron pin found (1 inch rebar);

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thence South 77°58'40" West, a distance of 928.55 feet to a point; thence South 77°22'16" West, a distance of 730.61 feet to a point at the TRUE POINT OF BEGINNING.

Said tract contains 852.880 acres.

Together with:

Parcel "B"

Beginning at the point herein described as "Point-A"; thence South 89°26'02" West, a distance of 50.00 feet for the TRUE POINT OF BEGINNING; thence South 89°26'02" West, a distance of 175.46 feet to a point; thence South 00°58'50" East, a distance of 558.74 feet to a point on the eastern property line of Deed Book 5371, Page 123, aforesaid public records; thence North 23°06'24" West along the eastern property line of said Deed Book 5371, Page 123, a distance of 45.02 feet to an iron pin found (1 inch rebar); thence North 30°00'41" West along said eastern property line, a distance of 681.33 feet to an iron pin found (1/2 inch rebar) on the southern right-of-way line of Old Peachtree Road (80 ft. right-of-way) as recorded in Deed Book 214, Page 496 and Deed Book 94, Page 549; thence North 75°48'45" East along the southern right-of-way line of said Old Peachtree Road, a distance of 24.28 feet to a point; thence 248.05 feet along a curve to the north, said curve having a chord of North 68°15'04" East, a distance of 247.33 feet and a radius of 940.00 feet to a point; thence leaving said southern right-of-way line run South 29°18'31" East, a distance of 167.97 feet to a point; thence North 89°26'02" East, a distance of 188.62 feet to a point; thence South 00°33'58" East, a distance of 24.00 feet to a point at the TRUE POINT OF BEGINNING.

Said tract contains 2.850 acres.

Said tracts contain an overall acreage of 855.73 acres as shown on that certain plat entitled "Exhibit A1 Sugarloaf Country Club Properties for Sugarloaf Properties, Inc." prepared by Rochester & Associates, Inc., dated December 4, 1995, last revised January 2, 1996.

ARTICLES OF INCORPORATION  
OF  
SUGARLOAF RESIDENTIAL PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE I

The name of the Corporation is SUGARLOAF  
RESIDENTIAL PROPERTY OWNERS ASSOCIATION, INC.

ARTICLE II

The address of the initial registered office of the  
Corporation is 2412 Old Peachtree Road, Duluth, Georgia  
30136. The initial registered agent of the Corporation at  
such address is Edward J. Weinlein.

ARTICLE III

The name and address of the Incorporator are  
Jill P. Anderson, 191 Peachtree Street, Atlanta, Georgia  
30303-1763.

ARTICLE IV

The Corporation shall have members.

ARTICLE V

The mailing address of the initial principal office  
of the Corporation is 2412 Old Peachtree Road, Duluth,  
Georgia 30136.

ARTICLE VI

The Corporation shall be a nonprofit corporation  
organized pursuant to the provisions of the Georgia Nonprofit  
Corporation Code.

ARTICLE VII

(a) The affairs of the Corporation shall be managed by a Board of Directors. The Board of Directors shall exercise all of the powers of the Corporation, including the adoption and amendment of the Bylaws of the Corporation. The number, qualifications, term of office and manner of selection of members of the Board of Directors shall be as set forth in the Bylaws of the Corporation.

(b) No person who is serving or has served as a member of the Board of Directors shall have any personal liability to the Corporation for monetary damages for breach of duty of care or other duty as a member of the Board of Directors; provided that this provision shall not eliminate or limit the liability of any such person:

(i) for any appropriation, in violation of his duties, of any business opportunity of the Corporation;

(ii) for acts or omissions which involve intentional misconduct or a knowing violation of law;

(iii) for the types of liability set forth in Section 14-3-860 through 14-3-864 of the Georgia Nonprofit Corporation Code; or

(iv) for any transaction from which such person received an improper personal benefit.

The limitation of liability conferred in this Article shall be in addition to and not in lieu of all other limitations, immunities and indemnities conferred by law, these Articles and the Bylaws of the Corporation. Any repeal or modification of this Article shall be prospective only and shall not adversely affect any limitation hereunder on the personal liability of a member of the Board of Directors with respect to acts or omissions occurring prior to such repeal or modification.

ARTICLE VIII

The Corporation is organized and shall be operated exclusively (a) for such purposes as may be permitted to property owners' associations which are organized under the Georgia Property Owners' Association Act (O.C.G.A. § 44-3-220 *et seq.*); (b) to carry on one or more exempt functions of a homeowners association under the Internal Revenue Code of 1986, as amended (the "Code"), including those activities related to the acquisition, construction, management,

maintenance, and care of "association property" (as defined in Section 528(c)(4) of the Code), all pursuant to such rules and policies as shall be set forth in the Bylaws of the Corporation; and (c) to do such other acts and things, and engage in any lawful act or activity, for which corporations may be organized under, and as are authorized and permitted by, the Georgia Nonprofit Corporation Code, and to have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Corporation is organized;

provided, however, that in all events and circumstances, no part of any net earnings of the Corporation shall inure (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any member of the Corporation or to the benefit of any private shareholder or individual (as defined in accordance with Treasury Regulations Section 1.528-7 promulgated under the Code), the Corporation being organized to provide for the acquisition, construction, management, maintenance, and care of association property.

#### ARTICLE IX

In the event of the complete liquidation and final dissolution of the Corporation (whether voluntary or involuntary), the assets of the Corporation remaining after all liabilities and obligations of the Corporation have been paid, satisfied and discharged, or adequate provision has been made therefor, and otherwise available for distribution to the members of the Corporation, shall be distributed to such members in accordance with the Bylaws of the Corporation and the Act.

IN WITNESS WHEREOF, the undersigned Incorporator has executed these Articles of Incorporation.

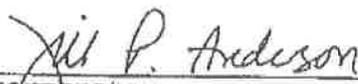
  
 \_\_\_\_\_  
 Incorporator

EXHIBIT CBYLAWS  
OF  
SUGARLOAF RESIDENTIAL PROPERTY OWNERS ASSOCIATION, INC.

## ARTICLE I

## NAME AND LOCATION

Section 1. Name. The name of the corporation is Sugarloaf Residential Property Owners Association, Inc. (hereinafter referred to as the "Master Association").

Section 2. Location. The principal office of the Master Association shall be located in Gwinnett County, Georgia. The registered office of the Master Association may be, but need not be, identical with the principal office.

## ARTICLE II

## DEFINITIONS

All capitalized terms when used in these Master Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Master Declaration of Residential Covenants, Conditions and Restrictions For a Portion of Sugarloaf (Sugarloaf Country Club) entered into by Sugarloaf Properties, Inc., and duly recorded in the real property records of Gwinnett County, Georgia (hereinafter referred to as the "Declaration").

## ARTICLE III

## MEETINGS OF MASTER ASSOCIATION MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Master Association Members shall be held during the month of April, 1996, at a specific time and place to be determined by the Master Board, and each subsequent regular annual meeting of the Master Association Members shall be held during the month of April each year thereafter, at a specific time and place to be set by the Master Board. No annual meeting shall be set on a date which is a legal holiday.

Section 2. Special Meetings. Special meetings of the Master Association Members may be called at any time by (a) the President or by the Master Board or (b) by the holders of at least ten percent (10%) of all the votes entitled to be cast on any issue proposed to be considered at a proposed special meeting upon the delivery to the Master Association's Secretary of one or more signed and dated written demands describing the purpose or purposes for which it is to be held. Any such special meeting called by the Master Association Members in the manner described in (b) above shall be held within thirty (30) days after the delivery of such written demand by the holders of at least ten percent (10%) of the votes entitled to be cast at such meeting.

Section 3. Place of Meetings. All meetings of the Master Association Members shall be held at such place, within Gwinnett County, Georgia, as shall be determined by the Master Board.

Section 4. Notice of Meetings. Written notice of each meeting of the Master Association Members shall be given by, or at the direction of, the Master Association's Secretary or other person authorized to call the meeting, by mail, postage prepaid, not less than ten (10) days nor more than sixty (60) days before the date of such meeting to each Master Association Member entitled to vote thereat, addressed to the Master Association Member's address last appearing on the books of the Master Association, or supplied by such Master

Association Member to the Master Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Membership in the Master Association. Each and every Association shall automatically become and be a Master Association Member upon the first conveyance by Declarant to an Owner of a Lot or Tract within the Phase or section of the Property over which such Association has jurisdiction. In addition, for so long as Declarant owns any part of the Property, Declarant shall be a Master Association Member. In addition, with respect to Lots or Tracts not subject to the jurisdiction of an Association, all Owners of such Lots or Tracts shall be Master Association Members; provided, however, the Club Owner shall not be a Master Association Member.

Section 6. Classes of Voting Rights. The Master Association shall have two classes of voting membership:

Class I. Class I Master Association Members shall be all Master Association Members with the exception of Declarant. Class I Master Association Members shall be entitled to one (1) vote for each Dwelling Unit located on the Lot or Tract owned by such Master Association Member, or, in the case of an Association Member, one (1) vote for each Dwelling Unit located on the Phase, section or portion of the Property within the jurisdiction of such Association Member. With respect to any Master Association Member who is an Owner of a Lot or Tract not subject to the jurisdiction of an Association and if such Lot or Tract is owned by two (2) or more undivided interests, then all such Owners of said undivided interests are Master Association Members, but the vote related thereto shall be exercised as the majority of such owners of each such Lot or Tract among themselves shall determine. At any meeting of the Master Association Members, a representation by any one such owner that a majority in interest of the owners of the undivided interests of said Lot or Tract has agreed to a vote shall be conclusive unless another such owner contests such representation at such meeting prior to the casting of such vote.

Class II. The Class II Master Association Member shall be Declarant. The Class II Master Association Member shall be entitled to ten (10) votes for each Dwelling Unit located on the property in the Project owned by Declarant.

Section 7. Cessation of Class II Membership. Notwithstanding anything contained herein to the contrary, the Class II Master Association Membership shall cease and be converted to a Class I Master Association Membership on the earlier to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that its Class II membership cease and be converted to Class I membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Master Board); or (c) January 15, 2016. The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class I Master Association Member.

Section 8. Quorum and Voting. Except as otherwise provided in these Master Bylaws or in the Declaration, the presence in person or by proxy of more than fifty (50%) percent of the total votes existing in the Master Association shall constitute a quorum at all meetings of the Master Association. In the event a quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the quorum required at the first meeting. In the event a quorum is not present at the first subsequent meeting, another meeting may be called, subject to the same notice requirement, and the required quorum at such second subsequent meeting shall be one-fifth (1/5) of the quorum required at the original meeting.

Section 9. Proxies. At all meetings of Master Association Members, each Master Association Member may vote in person or by proxy. All proxies shall be in writing and filed with the Master Association's Secretary. Every proxy shall be revocable. No Master Association Member may be allowed to file with the Master

Association Member to the Master Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 5. Membership in the Master Association. Each and every Association shall automatically become and be a Master Association Member upon the first conveyance by Declarant to an Owner of a Lot or Tract within the Phase or section of the Property over which such Association has jurisdiction. In addition, for so long as Declarant owns any part of the Property, Declarant shall be a Master Association Member. In addition, with respect to Lots or Tracts not subject to the jurisdiction of an Association, all Owners of such Lots or Tracts shall be Master Association Members; provided, however, the Club Owner shall not be a Master Association Member.

Section 6. Classes of Voting Rights. The Master Association shall have two classes of voting membership:

Class I. Class I Master Association Members shall be all Master Association Members with the exception of Declarant. Class I Master Association Members shall be entitled to one (1) vote for each Dwelling Unit located on the Lot or Tract owned by such Master Association Member, or, in the case of an Association Member, one (1) vote for each Dwelling Unit located on the Phase, section or portion of the Property within the jurisdiction of such Association Member. With respect to any Master Association Member who is an Owner of a Lot or Tract not subject to the jurisdiction of an Association and if such Lot or Tract is owned by two (2) or more undivided interests, then all such Owners of said undivided interests are Master Association Members, but the vote related thereto shall be exercised as the majority of such owners of each such Lot or Tract among themselves shall determine. At any meeting of the Master Association Members, a representation by any one such owner that a majority in interest of the owners of the undivided interests of said Lot or Tract has agreed to a vote shall be conclusive unless another such owner contests such representation at such meeting prior to the casting of such vote.

Class II. The Class II Master Association Member shall be Declarant. The Class II Master Association Member shall be entitled to ten (10) votes for each Dwelling Unit located on the property in the Project owned by Declarant.

Section 7. Cessation of Class II Membership. Notwithstanding anything contained herein to the contrary, the Class II Master Association Membership shall cease and be converted to a Class I Master Association Membership on the earlier to occur of (a) the date on which Declarant no longer owns any part of the Property; (b) the date Declarant shall elect, in its sole discretion, that its Class II membership cease and be converted to Class I membership (which election may be made, if at all, upon Declarant giving written notice of the election to the Master Board); or (c) January \_\_, 2016. The earliest to occur of (a), (b) or (c) above shall herein be referred to as the "Turnover Date." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class I Master Association Member.

Section 8. Quorum and Voting. Except as otherwise provided in these Master Bylaws or in the Declaration, the presence in person or by proxy of more than fifty (50%) percent of the total votes existing in the Master Association shall constitute a quorum at all meetings of the Master Association. In the event a quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the quorum required at the first meeting. In the event a quorum is not present at the first subsequent meeting, another meeting may be called, subject to the same notice requirement, and the required quorum at such second subsequent meeting shall be one-fifth (1/5) of the quorum required at the original meeting.

Section 9. Proxies. At all meetings of Master Association Members, each Master Association Member may vote in person or by proxy. All proxies shall be in writing and filed with the Master Association's Secretary. Every proxy shall be revocable. No Master Association Member may be allowed to file with the Master

Association's Secretary at any meeting more than nine (9) written proxies given to such Master Association Member by Master Association Members other than himself and his family members living in the same Dwelling Unit. Any annual or special meeting of the Master Association Members may be adjourned for a period of up to three (3) hours if the Master Board determines that such an adjournment is necessary in order to collect proxies from Master Association Members to obtain sufficient votes to carry or deny any motion presented by the Master Board at such meeting.

**Section 10. Action by Master Association Members.** Except as may be otherwise specifically set forth in the Declaration, the Master Articles or these Master Bylaws, the vote of a majority of all votes entitled to be cast by all classes of the Master Association Members, present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present, shall be the act of the Master Association Members. Notwithstanding the above, the affirmative vote of no less than two-thirds (2/3) of all votes entitled to be cast by the Master Association Members shall be required in order for the Master Association to (1) file a complaint, on account of an act or omission of Declarant, with any governmental agency which has regulatory or judicial authority over the Project or any part thereof; or (2) assert a claim against or sue Declarant.

**Section 11. Waiver of Notice.** Any Master Association Member may, at any time, waive notice of any meeting of the Master Association Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Master Association Member at any meeting of the Master Association Members shall constitute a waiver of notice by him of the time and place thereof except where a Master Association Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Master Association Members are present at any meeting of the Master Association Members, no notice shall be required and any business may be transacted at such meeting.

**Section 12. Informal Action by Master Association Members.** Any action which may be taken at a meeting of the Master Association Members may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Master Association Members who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Master Association to be kept in the Master Association's minute book.

#### ARTICLE IV

#### MASTER BOARD

**Section 1. Number and Appointment.** The business and affairs of the Master Association shall be managed by a Master Board of four (4) directors who are appointed by Declarant so long as Declarant owns any Lot, Tract or other portion of the Property, and by a Master Board of at least five (5) directors elected by the Master Association Members as provided by these Master Bylaws thereafter. The directors need not be Master Association Members. So long as Declarant owns any Lot, Tract or other portion of the Property, Declarant may remove directors with or without cause and appoint new directors to replace those removed, in Declarant's sole discretion. Notwithstanding the foregoing, Declarant may choose, in its sole discretion, to relinquish its right to appoint, remove and replace the members of the Master Board prior to the time that it owns no portion of the Property, whereupon the Master Association Members shall thereafter elect the members of the Master Board in accordance with these Master Bylaws. The Club Owner shall have the right at all times to appoint one (1) ex-officio member to the Master Board and such ex-officio member shall be entitled to notice of and the right to attend all meetings of the Master Board, but such ex-officio member shall not be a Master Association Member and shall have no voting or other rights incidental to membership in the Master Association or on the Master Board.

**Section 2. Initial Directors.** The initial directors shall be appointed by the Declarant. Such initial directors shall serve from the date upon which the Declaration is recorded in the real property records of Gwinnett County, Georgia until such time as their successors are duly appointed or elected and qualified.

Section 3. Nomination. Subject to Section 1 of this Article IV, nominations for the first election of directors on the Master Board shall be made from the floor at a meeting of the Master Association Members. After such first election of directors, nominations for election to the Master Board shall be made by a Nominating Committee. Subject to Section 1 of this Article IV, nominations may also be made from the floor at the annual meeting. Subject to Section 1 of this Article IV, the Nominating Committee shall consist of a Chairman, who shall be a Master Association Member or a member of the Master Board, and two (2) or more Master Association Members. The Nominating Committee shall be appointed by the Master Board prior to the annual meeting following the first election of directors and each annual meeting of the Master Association Members thereafter, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Master Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4. Election. Except as otherwise provided in this Article, including Section 1 hereof, directors shall be elected at the annual meeting of the Master Association Members and said election shall be by written ballot. At such election, the Master Association Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Master Articles, these Master Bylaws and the Declaration. Cumulative voting is not permitted.

Section 5. Term of Office. Each director shall hold office for the term for which he was appointed or elected, or until his death, resignation, retirement, removal, disqualification or until his successor is appointed or elected and qualified. Subject to Section 1 of this Article IV, at the first election of directors, the Master Association Members shall elect one (1) member of the Master Board for a term of three (3) years, who shall be the person receiving the largest number of votes, two (2) members of the Master Board for a term of two (2) years, who shall be the people receiving the second and third largest number of votes, and two (2) members of the Master Board for a term of one (1) year, who shall be the people receiving the fourth and fifth largest number of votes. At all annual elections thereafter but subject to Section 1 of this Article IV, director(s) shall be elected by the Master Association Members to succeed the director(s) whose term(s) then expire(s), and thereafter each director's term shall be three (3) years. Nothing herein contained shall be construed to prevent the election of a director to succeed himself. Votes shall be tallied at the meeting where they are so cast and, in the event of a tie vote, a runoff election shall be conducted at the same meeting.

Section 6. Removal. Upon the termination of Declarant's right to remove directors pursuant to Section 1 above in this Article IV, at any annual or special meeting of the Master Association duly called, any one or more of the members of the Board of Directors may be removed (a) with or without cause, by a majority of the Master Association Members authorized to vote for directors, (b) with or without cause, by a majority of the members of the Master Board, and (c) automatically in the event such member of the Master Board has missed at least three (3) meetings of the Master Board in any twelve (12) month period. In the event of the death, resignation or removal of a director following the termination of Declarant's right to appoint, remove and replace directors pursuant to Section 1 above in this Article IV, his successor shall be selected by the remaining members of the Master Board and shall serve for the unexpired term of his predecessor. The Master Association Members may elect a director at any time to fill any vacancy not filled by the directors or, if applicable, not appointed by the Declarant.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Master Association; however, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 8. Ex-Officio Master Board Member. The Club Owner shall have the right at all times to appoint one (1) ex-officio member to the Master Board. Such ex-officio member shall be entitled to notice of and shall have the right to attend all meetings of the Master Board, but such ex-officio member shall not be a Master Association Member and shall have no voting or other rights incidental to membership in the Master Association or on the Master Board.

## ARTICLE V

## MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Meetings of the Master Board shall be held on a regular basis as often as the Master Board sees fit, but no less often than quarterly, on such days and at such place and hour as may be fixed from time to time by resolution of the Master Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Master Board shall be held when called by the President of the Master Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the total number of directors shall constitute a quorum for the transaction of business. 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 Master Board.

Section 4. Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Master Board action if written consent to such action is signed by all of the directors and filed with the minutes of the proceedings of the Master Board, whether done before or after the action so taken.

Section 5. Chairman. A Chairman of the Master Board shall be elected by the directors and shall preside over all Master Board meetings until the President of the Master Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Master Board and serve until a new President is elected.

Section 6. Participation by Conference Telephone. Any one or more directors may participate in a meeting of the Master Board by means of a conference telephone or similar communications device that allows all directors participating in the meeting to simultaneously hear each other during the meeting, and such participation in a meeting shall be deemed presence in person at such meeting.

## ARTICLE VI

## POWERS AND DUTIES OF THE MASTER BOARD

Section 1. Powers. The Master Board, for the mutual benefit of the Master Association Members and the Owners, shall have the following specific powers and rights (without limitation of other powers and rights the Master Board may have):

- (a) To enter into agreements with the appropriate governmental authorities to enable the Master Association to improve and maintain the Common Areas and Maintenance Areas or portions thereof;
- (b) To make reasonable rules and regulations for the use and operation of the Common Areas and Maintenance Areas, and to amend them from time to time;
- (c) To enter into agreements or contracts with insurance companies with respect to insurance coverage relating to the Common Areas and Maintenance Areas and/or the Master Association;
- (d) To enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Areas, Maintenance Areas and/or the Master Association;

- (c) Subject to the affirmative vote of no less than a majority of all votes present, in person or by proxy, at a duly held meeting of the Master Association Members at which a quorum is present, all in accordance with these Master Bylaws, to borrow funds to pay costs of operation of the Master Association, which borrowings may be secured by assignment or pledge of rights against delinquent Owners or by liens on other Master Association assets, if the Master Association Members see fit; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not mortgage any portion of the Common Area without the prior written approval of Declarant;
- (f) To enter into contracts, maintain one or more bank accounts, and, generally, to have all the powers necessary or incidental to the operation and management of the Master Association;
- (g) To sue or defend in any court of law in behalf of the Master Association;
- (h) To levy assessments in accordance with the provisions of Article IV of the Declaration;
- (i) To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property of the Master Association and if proceeds are insufficient to repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency;
- (j) To exercise for the Master Association all powers, duties and authority vested in or delegated by the Declaration, these Master Bylaws, or the Master Articles to the Master Association and not reserved to the Master Association Members or Declarant by other provisions of the Declaration, these Master Bylaws or the Master Articles;
- (k) To declare the office of a member of the Master Board to be vacant in the event such member shall be absent, without the consent of the Master Board, from three (3) regular meetings of the Master Board in any twelve (12) month period;
- (l) To employ a manager or firm to manage the affairs and property of the Master Association, to employ independent contractors or such other employees as the Master Board may deem necessary, and to prescribe their duties and to set their compensation;
- (m) To enter into agreements or contracts with builders regarding the construction of Improvements on Lots located in the Project, and to require that all Owners building Improvements on Lots use only a Featured Builder;
- (n) To retain the services of legal and accounting firms;
- (o) As more fully provided in the Declaration, to foreclose the lien against any property for which Assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- (p) To cause all officers or employees having fiscal responsibilities to be bonded, as the Master Board may deem appropriate;
- (q) To the extent permitted in the Declaration and these Master Bylaws, to enforce the provisions of the Declaration and any Additional or Supplementary Declaration and any rules made thereunder or hereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions or rules pursuant to the provisions of Section 4.7 of the Declaration;

- (r) To contract with any third party or any Master Association Member (including, without limitation, Declarant) for performance, on behalf of the Master Association, of services which the Master Association is otherwise required to perform pursuant to the terms of the Declaration and these Master Bylaws, upon such terms and conditions and for such consideration as the Master Board may deem proper, advisable and in the best interests of the Master Association;
- (s) To employ or retain the services of professional architects or other Persons to serve on or advise the Architectural Control Committee and/or the Architectural Changes Committee;
- (t) To grant all necessary easements and rights-of-way over and across the Common Areas when in its sole discretion it deems such an action to be necessary and appropriate, including, but not limited to, easements for the installation and maintenance of electrical, telephone, cablevision, water, sewerage and other utilities and drainage facilities and any easement to the Club Owner where consistent with the general use and operation of the Club Property; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not grant such an easement or right-of-way without the prior written approval of Declarant;
- (u) To convey fee simple title to all or any part of the Common Area when in its sole discretion it deems such an action to be necessary and appropriate; provided, however, until such time as Declarant no longer owns any portion of the Property, the Master Board may not convey any portion of the Common Area without the prior written approval of Declarant;
- (v) To contract with any third party, including any other property owners association, for the sharing of costs of maintaining Maintenance Areas;
- (w) To take any and all other actions, and to enter into any and all other agreements as may be necessary or proper for the fulfillment of its obligations under the Declaration or these Master Bylaws or for the operational protection of the Master Association;
- (x) To contract with the Club Owner to provide for the sharing of the costs of maintaining the Roadways in the Project;
- (y) To contract with the Club Owner to provide for the sharing of the costs of maintaining the irrigation systems which are or will be connected to the Golf Course irrigation systems and which irrigate or will irrigate the Common Areas and Maintenance Areas, and to provide for payment of the costs of providing water to the Common Areas and Maintenance Areas through such systems;
- (z) To enforce the provisions of the Primary Residential Declaration to the same extent it can enforce the provisions of the Declaration; and
- (aa) To adopt reasonable rules from time to time governing conduct of Owners, the Club Owner and other Persons occupying or otherwise located on the Property.

Notwithstanding anything contained herein to the contrary, none of the above-described rights and powers of the Master Board shall be obligatory on the part of the Master Board, and the failure or refusal by the Master Board to implement any such rights and powers shall not constitute a breach or default by the Master Board of any duties or obligations arising hereunder or otherwise owing to the Master Association Members.

Section 2. Duties. The Master Board, for the mutual benefit of the Master Association Members and the Owners, shall have the following specific duties:

- (a) To maintain or cause to be maintained the Common Areas and Maintenance Areas, including, but not limited to, planting, mowing, pruning, fertilizing, preservation and replacement of the landscaping and the upkeep and maintenance of sidewalks, pathways, trails and other improvements in the Common Areas and Maintenance Areas, and the upkeep and maintenance of associated improvements, including irrigation systems not maintained by the Club Owner;
- (b) To own and maintain or cause to be maintained the Roadways;
- (c) To maintain or cause to be maintained swales and medians of the Roadways;
- (d) To maintain or cause to be maintained any sidewalks, pathways and trails in the Project;
- (e) To make available to each Master Association Member, upon written request by such Master Association Member, within ninety (90) days after the end of each year, an annual report of the Master Association and, upon resolution adopted by the Master Board or upon the written request of the Master Association Members holding at least three-fourths (3/4th) of the eligible votes of the Master Association at such time, to have such report audited (at the expense of the Master Association) by an independent certified public accountant, which audited report shall be made available to each Master Association Member, upon written request by such Master Association Member, within thirty (30) days after completion;
- (f) To pay for the cost of electricity for the street lights and irrigation to be located in the Project and the electricity serving any of the Common Areas and Maintenance Areas;
- (g) To cause to be kept a complete record of all its acts and corporate affairs;
- (h) To supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (i) As more fully provided in the Declaration:
  - (1) To fix the amount of the Master Annual Assessments;
  - (2) To send written notice of the Master Annual Assessments to each Owner;
- (j) To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. (A reasonable charge may be made by the Master Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment);
- (k) To procure and maintain adequate liability insurance covering the Master Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Master Association;
- (l) Subject to Declarant's right to appoint the Architectural Control Committee, to appoint the Architectural Control Committee, all as more particularly provided in Article IX of the Declaration;

- (m) To approve the rubbish removal service companies to be used and paid for by the Owners of the Lots and Tracts in the Property; and
- (n) To enter into agreements or contracts with Persons for the installation, maintenance and repair of the entrance gates to the Project and the gate courtesy personnel, and the street signs, street lamps and other "street furniture" in the Project.

## ARTICLE VII

### OFFICERS AND THEIR DUTIES

Section 1. Officers. The officers of the Master Association shall be a President, a Vice-President, a Secretary and a Treasurer, and such other officers as the Master Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Master Board following each annual meeting of the Master Association Members.

Section 3. Term. Each officer of the Master Association shall be elected annually by the Master Board and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 4. Special Appointments. The Master Board may elect such other officers as the affairs of the Master Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Master Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Master Board. Any officer may resign at any time by giving written notice to the Master 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 6. Vacancies. A vacancy in any office may be filled by appointment by the Master Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Compensation. No officer shall receive any compensation from the Master Association for acting as such.

Section 9. Duties. The duties of the officers, unless otherwise stated by a resolution of the Master Board, are as follows:

(a) President: The President shall be the principal executive officer of the Master Association and, subject to the control of the Master Board, shall supervise and control the management of the Master Association. The President shall preside at all meetings of the Master Board; shall see that orders and resolutions of the Master Board are carried out; shall sign all leases, mortgages, deeds, promissory notes and other written instruments and may co-sign all checks;

(b) Vice-President: The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Master Board;

(c) Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Master Board and of the Master Association Members, shall keep the corporate seal of the Master Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Master Board and of the Master Association Members, shall keep appropriate current records showing the members of the Master Association together with their addresses, and shall perform such other duties as required by the Master Board; and

(d) Treasurer: The Treasurer shall perform such duties as requested by the Master Board.

#### ARTICLE VIII

#### COMMITTEES

Subject to Section 1 of Article IV of these Master Bylaws, the Master Board shall appoint a Nominating Committee as provided in Section 3 of Article IV of these Master Bylaws. In addition, the Master Board shall appoint other committees as deemed appropriate in carrying out its purpose.

#### ARTICLE IX

#### BOOKS AND RECORDS

The books, records and papers of the Master Association shall at all times, during reasonable business hours, be subject to inspection by any Master Association Member. The Declaration, the Master Articles and the Master Bylaws shall be available for inspection by any Master Association Member at the principal office of the Master Association, where copies may be purchased at reasonable cost.

#### ARTICLE X

#### ASSESSMENTS

As described more particularly in, and subject in all respects to, the Declaration, each Member is obligated to pay to the Master Association, among other amounts, Master Annual Assessments, Special Assessments, and Special Individual Assessments, all of which are secured by a continuing lien upon each Lot or Tract in the Property. Any Assessments which are not paid when due shall be delinquent. If an Assessment is delinquent, as more particularly described in the Declaration, the Assessment shall bear interest from the due date until the date such Assessment and interest thereon is paid at the rate of ten percent (10%) per annum or the highest rate permitted by law, whichever is less. The Master Association may accelerate any demand for payment of any unpaid Assessment, and may bring an action at law or in equity against the Owner personally obligated to pay the same or foreclose the lien against the portions of the Property and improvements thereon owned by the defaulting Owner as of the Assessment due date. Additionally, the late charges, costs of collection and reasonable attorneys' fees related to any such action or foreclosure shall be added to the amount of such Assessment, all as more particularly described in the Declaration. No Owner may exempt himself from liability for Assessments or waive or otherwise escape liability from the Assessments by nonuse of the Common Areas or abandonment of his property. In addition to any and all rights and powers contained herein, the Master Association shall have all of the rights and powers to collect Assessments granted to it pursuant to the provisions of the Georgia Property Owners' Association Act (O.C.G.A §§ 44-3-220 et seq.).

## ARTICLE XI

## CORPORATE SEAL

The Master Association shall have a seal circular in form having within its circumference the name of the Corporation, the state of its incorporation, the year of its incorporation, and the word "SEAL."

## ARTICLE XII

## AMENDMENTS

Subject to the limitations hereinafter contained, the Master Articles and these Master Bylaws may be amended or modified at any time by a vote of no less than fifty-one percent (51%) of all votes entitled to be cast by the Master Association Members, which vote is taken at a duly held meeting of the Master Association Members at which a quorum is present, all in accordance with these Master Bylaws. Provided, however, if fifty-one percent (51%) of all votes entitled to be cast by the Master Association Members cannot be obtained at such a meeting, then the Master Articles and these Master Bylaws may be amended by obtaining the vote of fifty-one percent (51%) of all votes present at a duly held meeting of the Master Association Members at which a quorum is present and by, within ninety (90) days of such vote, obtaining written consent to such amendment by Master Association Members holding a sufficient number of votes to comprise, along with such voting Master Association Members, a total of fifty-one percent (51%) of all votes entitled to be cast by Master Association Members. Further provided, that any amendment or modification to the Master Articles and these Master Bylaws must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. In addition, Declarant, without obtaining the approval of any other Master Association Member or any other Owner or Owners other than Declarant, may make amendments or modifications to the Master Articles and these Master Bylaws which either (a) are correctional in nature only and do not involve a change which materially adversely affects the rights, duties or obligations specified herein or therein or (b) apply only to the portions of the Property then owned by Declarant. Any amendment or modification effected pursuant to this Article XII shall become effective with respect to these Master Bylaws when an instrument is filed of record in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia; provided, however, such an amendment or modification, in lieu of being executed by the Master Association Members voting for such amendment or modification, may contain a certification of the Secretary of the Master Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Master Association Members, as provided in this Article XII and when, with respect to the Master Articles, any amendment or modification is filed of record in the Office of the Georgia Secretary of State. In addition to the foregoing rights, Declarant may, at Declarant's option, amend and modify the Master Articles and these Master Bylaws without obtaining the consent or approval of any other person or entity if such amendment or modification is necessary to cause the Master Articles and these Master Bylaws to comply with the requirements of FHA, VA, the Federal National Mortgage Association or any other governmental agency.

## ARTICLE XIII

## MISCELLANEOUS

Section 1. The fiscal year of the Master Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 2. In the case of any conflict between the Master Articles and the Master Bylaws, the Master Articles shall control; and in the case of any conflict between the Declaration and the Master Bylaws or the Master Articles, the Declaration shall control.

ARTICLE XIV

LIABILITY LIMITS; INDEMNIFICATION OF  
DIRECTORS, OFFICERS AND OTHERS

Neither Declarant, nor any Master Association Member, nor the Master Board, nor the Master Association, nor any officers, directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Master Association or for a tort of another Master Association Member, whether or not such other Master Association Member was acting on behalf of the Master Association or otherwise. Neither Declarant, nor the Master Association, nor their directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any premises, improvements or portions thereof or for failure to repair or maintain the same. Declarant, the Master Association or any other person, firm or association making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, improvements or portions thereof.

The Master Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Master Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Master Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

The Master Association shall indemnify any director or officer or former director or officer of the Master Association or any person who may have served at the request of the Master Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, these Master Bylaws, agreement, vote of Master Association Members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Master Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Master Association, or is or was serving at the request of the Master Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Master Association would have the power to indemnify him against such liability.

The Master Association's indemnity of any person who is or was a director, officer, employee or agent of the Master Association, or is or was serving at the request of the Master Association, as a director, officer,

employee or agent of the Master Association, or is or was serving at the request of the Master Association, as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Master Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article XIV, or elsewhere in these Master Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.