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Document: Declaration of Covenants, Conditions, and Restrictions for Orchard Reserve
Declarant: Shadow Stone Partners, LLC
Date: April 14, 2022

After Recording Return to:

Jane A. Range
Hulsey, Oliver & Mahar, LLP
P. O. Box 1457
Gainesville, GA 30503

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ORCHARD RESERVE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ORCHARD RESERVE IS MADE ON THIS 14 DAY OF APRIL, 2022, BY SHADOW STONE PARTNERS, LLC, A GEORGIA LIMITED LIABILITY COMPANY ("Declarant").

PART ONE: INTRODUCTION TO THE COMMUNITY

Declarant is the owner of the real property described in Exhibit "A," which is attached hereto and incorporated herein by reference ("Community"). By recording this Declaration in the Public Records of Hall County, Georgia, Declarant imposes upon the Community mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Community and establishes a flexible and reasonable procedure for the overall development, administration, maintenance, and preservation of the Community. In furtherance of such plan, Declarant has caused or intends to cause Orchard Reserve Homeowners Association, Inc. to be formed as a Georgia non-profit corporation to own, operate, and maintain Common Areas, as defined below, and to administer and enforce the provisions of the Governing Documents.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Community, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community.

This Declaration does not create an association subject to the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220 *et seq.* (the "Act"). No provision of these Covenants shall be read or interpreted as if they were intended to be created under or controlled by the Act. The covenants and conditions of this Declaration shall run with and bind the Community perpetually to the extent provided in the Act.

Article I Definitions

The terms in this Declaration and the attached exhibits shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

- 1.1. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Orchard Reserve Homeowners Association, Inc. as filed with the Georgia Secretary of State.
- 1.2. "Association": Orchard Reserve Homeowners Association, Inc. a Georgia non-profit corporation, its successors or assigns.
- 1.3. "Board of Directors" or "Board": The body responsible for the administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Georgia non-profit corporate law.

1.4. "By-Laws": The By-Laws of Orchard Reserve Homeowners Association, Inc. attached as Exhibit "D," as they may be amended from time to time.

1.5. "Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including any landscaping, walkways, parking areas, and other structures on and improvements of such real property.

1.6. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association, including any reasonable reserve, as the Board may find necessary and appropriate.

1.7. "Community": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article VII.

1.8. "Declarant": Shadow Stone Partners, LLC, a Georgia limited liability company, or any successor, successor-in-title, or assign who is designated as Declarant in a Recorded instrument executed by the preceding Declarant of record. Upon such designation of successor Declarant, all rights 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 Community, there shall be only one person or legal entity entitled to exercise the rights and powers of Declarant at any one time.

1.9. "Declarant-approved Builder": A person or firm, whose business is the construction of dwellings that has obtained the written authorization from the Declarant to perform construction services in the Community.

1.10. "Declarant Control Period": The period of twenty (20) years following the recording date of this Declaration or until all of the Lots have been sold to individuals for single family occupancy and excluding sales to builders intending to resell Lots.

1.11. "General Assessment": Assessments levied on all Lots subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 8.1 and 8.3.

1.12. "Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, any architectural or design standards as provided herein, and the Use Restrictions and Rules, as they may be amended.

1.13. "Majority": A majority shall mean more than fifty percent (50%) of the total eligible number.

1.14. "Member": A Person subject to membership in the Association pursuant to Section 3.1. 1.15.

1.15. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot. A "Mortgagee" is a beneficiary or holder of a Mortgage.

1.16. "Owner": One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation, If a Lot is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

- 1.17. "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.
- 1.18. "Record," "Recording," or "Recorded": The filing of a legal instrument in the records of the Clerk of the Superior Court of Habersham County, Georgia, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.
- 1.19. "Special Assessment": Assessments levied in accordance with Section 8.5.
- 1.20. "Specific Assessment": Assessments levied in accordance with Section 8.6.
- 1.21. "Supplemental Declaration": A Recorded instrument pursuant to Article VII which subjects additional property to this Declaration and/or modifies, imposes, or deletes expressly or by reference, restrictions and obligations on the land described in such instrument.
- 1.22. "Lot": A portion of the Community, whether improved or unimproved, which is intended for development, use, and occupancy as a residence for a single-family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot described in Exhibit "A," and each numbered lot described in a Recorded subdivision plat with respect to any portion of the Community, together with the structures, if any, constructed thereon, as well as vacant land, intended for further subdivision, but shall not include Common Areas or property dedicated to the public.
- 1.23. "Use Restrictions and Rules": Those use restrictions and rules affecting the Community, which may be adopted, modified, and repealed as set forth in Article X. The initial Use Restrictions and Rules are set forth in Exhibit "C."

PART TWO: COMMUNITY GOVERNANCE AND ADMINISTRATION

Article II Property Rights

2.1. Common Area.

Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) This Declaration and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board and the membership to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of, or prohibiting the use by, guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Lot remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice pursuant to Section 3.21 of the By-Laws;

- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;
- (f) The right of the Board to impose reasonable membership requirements and charge reasonable use fees for the use of any Common Area;
- (g) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and
- (h) The right of Declarant to use such property without payment or charge for such purposes as Declarant, in its sole discretion, deems necessary and proper.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot. Such Owner may not use any Common Areas or amenities while the Lot is leased.

2.2. No Partition.

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

2.3. Condemnation.

If any part of the Common Area shall be taken or conveyed by condemnation action or in lieu of and under threat of condemnation, by any authority having the power of condemnation or eminent domain, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article III Membership and Voting Rights

3.1. Membership.

Every Lot Owner shall be a Member of the Association and, by acceptance of any ownership interest in a Lot, agrees to comply with and abide by the terms and provisions set forth in the Governing Documents, as they may be amended from time to time, together with such rules and regulations as may be adopted and amended by the Association from time to time. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot with is subject to Assessment.

3.2. Voting.

The Association shall have one classes of membership.

- (a) Members. All Owners, after termination of the Declarant Control Period, shall be entitled to one (1) vote for each Lot owned. In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves. The co-Owners shall advise the Secretary of the Association in writing prior to the vote being taken who shall cast the vote. Absent such advisement and in the event that more than one such co-Owner casts a vote, the Lot's vote shall be suspended and shall not be included in the final vote tally on the matter being voted upon.
- (b) Declarant. Declarant or its successors or assigns, until such time as:
- (1) The Declarant elects by Recording a written notice of termination of the Declarant Control Period; or
 - (2) The date exactly one (1) month after the Declarant has conveyed one hundred percent (100%) of all Lots to Members other than builders, contractors, or others who purchase Lots for the purpose of constructing improvements thereon for sale; or,
 - (3) twenty (20) years following the recordation of this Declaration, notwithstanding any other condition set forth above, whichever occurs first.

Notwithstanding anything to the contrary contained herein, the Declarant shall be a Member with regard to each Lot owned by it after termination of Declarant's rights hereunder, and shall be entitled to one (1) vote for each such Lot on all questions and matters coming before the membership of the Association for a vote thereon.

3.3. Voting Procedures.

No change in the ownership of a Lot shall be effective for voting purposes unless and until the Board is given actual written notice of such change and is provided satisfactory proof thereof. The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. If any Member casts a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that the Member was acting with the authority and consent of all other Owners of the same Lot unless objection thereto is made at or before the time the vote is cast.

Article IV Rights and Obligations of the Association

4.1. Function of Association.

The Association shall be the entity responsible for the management, maintenance, operation, and control of the Common Area. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Community as the Board or the membership may adopt pursuant to Article X. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and all applicable laws. The Declarant shall act on behalf of the Association during the Declarant Control Period and executing deeds, easements, conveyances or other agreements in the name of the Association.

4.2. Common Area.

The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, landscaping, furnishings, equipment, and other personal property of the Association used in connection with the Common Areas), and shall keep it in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration and the By-Laws. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under the Governing Documents, the cost of which shall be a Common Expense.

4.3. Personal Property and Real Property for Common Use.

The Association, through the action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the properties described in Exhibit "A" or "B," personal property, and leasehold and other property interests. The Association shall accept such property and thereafter maintain it at its Expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any improvements whatsoever to the property conveyed to the Association, including, without limitation, dredging or removing silt from lakes or ponds, including stormwater facilities. Upon Declarant's written request, the Association shall re-convey to Declarant any unimproved portions of the Community originally conveyed by Declarant to the Association for no consideration.

4.4. Enforcement.

Every Owner and Occupant of a Lot shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents. Such sanctions may include, without limitation:

- (a) Imposing a graduated range of reasonable monetary fines which shall constitute a lien upon the violator's Lot. For each failure to comply, the amount of said fine shall not exceed the maximum permitted by the Act unless the violation is of a type that threatens the health and welfare of the community;
- (b) Suspending an Owner's right to vote;
- (c) Suspending any Person's right to use any recreational facilities within the Common Area, if any; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;
- (d) Suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

- (e) Exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;
- (f) Requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Lot and to restore the Lot to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass; and
- (g) Levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Governing Documents.
 - (i) In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the By-Laws:
 - (h) Exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking Rules);
 - (i) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.
 - (ii) In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Owner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

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

The Association, by contract or other agreement, may enforce applicable State and local laws and ordinances, and shall permit governmental bodies to enforce their respective laws and ordinances within the Properties for the benefit of the Association and its members.

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

In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions or agreements set forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or

agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

4.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege; except as otherwise specifically provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership

4.6. Governmental Interests.

For so long as Declarant owns any property described in Exhibit "A" or "B," Declarant may designate sites within the Community for fire, police, and utility facilities, public schools and parks, and other public or quasi-public facilities. The sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The Association, after the Declarant Control Period, acting through its Board of Directors shall have the right and authority to represent the Owners in dealing with governmental entities on matters related to the Common Area.

4.7. Indemnification.

The Association shall indemnify the Declarant during the Declarant Control Period, every officer, director, and committee member, including members of the Architectural Review Committee established pursuant to Article IX, against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law.

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

4.8. Dedication of Common Areas.

The Association may dedicate portions of the Common Areas, such as the roads, to Habersham County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity.

4.9. Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Community, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures, including any mechanism or system for limiting access to the Community, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and covenants to inform its tenants and all occupants of its Lot that the Association, the Board of Directors, committees, and Declarant are not insurers and that each person using the Community assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

Article V Maintenance

5.1. Association's Responsibility.

- (a) The Association shall maintain and keep in good repair the Common Area at all times, which shall include, but need not be limited to:
- (i) the Common Area, open space, and all landscaping, signage, lighting, irrigation systems and equipment, fences, walls, and other structures and improvements, sidewalks, paths, and trails, situated upon the Common Area;
 - (ii) such portions of any additional property included within the Common Area as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and
 - (iii) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Common Area and to be maintained by the Association unless and until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.
- (b) There are hereby reserved to the Association easements over the Community as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and improvements within the Common Area in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Declarant, during the Declarant Control Period or the Members after the Declarant Control Period, agree in writing to discontinue such operation.

Except as provided above, the Common Area shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant as long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration.

- (c) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a Common Expense to be allocated among all Lots as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Common Area pursuant to this Declaration, other Recorded covenants, or agreements with the owner(s) thereof.

5.2. Owner's Responsibility.

Each Owner shall maintain his or her Lot and all structures, parking areas, and other improvements comprising the Lot. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing and care for roofs, gutters, downspouts, building surfaces, lighting, trees, shrubs, grass, walks and other exterior improvements as well as all or any portion of any retention pond, creek, slough, drainage ditch or easement located within the boundaries of an Owner's Lot until such time as responsibility for the perpetual care and maintenance of such retention pond, creek, slough, drainage ditch or easement is accepted and/or assumed by the appropriate governmental authorities. All materials, plans, colors must be approved by The Board in advance to any repair or construction to occur. Should any Owner of a Lot fail to maintain their land or the improvements thereon as set forth hereinabove, the Association, its agents and representatives, may after thirty days written notice to the Owner of such Lot, enter upon their Lot for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds, or other unsightly growth, for removing garbage or trash, or for performing such exterior maintenance as the Association, in the exercise of its sole discretion, deems necessary or advisable all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions. Such Owner shall be personally liable to the Association for the direct and indirect costs of such maintenance. The liability for such costs and expenses shall be a permanent charge and lien upon such Lot enforceable by the Association in the same manner as other liens for the improvement of real property or by any other appropriate proceeding in law or inequity. Although notice given as herein provided shall be sufficient to give the association, its agents and representatives, the right to enter upon such Lot and perform such maintenance, entry for such purpose shall be only between the hours of 9:00 a.m. and 5:00 p.m. on any day except Sunday. The provision hereof shall not be construed, however, as an obligation on the part of the Association to mow, clear, cut, or prune any Lot, to provide garbage or trash removal service, or perform such exterior maintenance.

Lots upon which a portion of the detention basin lies, as shown on any final plat for the Orchard Reserve which has been or may be Recorded, shall be maintained by the Owner up to the detention basin water's edge or if required to be fenced by the local governing authority, up to the fence around the detention basin. The water and land beneath the surface of the detention basin water shall be the maintenance responsibility of the Association as set forth in this Declaration.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and levy a Specific Assessment of all costs incurred by the Association against the Lot and the Owner. The

Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Standard of Performance.

Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with all applicable covenants. The Association shall not be liable for any damage or injury occurring on or arising out of the condition of, the property which it does not own, or which has been assigned to common use for the benefit of all Owners by Declarant, except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Article VI Insurance and Casualty Losses

6.1. Association Insurance.

(a) Required Coverages. The Association, acting through the Board or its duly authorized agent, may obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

- (i) Blanket property insurance covering the full replacement cost of all insurable improvements from "risks of direct physical loss" for the Common Area and on other portions of the Common Area to the extent that the Association has responsibility for maintenance, repair, and/or replacement in the event of a casualty, regardless of ownership;
- (ii) Comprehensive general liability insurance with such limits and terms as the board may determine reasonable; and
- (iii) Such other insurance such as workers compensation, directors and officer's liability coverage, and fidelity insurance as the Board, in the exercise of its business judgment, determines advisable.

The Board shall conduct all insurance review to determine the adequacy of insurance coverage at least once every two years. Each Owner shall have the right to obtain additional coverage at his or her own expense, for improvements made by such Owner. All policies may contain reasonable deductibles. Each Lot Owner shall notify the Board of any structural improvements made by the Owner to his or her Lot.

(b) Policy Requirements. The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.21 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may levy a Specific Assessment of the full amount of such deductible against such Owner(s) and their Lots.

All insurance coverage obtained by the Board shall•

(i) be written with a company authorized to do business in the State of Georgia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually.

In addition, the Board shall be vested with exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Community covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members representing at least 67% of the total votes in the Association, or the Declarant during the Declarant Control Period if any, decide not to repair or reconstruct. If the Association determines that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition. Any Common Area amenities or facilities required for stormwater or sewage treatment which are covered under zoning regulations or other agreements with the local governing authority shall be repaired.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy a Special Assessment to cover the shortfall.

6.2. Owners' insurance.

By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Lot, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition. The Owner shall pay any costs which are not covered by insurance proceeds. All materials, plans, colors must be approved by The Board in advance to any repair or construction to occur.

PART THREE: DEVELOPMENT OF THE COMMUNITY

Article VII Annexation and Withdrawal of Property

7.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration during the Declarant Control Period, for the purpose of removing any portion of the Community from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the Community's overall, uniform scheme of development or removes amenities that Declarant is obligated to provide by contract at any zoning regulations. Such an amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not Declarant.

7.2. Additional Covenants and Easements.

Declarant may subject any portion of the Community to additional covenants and easements by Recording a Supplemental Declaration, setting forth such additional covenants and easements. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration.

7.3. Marketing and Sales Activities.

Declarant and any Declarant-approved Builder may construct and maintain upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model homes, and sales offices. Declarant and Declarant-approved Builder shall have easements for access to and use of such facilities.

Article VIII Assessments

8.1. Creation and Obligation for Assessments.

(a) Types. There are hereby created, and the Association is authorized to levy, assessments for the Association's Common Expenses. Such assessments shall commence at the time and in the manner set forth in Section 8.8.

There shall be four types of assessments: (a) General Assessments as described in Section 8.3; (b) Capital Contributions as described in Section 8.4; (c) Special Assessments as described in Section 8.5; and (d) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay these assessments.

(b) Personal Obligation and Lien. All assessments, together with interest (computed from the due date of such assessment at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Georgia law), late charges established by Board resolution, cost, and reasonable attorney's fees, shall be a charge and continuing lien upon each Lot and also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments that accrued prior to such acquisition of title.

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

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

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

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

8.2. Declarant's Obligation for Assessments.

During the Declarant Control Period, Declarant shall not be liable for payment of assessments on Lots which it owns. However, Declarant may annually elect to, but shall not be obligated to, contribute to the Association the difference between the amount of assessments levied on all other Lots subject to assessment and the amount of actual expenditures by the Association during the fiscal year (a "Subsidy"). After termination or end of the Declarant Control Period by passage of time, Declarant shall pay assessments on its unsold Lots subject to assessment under Section 8.8 in the same manner as any other Owner.

Any Subsidy may be treated, in Declarant's discretion, as either: a voluntary contribution; an advance against future assessments (if any); or a loan by Declarant to the Association. Subsidy which is treated as a loan may be evidenced by promissory notes from the Association in favor of Declarant. As an alternative to paying a Subsidy, Declarant may cause the Association to borrow funds from a commercial lending institution at the then prevailing rates for such a loan in the local area of the Community.

Any Subsidy shall be disclosed as a line item in the Common Expense budget and the treatment of such Subsidy shall be made known to the membership. The payment of a Subsidy in any year shall under no circumstances obligate Declarant to continue payment of a Subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

8.3. Computation of General Assessments.

At least 30 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a capital contribution to establish a reserve fund. General Assessments shall be fixed at a uniform rate for all Lots subject to assessment under Section 8.8. Such an assessment rate shall be set at a level that is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Lots.

The Declarant shall set the budget during the Declarant Control Period. Following the end of the Declarant Control Period, the Board shall send a copy of the final budget and notice of the amount of the General Assessment for the following year to each Owner at least 30 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting of the Members. There shall be no obligation to call such a meeting unless a petition for a special meeting is presented to the Board within 10 days of the delivery of the notice of assessment.

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

8.4. Reserve Budget and Capital Contribution.

The Board may prepare a reserve budget which takes into account the number and nature of replaceable assets within the Common Area, the expected life of each asset, and the expected repair or replacement cost. If established, the Board shall include as a line item in the Common Expense budget a capital contribution in an amount sufficient to permit meeting the projected needs of the Association over the budget period. There shall be no obligation to establish a reserve budget or capital contribution. So long as the Board exercises business judgment in determining the amount or necessity of a reserve, the amount shall be considered adequate. If reserves are not established or are insufficient for the repair or replacement of any capital asset, Special Assessments may be levied.

8.5. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any Special Assessment which would exceed the amount of the General Assessment in any fiscal year shall require the affirmative vote or written consent of a majority of the total Class "A" votes in the Association, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Except as otherwise provided in Section 8.8, Special Assessments shall be levied equally on all Lots.

8.6. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Lot as follows:

- (a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or its occupants upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, pest control, cable television or utility service, and similar services). Specific Assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and
- (b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests.

8.7. Lien for Assessments.

The Association shall have an automatic lien against each Lot to secure payment of delinquent assessments, as well as interest, late charges, and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, (b) the lien or charge of any Recorded first Mortgage on the Lot before the date on which the assessment sought to be enforced became delinquent, or (c) liens and encumbrances Recorded before the Recording of the Declaration. Notwithstanding the foregoing, the Association's lien for delinquent assessments shall be prior to a Recorded first Mortgage equal to the Common Expenses based on the Association's annual budget as provided which would have come due on the absence of acceleration, during the six months immediately preceding the institution of an action to enforce the lien. Such lien, when delinquent, may be enforced in the manner prescribed by Georgia law for the foreclosure of such liens.

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

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 8.8, including such acquirer, its successors and assigns.

8.8. Date of Commencement of Assessments.

Assessments shall commence as to a Lot upon the conveyance of the Lot to a Person other than Declarant. Declarant shall not be responsible for the payment of any type of assessment, except that assessments shall commence on Lots that are occupied (but excluding those Lots containing model homes or a sales center) that are owned by Declarant on the first day of the month following the occupancy of the Lot.

8.9. Failure to Assess.

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

8.10. Exempt Property.

In addition to those lots not subject to assessment under Section 8.8, the following property shall be exempt from payment of assessments:

- (a) all Common Area and such portions of the property owned by Declarant as are included in the Common Area pursuant to Section 5.1; and
- (b) any property dedicated to and accepted by any governmental authority or public utility.

8.11 Initiation Fee

Upon acquisition of record title to a Lot by the first Owner thereof other than Declarant or a Declarant-approved Builder, a contribution of \$300.00 ("Initiation Fee") shall be made by or on behalf of the purchaser to the Association as set forth above. The Initiation Fee shall be in addition to, not in lieu of, the annual General Assessment or Special Assessments and shall not be considered an advance payment of any assessment. The Initiation Fee shall be payable at closing and deposited into the purchase and sales escrow and disbursed to the Association for use in owning and maintaining the Association's capital assets.

8.12 Transfer Fee

The Board shall have the authority, on behalf of the Association, to establish and collect a transfer fee from the transferring Owner upon each transfer of title to a Lot in the Community, which fee shall be payable to the Association at the closing of the transfer and shall be secured by the Association's lien for assessments under Section 8.7. The Board shall have the sole discretion to determine the amount and method of determining any transfer fee. However, in no event shall any such transfer fee exceed the General Assessment for the fiscal year in which the transfer occurs. All transfer fees shall be deposited into the Association's account to be used for such purposes as the Board deems beneficial to the general good and welfare of the community.

PART FOUR: CREATION AND MAINTENANCE OF COMMUNITY STANDARDS

Article IX Architectural Standards

9.1. General.

No person other than Declarant or the Association shall construct, place, or install any structures or other improvements on a Lot or alter the exterior of any existing structures or improvements upon any Lot, and no improvements (including skating, clearing, other site work, exterior alteration of existing improvements, painting or modifying fences, exterior walls or roofs, and planting or removal of landscaping materials or make any encroachment onto the Common Area) shall take place except in compliance with this Article.

Any Owner may make improvements, renovations, or alterations within the interior of the Lot without approval, provided they are not visible from the outside of the structure and do not conflict with this Declaration or impair the structural integrity of any portion of the structure or adjacent Lots. However, modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to the activities of Declarant or the Association.

9.2. Architectural Review.

(a) By Declarant. So long as Declarant owns any property described in Exhibit "A" or "B" to this Declaration which is or may become a part of the Community, Declarant shall have exclusive authority to administer and enforce architectural controls under this Article and to review and act upon all applications for original construction within the Community. There shall be no surrender of this right prior to that time except by a written instrument specifically assigning all or a portion of such right in Recordable form executed by Declarant.

(b) Architectural Review Committee. Upon the sale of the last Lot owned by Declarant or surrender of rights to control the Architectural Control Committee by a written instrument under Paragraph (a) above, of all or a portion of Declarant's authority to control architectural review for all or a portion of the Community, the Board shall create and appoint an Architectural Review Committee ("ARC"). The ARC shall consist of at least three, but not more than five, persons who shall serve and may be removed in the Board's discretion; provided, as long as Declarant owns any property described in Exhibit "A" or "B," it shall be entitled to appoint one member. The ARC shall have no rights or authority until Declarant's authority expires or is assigned. At such time, the ARC shall have authority over modifications, additions, or alterations made on or to existing structures on Lots.

All new construction or modifications shall be reviewed, and the reviewing body may charge a \$250.00 fee for house plans and a \$25.00 fee for all other application reviews hereunder. The reviewing body may require such fees to be paid in full prior to review of any application. The reviewing may establish and charge for all other reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the

Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

9.3. Standards and Procedures.

(a) Standards. Declarant may prepare architectural standards or design guidelines ("Standards") which shall apply to all construction activities within the Community. Declarant shall have sole and full authority to amend the Standards as long as it owns any portion of the Community or has the right to annex additional property in accordance with Section 7.1. Thereafter, the ARC shall have the authority to amend the Standards with the consent of the Board. The Standards are intended to provide guidance to Owners regarding matters of particular concern in considering applications, and all structures and improvements shall be constructed in strict compliance with the Standards, unless the reviewing body has granted a variance in writing.

(b) Procedures. Prior to commencing any activity subject to review, an Owner shall submit an application for approval of the proposed work to the appropriate reviewing body. Such application shall be in the form required by the reviewing body and shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor, and other features of proposed construction, as applicable. Before the Owner may begin the proposed activity, the application must be approved in accordance with the procedures described below.

In reviewing each submission, the reviewing body may consider whatever factors it deems relevant, including visual and harmony of external design with surrounding structures and environment. The reviewing body may require relocation of native plants within the construction site, screening, and landscaping as a condition of approval of any submission.

The reviewing body shall respond in writing to an application within 30 days at an address specified by such party at the time of submission. The response may (i) approve the application, (ii) approve portions, segments, or features of the Plans, and disapprove other portions, segments, or features, or (iii) disapprove an application which is deemed to be inconsistent or not in conformity with this Declaration and/or the Standards. The reviewing body may, but shall not be obligated to, set forth the reasons for such finding, and it may make suggestions to cure objections to an application. In the event the reviewing body fails to respond in a timely manner, approval shall be deemed to have been given; provided, no construction which is inconsistent with the Standards shall be deemed approved unless a written variance has been issued. Notice shall be deemed to have been given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the submitting party.

If construction does not commence on a project which has been approved within 120 days of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to reapply for approval. If construction is not completed on a project for which plans have been approved within the period set forth in the Standards or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article.

9.4. No Waiver of Future Approvals.

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

9.5. Variance.

Declarant or the ARC may authorize variances, in writing, from the Standards or its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations, (b) when unique circumstances dictate, such as unusual topography, natural obstructions, hardship, or aesthetic or environmental considerations, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. Inability to obtain, or the terms of, any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance.

9.6. Limitation of Liability.

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

9.7. Enforcement.

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

Unless otherwise specified in writing by the body granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or

complete any incomplete work and to assess all costs incurred against the Lot and its Owner as a Specific Assessment.

The Board may exclude from the Community any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Standards, subject to the notice procedures contained in the By-Laws. In such an event, neither the Association, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this paragraph.

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

9.8 Commencement of Construction.

Construction of a dwelling shall be commenced upon a Lot within one calendar year after such Lot is purchased from Declarant. If the construction of a dwelling has not commenced within such calendar year period, Declarant shall have the right to repurchase such Lot at the same price, minus 15%, as such Lot was sold by Declarant. Declarant shall have the right to exercise the right of repurchase for six calendar months following the end of the initial calendar year period. This repurchase right shall survive any subsequent conveyance of the Lot following the initial conveyance of the Lot from the Declarant within the one year and six month period described above.

Article X Use Restrictions and Rules

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

10.1. Plan of Development; Applicability; Effect.

Declarant has established a general plan of development for the Community in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Community, and the vitality of and sense of community, all subject to the Board's and the Members' ability to respond to changes in technology, needs and desires, and to regulate and control the Common Area. The initial Use Restrictions and Rules attached as Exhibit "C", establish affirmative and negative covenants, easements, and restrictions on the land subject to the Declaration.

10.2. Authority to Promulgate Use Restrictions and Rules.

The initial Use Restrictions and Rules may be modified in whole or in part, repealed, or expanded as follows:

- (a) Subject to the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial Use Restrictions and Rules. The Board shall send notice by mail to all Owners concerning any such proposed action at least five

business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective unless disapproved at a meeting by Members representing at least 51% of the total votes or by the Declarant during the Declarant Control Period. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon the petition of the Members as required for special meetings in the By-Laws.

- (b) Alternatively, the Members at a meeting duly called for such purpose as provided in the By-Laws, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules previously adopted under this Declaration, as amended from time to time.
- (c) At least 30 days prior to the effective date of any action taken under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner. The Association shall provide, without cost, a copy of the new Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

10.3. Owners' Acknowledgment.

All Owners and occupants of Lots are given notice that use of their Lots is limited by the Use Restrictions and Rules as they may be amended, expanded, and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into and Recording a contract of sale, acknowledges and agrees that the use and enjoyment and marketability of his or her Lot can be affected, that the Use Restrictions and Rules may change from time to time, and that such changed Use Restrictions and Rules may or may not be set forth in a recorded instrument.

10.4. Rights of Owners.

Except as may be specifically set forth in this Declaration (either initially or by amendment), neither the Board nor the Members may adopt any rule in violation of the following provisions:

(a) Similar Treatment. Similarly situated Owners and occupants shall be treated similarly.

(b) Signs. No signs, banners, symbols, or displays of any kind shall be displayed upon any Lot other than one sign identifying the name of the contractor during construction of a dwelling or the developer of the Community, or one "for sale" sign. Any such sign must satisfy any design criteria set forth in the Standards and otherwise be approved by the reviewing body under Section 9.2. Notwithstanding the foregoing restriction, a Mortgagee taking title to a Lot pursuant to the terms of a Mortgage, or any Person acting pursuant to a law or ordinance may place a sign on a Lot, provided that the design, color, and size of any such sign is approved by the reviewing body.

(c) Religious, Seasonal and Holiday Displays. The rights of Owners to display religious, seasonal and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in single-family residential neighborhoods shall not be abridged, except that the Association may adopt time, place, and manner restrictions with respect to displays visible from outside of a structure.

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

(e) Activities Within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of others, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(f) A Location of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Lots or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the Common Areas available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(g) Alienation. No rule shall prohibit leasing or transfer of any Lot, or require the consent of the Association or Board for leasing or transfer of any Lot; provided, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Lot greater than an amount reasonably related to the Association's costs of administering that lease or transfer.

(h) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop the Community.

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

The limitations in this Section 10.4 shall apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with Section 15.2.

10.5. No Leasing Restrictions.

(a) Purposes. In order to protect the quality of the Community to carry out the purpose for which the Community was formed by preserving the character of the Community as a residential community of predominantly owner-occupied homes and by preventing the Community from assuming the character of a renter-occupied apartment complex. The Board

shall have the authority to make and enforce reasonable rules and regulations in order to enforce this Section, including the right to impose fines constituting a lien on the Lot sold or leased as provided in this Section.

(b) Lease. Leasing means the regular, exclusive occupancy of a Lot by any person(s) other than the Owner, for which the Owner receives any consideration or benefit, including but not limited to, a fee, rent, gratuity, or emolument. For the purposes of this Declaration, the following shall not constitute leasing: (i) occupancy by a roommate of an Owner who is also occupying his or her Lot (an "Owner Occupant"); (ii) occupancy by a member of the Owner's family; (iii) occupancy by one or more wards if the Lot is owned by their legal guardian; or (iv) occupancy by one or more beneficiaries of a trust if the Lot is owned in trust by the trustee.

(c) No Restriction on Leasing. Lots may be leased once ownership has occurred. Lots may be leased only in their entirety, no fraction or portion of a Lot may be leased without prior written Board approval.

All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form that is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within 10 days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Lot. The Owner must provide the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules. Nothing here shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(d) Compliance with Declaration, By-Laws, and Restrictions and Rules, Use of Common Area and Liability for Assessments. Each Owner and each lessee, by occupancy of a Lot, covenants and agrees that any lease for a Lot shall contain the following language and agrees that if such language is not expressly contained therein, that such language shall be incorporated into the lease by the existence of this covenant.

(i) The lessee shall comply with all provisions of the Declaration, By-Laws, and Restrictions and Rules for all violations by such occupants, notwithstanding the fact that such occupants of the Lot are fully liable and may be sanctioned for any such violation. If the lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a Restriction or Rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owners and the lessee, and such fine may be assessed against the lessee in accordance with the By-Laws. If the fine is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, By-Laws, or Restrictions and Rules adopted pursuant thereto by the lessee, ally occupant, or any guest of lessee is deemed to be a default under the terms of the lease and authorizes the Owners to terminate the lease without liability and to evict the lessee in accordance with the Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the Restrictions and Rules adopted pursuant thereto, including the power and authority to evict the lessee as attorney-

in-fact on behalf and for the benefit of Owner, in accordance with the terms hereof. If the Association proceeds to evict the lessee, any costs, including attorneys' fees and court costs, association, with the eviction shall be an assessment and lien against the Lot.

(ii) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, including, but not limited to, the use of any and all recreational facilities.

(iii) Liability for Assessments. The lessee shall be liable when an Owner who is leasing his or her Lot fails to pay any General Assessment, Special Assessment, or Specific Assessment and other charges payable during and prior to the term of the lease and any other period of occupancy by the lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by the lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with this Section, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owners from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(e) Applicability of this Section. This Section shall not apply to any leasing transaction entered into by Declarant or unless otherwise provided by the Board of Directors or amendment.

Article XI Easements

11.1. Easements of Encroachment.

There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement, settling, or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.2. Easements for Utilities.

(a) There are hereby reserved to Declarant, (so long as Declarant owns any property described in Exhibit "A" or "B" of this Declaration), the Association (for perpetual duration),

and, the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) non-exclusive easements upon, across, over, and under all of the Community (but not through a structure) to the extent reasonably necessary for the purpose of monitoring, replacing, repairing, maintaining, and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways, and trails; wetlands and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which Declarant or the Association owns or within easements designated for such purposes on Recorded plats of the Community.

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

(b) There is hereby reserved to Declarant, during the Declarant owns any property described in Exhibit "A" or "B" of this Declaration, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibit "A" or "B."

(c) Any damage to a Lot resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.3. Easements for Maintenance and Flood Water.

(a) Stormwater Facilities. Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement over the Community for access, ingress and egress to the detention basin located within the Community as shown on any Recorded plat of Orchard Reserve, and the detention basin or pond, creeks, streams, and wetlands located within the Common Area and for (a) installing, keeping, maintaining, repairing, and replacing pumps in order to provide water for the irrigation of any of the Common Area; (b) constructing, maintaining, and repairing any bulkhead, retaining wall, levee, or other structure retaining water; (c) removing trash and other debris therefrom; and (d) any other maintenance activities necessary to maintain the community. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from, the intentional exercise of such easements. Nothing herein shall be construed to make Declarant, the Association, or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural occurrences.

(b) Common Structural Elements. The townhome units to be constructed on the Lots shall share roofs, gutters, downspouts, land bearing walls, sidewalks, and exterior walls and facia finishings. All exterior elements common to more than one unit shall be maintained by the Association. Easements of access and to undertake maintenance and replacement are reserved for Declarant itself, the Association, and their successors, assigns, and designees.

11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of the exercise of this easement.

11.5. Right of Entry.

The Association shall have the right, but not the obligation, to enter upon any Lot for an emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with the Governing Documents. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the Association's right to enter upon any Lot to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after Board request, but shall not authorize entry into any dwelling without the Owner or occupant's permission, except by emergency personnel acting in their official capacities.

11.6. Landscaping, Screening and Signage Easements.

The Association shall have perpetual, non-exclusive easements exercisable by their respective employees, agents, and contractors over those portions of Lots designated as landscape or screening easements on the Recorded subdivision plats relating to the Community or on common areas landscaped with lawns, trees, shrubs and other plantings for the purpose of installation, maintenance, repair and replacement of lot bollards, neighborhood entrance monuments, signs, fences, lighting, irrigation systems, and landscaping within the easement area. No Fences, structures, driveways, plantings, swings, woodpiles, dog runs, or any other objects, temporary or permanent, shall be permitted in such areas without the Association's prior written approval, other than those initially installed by Declarant.

Nothing herein shall obligate Declarant or the Association to exercise such easements to construct or install any of the foregoing within any landscaping and signage easement.

PART FIVE: RELATIONSHIPS WITHIN AND OUTSIDE THE COMMUNITY

Article XII Mortgagee Provisions

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

12.1. Notices of Action.

An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Occupant which is not cured within 60 days; or
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

12.2. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3. Notice to Association.

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

12.4. Failure of Mortgagee to Respond.

Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

Article XIII Declarant's Rights

Any or all of the special rights and obligations of Declarant set forth in this Declaration or the By-Laws may be transferred or assigned in whole or in part to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and duly Recorded.

Declarant and Declarant-approved Builders may maintain and carry on without fee or charge upon portions of the Common Area such facilities and activities as, in Declarant's opinion, may be reasonably required, convenient, or incidental to the construction or sale of Lots, including, but not

limited to, business offices, signs, model homes, and sales offices. Declarant and Declarant-approved Builder shall have easements for access to and use of such facilities.

Declarant and its employees, agents, and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

No Person shall Record any declaration of covenants, conditions, and restrictions; or declaration of condominium; or similar instrument affecting any portion of the Community without Declarant's review and written consent. Any attempted Recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by Declarant and Recorded.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Use Restrictions and Rules, architectural standard, or design guideline or attempted after termination of the Declarant Control Period shall be effective without prior notice to and written approval of Declarant so long as Declarant owns any portion of the Community primary for development and sale.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of this Article XIII, any Use Restrictions and Rules, architectural standard, or design guideline shall be effective without prior notice to Declarant and upon Recording by Declarant of a written approval of the amendment or modification, so long as Declarant owns any portion of the Community primary for development or during the Class "B" Control Period.

Article XIV General Provisions

14.1. Duration.

This Declaration, as it may be amended, is intended to remain in effect in perpetuity. However, so long as Georgia law limits the period during which covenants may run with the land, this Declaration shall run with and bind the Community so long as permitted. After such time, this Declaration shall be extended automatically for successive 20-year periods, unless terminated in accordance with O.C.G.A. §44-5-60, as may be amended, within the year preceding any extension. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living Descendants of Elizabeth II, Queen of England.

14.2. Amendment.

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

(a) By Declarant. During the Declarant Control Period, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, so long as Declarant owns any property described in Exhibit "A," it may unilaterally amend this Declaration to (i) bring any provision hereof into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) enable any title insurance company to issue title insurance coverage; (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans; or (iv) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage loans; provided, any such amendment shall not materially adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

(b) By the Owners. This Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least two-thirds (2/3) of the Lots and the consent of Declarant (so long as Declarant owns any of the property described in Exhibit "A").

(c) By the Board. The Board shall be authorized to amend this Declaration with the percentage of votes necessary to amend a specific clause, which shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant, respectively (or the assignee of such right or privilege).

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

14.3. Severability.

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

14.4. Cumulative Effect; Conflict.

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

14.5. Compliance.

Every Owner and occupant of any Lot shall comply with this Declaration, any applicable Supplemental Declaration, the By-Laws, and the Use Restrictions and Rules promulgated pursuant to Article X. Subject to the terms of Article XIV, failure to comply shall be grounds for an action by the Association or, in a proper case, by any aggrieved Lot Owner(s) to recover sums due, for

damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

14.6. Notice of Sale or Transfer of Title.

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

14.7. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and the amendment of such exhibits shall be governed by the provisions of Section 15.2. Exhibit "C" is incorporated by this reference and may be amended in accordance with Section 15.2 or Article X.

All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed the day and year above written.

DECLARANT: SHADOW STONE PARTNERS, LLC,
A Georgia limited liability company

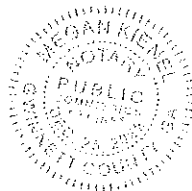
By: [Signature] (SEAL)
Keith Cook, Managing Member

Signed, sealed and delivered
In the presence of:

[Signature]
Witness

[Signature]
Notary Public
My commission expires: _____

JAR/mmk/14092/W265208



STATE OF GEORGIA COUNTY OF HABERSHAM

LENDER CONSENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR ORCHARD RESERVE

The undersigned on behalf of United Community Bank (the "Lender"), as lender under that certain Deed to Secure Debt recorded in Deed Book 8198, page 444-455, Habersham County, Georgia records (the "Deed to Secure Debt") hereby consent to the execution, delivery and recording of that certain Declaration of Covenants, Conditions, and Restrictions for Orchard Reserve executed by Shadow Stone Partners, LLC, a Georgia limited liability company, on August 31st, 2021 (the "Declaration") and agrees that the property described in Exhibit "A" attached thereto shall hereafter be held, sold, used and conveyed subject to the terms of such declaration and all the easements, restrictions, covenants, and conditions, contained therein, which shall run with the title to such real property and shall be binding upon all parties having any right, title, or interest in such property, including the undersigned Owner, and its heirs, successors, successors-in-title, and assigns.

IN WITNESS WHEREOF, the Lender has caused this instrument to be executed under seal by its duly authorized officer as of the 15 day of March, 2022.

UNITED COMMUNITY BANK

By: [Signature] (SEAL)

Name: Cary Guthrie

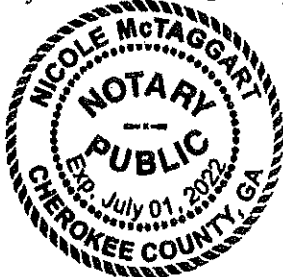
Its: Pres. Builder Finance

Signed, sealed and delivered in the presence of:

[Signature] Witness

[Signature] Notary Public

My commission expires: July 1 2022



04/14/2022 03:49 PM

Habersham County, GA

Exhibit "A"

Legal Descriptions

All that tract or parcel of land situate, lying and being in Land Lot 151 of the 10th Land District, City of Cornelia, Habersham County, Georgia, CONTAINING 17.42 ACRES, located on the South right-of-way of B.C. Grant Road more particularly described on a plat of survey for 7 Star Financial, LLC prepared by J. Scott Stroud, Georgia Registered Land Surveyor No. 3094, dated November 8, 2019, the description contained therein being incorporated herein by reference and being more particularly described as follows:

BEGINNING at an iron pin found located on the South right-of-way of B.C. Grant Road adjacent to Alston Ridge Subdivision, said iron pin being located North 67 degrees 40 minutes 50 seconds East 2010.9 feet from the concrete monument located at the intersection of Land Lots 135, 136, 151 and 152, in the 10th Land District of Habersham County, Georgia, which is the Point of Beginning; thence running from the Point of Beginning along the South right-of-way of B. C. Grant Road North 83 degrees 51 minutes 25 seconds East 41.31 feet; North 80 degrees 39 minutes 07 seconds East 52.87 feet; North 77 degrees 09 minutes 14 seconds East 53.60 feet, North 72 degrees 40 minutes 01 second East 53.3 feet; North 69 degrees 03 minutes 51 seconds East 53.60 feet; North 65 degrees 37 minutes 42 seconds East 50.12 feet; North 63 degrees 17 minutes 21 seconds east 49.29 feet; to an iron pin found adjacent to now or formerly Betty Poole Tanksley property; thence running along Tanksley property South 27 degrees 12 minutes 23 seconds East 182.52 feet to a concrete monument found; South 33 degrees 32 minutes 20 seconds East 191.72 feet to an iron pin found; thence North 40 degrees 54 minutes 09 seconds East 253.55 feet to an iron pin found adjacent to property of Tanksley; thence running along Tanksley property South 38 degrees 30 minutes 31 seconds East 176.28 feet to an iron pin found and North 58 degrees 14 minutes 05 seconds East 185.60 feet to an iron pin found adjacent to now or formerly Ward property, thence running along Ward property South 20 degrees 17 minutes 46 seconds West 65.53 feet to an iron pin found; thence South 58 degrees 20 minutes 46 seconds West 132.87 feet to an iron pin found adjacent to now or formerly Little Dreamers, LLC property; thence running along Little Dreamers, LLC Commercial property South 40 degrees 59 minutes 12 seconds West 210.07 feet to an iron pin found; thence South 35 degrees 50 minutes 40 seconds East 75.34 feet to an iron pin found located on a cul-de-sac at the end of Finnis Springs Drive; thence running along the right-of-way of Finnis Springs Drive and following the curvature thereof 125.66 feet along the arc of a circular curve to the left having a radius of 40.00 feet and chord bearing South 36 degrees 03 minutes 48 seconds East and chord distance of 80.00 feet to an iron pin found; thence South 36 degrees 03 minutes 48 seconds East 20.00 feet to an iron pin found; thence South 29 degrees 31 minutes 02 seconds West 268.75 feet to an iron pin found; thence running along Hallmark Communities Properties; thence running along Hallmark Communities Property South 59 degrees 38 minutes 43 seconds West 1050.43 feet to an iron pin found adjacent to Lot 106 Magnolia Villas Subdivision; thence running along Lots in Magnolia Villas Subdivision North 31 degrees 55 minutes 56 seconds West 162.90 feet and North 28 degrees 43 minutes 18 seconds West 155.61 feet to an iron pin found adjacent to Alston Ridge Subdivision property; thence running along Alston Ridge Subdivision property; thence North 65 degrees 39 minutes 48 seconds East 200.76 feet to an iron pin found; thence North 40 degrees 05 minutes 37 seconds East 648.34 feet to a

concrete monument found; thence North 22 degrees 28 minutes 11 seconds west 335.41 feet to an iron pin found; thence North 22 degrees 25 minutes 14 seconds West 273.12 feet to the Point of Beginning.

Exhibit "B"**Land Subject to Annexation**

All that tract or parcel of land situate, lying and being in Land Lot 151 of the 10th Land District, City of Cornelia, Habersham County, Georgia, CONTAINING 17.42 ACRES, located on the South right-of-way of B.C. Grant Road more particularly described on a plat of survey for 7 Star Financial, LLC prepared by J. Scott Stroud, Georgia Registered Land Surveyor No. 3094, dated November 8, 2019, the description contained therein being incorporated herein by reference and being more particularly described as follows:

BEGINNING at an iron pin found located on the South right-of-way of B.C. Grant Road adjacent to Alston Ridge Subdivision, said iron pin being located North 67 degrees 40 minutes 50 seconds East 2010.9 feet from the concrete monument located at the intersection of Land Lots 135, 136, 151 and 152, in the 10th Land District of Habersham County, Georgia, which is the Point of Beginning; thence running from the Point of Beginning along the South right-of-way of B. C. Grant Road North 83 degrees 51 minutes 25 seconds East 41.31 feet; North 80 degrees 39 minutes 07 seconds East 52.87 feet; North 77 degrees 09 minutes 14 seconds East 53.60 feet, North 72 degrees 40 minutes 01 second East 53.3 feet; North 69 degrees 03 minutes 51 seconds East 53.60 feet; North 65 degrees 37 minutes 42 seconds East 50.12 feet; North 63 degrees 17 minutes 21 seconds East 49.29 feet; to an iron pin found adjacent to now or formerly Betty Poole Tanksley property; thence running along Tanksley property South 27 degrees 12 minutes 23 seconds East 182.52 feet to a concrete monument found; South 33 degrees 32 minutes 20 seconds East 191.72 feet to an iron pin found; thence North 40 degrees 54 minutes 09 seconds East 253.55 feet to an iron pin found adjacent to property of Tanksley; thence running along Tanksley property South 38 degrees 30 minutes 31 seconds East 176.28 feet to an iron pin found and North 58 degrees 14 minutes 05 seconds East 185.60 feet to an iron pin found adjacent to now or formerly Ward property, thence running along Ward property South 20 degrees 17 minutes 48 seconds West 65.53 feet to an iron pin found; thence South 58 degrees 20 minutes 46 seconds West 132.87 feet to an iron pin found adjacent to now or formerly Little Dreamers, LLC property; thence running along Little Dreamers, LLC Commercial property South 40 degrees 59 minutes 12 seconds West 210.07 feet to an iron pin found; thence South 35 degrees 50 minutes 40 seconds East 75.34 feet to an iron pin found located on a cul-de-sac at the end of Finnis Springs Drive; thence running along the right-of-way of Finnis Springs Drive and following the curvature thereof 125.66 feet along the arc of a circular curve to the left having a radius of 40.00 feet and chord bearing South 36 degrees 03 minutes 48 seconds East and chord distance of 80.00 feet to an iron pin found; thence South 36 degrees 03 minutes 48 seconds East 20.00 feet to an iron pin found; thence South 65 degrees 09 minutes 30 seconds West 268.75 feet to an iron pin found; thence South 29 degrees 31 minutes 02 seconds East 316.25 feet to an iron pin found adjacent to now or formerly Hallmark Communities Properties; thence running along Hallmark Communities Property South 59 degrees 38 minutes 43 seconds West 1050.43 feet to an iron pin found adjacent to Lot 106 Magnolia Villas Subdivision; thence running along Lots in Magnolia Villas Subdivision North 31 degrees 55 minutes 56 seconds West 162.90 feet and North 28 degrees 43 minutes 18 seconds West 155.61 feet to an iron pin found adjacent to Alston Ridge Subdivision property; thence running along Alston Ridge Subdivision property; thence North 65 degrees 39 minutes 48 seconds East 200.76 feet to an iron pin found; thence North 40 degrees 05 minutes 37 seconds East 648.34 feet to a

concrete monument found; thence North 22 degrees 28 minutes 11 seconds west 335.41 feet to an iron pin found; thence North 22 degrees 25 minutes 14 seconds West 273.12 feet to the Point of Beginning.

EXHIBIT "C"

Use Restriction and Rules

The following restrictions shall apply to property within the Community and shall remain in effect until such time as they are amended, modified, repealed, or limited by rules of the Association adopted pursuant to the Declaration.

1. General. The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, a sales office of Declarant) consistent with this Declaration.

2. Restricted Activities. The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Undertaking any action, work, construction, or improvement that will likely impair the structural soundness or integrity of another Lot or impair any easement;

(b) Installing or maintaining any blinds, shades, decorative panels, window or door treatments, or coverings for any doors or windows which are part of a Lot and visible from outside the Lot in a color other than white, off-white, or light beige, unless approved in advance in writing by the Association;

(c) Installing any window air conditioning units in any structure on any Lot;

(d) Parking or storage of commercial vehicles or equipment, mobile homes, recreational vehicles, boats and other watercraft, trailers, or inoperable vehicles within the Community, except on a temporary basis for such period of time as is reasonably necessary to load, unload, or prepare such vehicles for immediate use or parking of any vehicle which does not have a valid license plate or which has been abandoned, wrecked, or dismantled within the Community for any period of time;

(e) Parking of any vehicle on streets or in areas of the Community, other than (i) the garage and dwelling of the Lot which is owned, occupied, or being visited by the vehicle operator; or (ii) areas designated by the Board or Declarant for vehicle parking, furthermore, The Board or Declarant may assign reserved parking per unit (usually 2 spaces per unit);

(f) Raising, breeding, or keeping of animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted on a Lot; however, those pets which are permitted to roam freely outside the boundaries of the owner's Lot, or, in the sole discretion of the Board, that makes objectionable noise, endangers the health or safety of, or constitutes a nuisance or inconvenience to the occupants of other Lots shall be removed upon request of the Board. If the pet owner fails to honor such a request, the Board may remove the pet, in addition to imposing such other sanctions as are authorized by the Declaration and By-Laws. Dog owners shall keep their dogs on a leash at all times when outside the boundaries of the Lot. Pets shall be registered, licensed, and inoculated as

required by law, furthermore the number of animals are limited to 2 pets per unit;

Any Owner or occupant of any Lot who keeps or maintains any pet upon the Community shall be deemed to have agreed to defend, indemnify and hold Declarant, the Association, and their directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the community;

(g) Any activity which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Lots;

(h) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(i) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Lot;

Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots;

(k) Outside burning of trash, leaves, debris, or other materials;

(l) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Lots, except alarm devices used exclusively for security purposes;

(m) Use and discharge of firecrackers and other fireworks;

(n) Dumping of garbage, petroleum products, or potentially hazardous or toxic substances in any street, storm sewer, or on Common Areas or other Lots;

(o) Accumulation of rubbish, trash, or garbage upon any portion of Lot. For rubbish, garbage or any other form of solid waste to be disposed of by being collected on a regular and recurring basis, containers may be placed on each Owner's Lot on any day that a pick-up is to be made. At all other times, such containers shall be screened or enclosed so as not to be visible from any street or any other Lot.;

(p) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent;

(q) Subdivision of a Lot into two or more Lots, or changing the boundary lines of any Lot after a subdivision plat including such Lot has been approved and filed in the Public Records, except that Declarant shall be permitted to subdivide, combine, or replat Lots which it owns;

(r) Use of any Lot for the operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Lot rotates among participants in the program on a fixed or floating time schedule over a period of years;

(s) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(t) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawnmowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment;

(u) Use of a Lot's garage for storage or other purposes to an extent that precludes the use of the garage for parking of a motor vehicle inside;

(v) Any business, trade, yard sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Lot may conduct business activities within the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (ii) the business activity conforms to all zoning requirements for the Community; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Community; and (iv) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, consideration, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required;

Leasing of a Lot shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Declarant-approved Builder with respect to its development and sale of the Community or its use of ally Lots which it owns within the Community;

(w) Installation and/or maintenance of fences or fencing materials, except for those fences approved in strict compliance with Article IX of the Declaration. No split rail fencing shall be approved, except for those fences approved in strict compliance with Article IX of the Declaration. No fencing materials shall be approved, except for aluminum-type or wood fencing (except for any fencing installed by Declarant or the Association); and

(x) Any construction, erection, or placement of anything, permanently or temporarily, on the exterior portions of the Lot or on Common Area, except in strict compliance with the provisions of the Declaration.

3. Prohibited Activities and Conditions. The following shall be prohibited within the Community:

(a) Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that: (i) Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Community; and (ii) antennas or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (iii) antennas or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (iv) antennas or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device is placed in the least conspicuous location on the Lot in which an acceptable quality signal can be received. It shall not be necessary to obtain prior approval under Article IV of the Declaration to install a Permitted Device in a manner consistent with this paragraph (a);

(b) Laundry drying facilities including, but not limited to, clothes lilies, outside of a Lot. In addition, the use of porch railings or any other part of the exterior of the Lot for drying or storing of clothes or other articles is prohibited;

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters, if any, within the Community, except that Declarant and the Association shall have the right to draw water from such sources; and/or

(d) Anything or condition which will result in the cancellation, or increase in premium, or reduction in coverage of insurance maintained by the Association or which would be in violation of any law or other applicable requirement of governmental authorities.

EXHIBIT "D"

By-Laws of Orchard Reserve Homeowners Association, Inc.

Article 1

Name, Membership, Applicability and Definitions

1.1 Name. The name of the corporation shall be Orchard Reserve Homeowners Association, Inc. (hereinafter sometimes referred to as the "Association").

1.2 Membership. The Association shall have one class of membership, as is more fully set forth in that certain Declaration of Protective Covenants, Conditions, Restrictions and Easements for Orchard Reserve Homeowners Association, Inc. (such Declaration, as amended, supplemented, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

1.3 Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit, or the meanings given in the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-101, *et seq.* (the "Nonprofit Code"). Statutory references shall be construed as meaning the referenced statute or portion thereof as the same may exist from time to time.

Article 2

Association: Meetings, Quorum, Voting, Proxies

2.1 Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

2.2 Annual Meetings. There shall be an annual meeting of the members at such date, place and time as the Board of Directors shall determine to receive the reports of the outgoing Board of Directors, to install directors for the ensuing year and to transact such other business as may come before the meeting.

2.3 Special Meetings. The President or the Board of Directors may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association upon the delivery of a petition signed and dated by members entitled to cast at least twenty-five percent (25%) of the Total Association Vote and describing the purpose or purposes for which it is to be held. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose(s) thereof. No business shall be transacted at a special meeting, except those matters that are within the purpose or purposes described in the notice.

2.4 Record Date. The Board of Directors shall fix in advance a record date for a determination of members entitled to notice of and to vote at any meeting of members or any adjournment thereof, or to make a determination of members for any other purpose, such date to be not more than seventy (70) days before the date on which the particular action requiring such determination of members is to be taken.

2.5 Notice of Meetings. It shall be the duty of the Secretary or such other agent as the Association may designate to mail or to cause to be delivered to each member (as shown in the records of the Association as of the record date) a written notice of each annual or special meeting of the Association stating the date, time and place where it is to be held and, if and to the extent required by the Nonprofit Code or other applicable law (the "Governing Law"), the purpose(s) thereof. Such notice shall be delivered personally or sent by United States mail, postage prepaid, statutory overnight delivery, or sent by electronic transmission in accordance with the Nonprofit Code to all members of record at the address shown in the Association's current records. If an Owner wishes notice to be given at an address other than at the Lot, the Owner shall designate by notice in writing to the Secretary such other address. Notices shall be mailed or delivered not less than ten (10) days in advance of any annual, regularly scheduled or special meeting (or if notice is mailed by other than first-class or registered mail, thirty (30) days) nor more than sixty (60) days before the meeting. If any meeting of the members is adjourned to a different date, time or place, notice need not be given of the new date, time or place, if the new date, time or place is announced at the meeting before adjournment. If, however, a new record date is or must be fixed under the Governing Law, notice of the adjourned meeting shall be given to persons who are members of record as of the new record date.

2.6 Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing or by electronic transmission signed by the member entitled to notice and delivered to the Association for inclusion in the minutes for filing with the Association's records, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of lack of notice or defective notice, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.8 Membership List. After the record date for any meeting is established by the Board of Directors, the Secretary shall prepare an alphabetical list of the names and addresses of all of the members who are entitled to notice of the meeting. Beginning at least two (2) business days after notice is given of the meeting for which the list was prepared, the list of members shall be available for inspection by any member or a member's agent or attorney: (1) on a reasonably accessible electronic network, provided that the information required to gain access to such list is included with the notice of the meeting or upon request; or (2) during ordinary business hours at the Association's principal office or at such other reasonable place as may be specified in the notice in the city where the meeting will be held. In the event that the Association makes the list available on an electronic network, the Association may take reasonable steps to ensure that such information is available only to members of the Association. In addition, the list shall be available for inspection at the meeting or any adjournment thereof.

2.9 Voting. At every meeting of the Members, each Member shall have the right to cast his vote on each question brought before the meeting. However, if an owner is delinquent in paying his dues and/or assessments, the owner shall not be eligible to vote at the meeting of members, shall not be eligible to vote at the Board of Directors meeting and shall not be eligible to serve on the Board of Directors or serve as an officer of the Association. The vote of the Members representing a fifty-

one percent (51%) majority of the total votes cast, in person or by proxy (provided that there is a quorum present) shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of a statute or of the corporate charter of the Association, or the Declaration, or of the Bylaws, a different vote is required, in which case such express provision shall govern and control. In any situation where there is more than one Owner of a Lot, the vote for such Lot shall be exercised as the Co-Owners determine among themselves. The Co-Owners shall advise the Secretary of the Association in writing prior to the vote being taken. Absent such advisement and in the event that more than one such Co-Owner casts a vote, the Lot's vote shall be suspended and shall not be included in the final vote tally on the matter being voted upon. No Member is eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due to the Association.

2.10 Proxies. At all meetings of members, each member may vote in person or by proxy. All proxy appointment forms shall be in writing, signed either personally or by an electronic transmission, dated, and filed with the Secretary before the appointed time of each meeting. An electronic transmission must contain or be accompanied by information from which it can be determined that the member, the member's agent, or the member's attorney-in-fact authorized the electronic transmission. Proxies may be delivered to the Board of Directors by personal delivery, U.S. mail or electronic transmission to the Secretary or other officer or agent authorized to tabulate votes. Every proxy shall be revocable and shall automatically cease upon: (a) receipt of notice by the Secretary of the death or judicially declared incompetence of a member; (b) receipt by the Secretary or other officer or agent authorized to tabulate votes of written revocation signed by the member; (c) receipt by the Secretary or other officer or agent authorized to tabulate votes of a subsequent appointment form signed by the member; (d) attendance by the member and voting in person at any meeting; or (e) the expiration of eleven (11) months from the date of the proxy appointment form.

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

2.12 Action Without A Formal Meeting.

(a) Action by Written Consent. Any action required or permitted to be approved by the members may be approved without a meeting if one (1) or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed, either personally or by an electronic transmission, and dated by members (including the Declarant, if the consent of the Declarant is required) holding the voting power required to pass such action at a meeting held on the record date for such action. The record date for such action shall be the date that the first member signs a consent. Such action shall be approved when the Secretary receives a sufficient number of such consents dated within seventy (70) days of the record date for such action. If less than unanimous consent is obtained, the approval shall be effective ten (10) days after the Secretary gives written notice of the approval to all members who did not sign a consent. Each consent in writing or by electronic transmission shall be included in the minutes of meetings of members filed in the permanent records of the Association. No consent in writing or by electronic transmission shall be valid unless: (1) the consenting member has been furnished the same material that, pursuant to the Nonprofit Code, would have been required to be sent to members in a notice of a meeting at which the proposed action would have been submitted to the members for action; or (2) the written

consent contains an express waiver of the right to receive the material otherwise required to be furnished.

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

Article 3

Board of Directors: Number, Powers, Meetings

3.1 Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Directors shall be natural persons who are eighteen (18) years of age or older. Except for directors appointed by the Declarant, each director must reside in the Community and be a member or the spouse of a member; provided, however, no Person may serve on the Board at the same time with such Person's spouse or any co-Owner or Occupant of such Person's Lot.

3.2 Directors Appointed by Declarant. The Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) the expiration of ten (10) years after the date of the recording of the Declaration; (b) the date on which all of the Lots planned by Declarant to be a part of the Community shall have been improved with a dwelling and conveyed to an Owner for occupancy as a residence; or (c) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association.

The directors appointed by the Declarant need not be Owners or residents in the Community. The total number of Lots planned by Declarant for the Community shall initially be the number of Lots shown on the Declarant's land-use plan for the development, as it may be amended from time to time. The inclusion of a property on the land use plan shall not obligate the Declarant to subject such property to the Declaration, nor shall exclusion of property from the initial land use plan bar Declarant from subjecting such property to the Declaration. The final total number of Lots planned for the Community shall be the actual number of Lots shown on the recorded subdivision plat(s) for the Community regardless of any different number of Lots shown from time to time on the land use plan.

3.3 Number of Directors. During the period that the Declarant has the right to appoint and remove the officers and directors of the Association as provided above, the Board of Directors shall consist

of one (1) to four (4) members as determined by Declarant in writing from time to time. Thereafter, the Board shall consist of three (3) directors, who shall be elected as provided in Section 3.5 below.

3.4 Nomination of Directors. Elected directors may be nominated from the floor, if a meeting is held for the election of directors and may also be nominated by a nominating committee, if established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

3.5 Election and Term of Office. After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting (or take action under Section 2.12 in lieu of a meeting) and the members shall elect three (3) directors as follows: the initial term of two (2) directors shall be fixed at two (2) years and the initial term of one (1) director shall be fixed at one (1) year. Thereafter, all successors shall be elected to a term of two (2) years. At annual meetings thereafter (or pursuant to Section 2.12 in lieu of a meeting), directors shall be elected as necessary to fill vacant seats on the Board. All eligible members of the Association shall vote on all directors to be elected, and the candidates receiving the most votes shall be elected. Notwithstanding anything herein to the contrary, the members of the Board of Directors shall continue in office until their respective successors shall have been elected and take office.

3.6 Removal of Directors. At any annual, regular or special meeting of the Association, any one (1) or more of the members of the Board of Directors elected by the members may be removed, with or without cause, by a majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. The notice of the meeting shall state that the purpose or one of the purposes, of the meeting is the removal of a director. A director whose removal by the members has been proposed shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors.

3.7 Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by a vote of the Association, shall be filled by a vote of the majority of the remaining directors. Each Person so selected shall serve the unexpired portion of the term.

3.8 Organization Meetings. The first meeting of a newly elected Board of Directors shall be held within ten (10) days after the election at such time and place as the directors may conveniently assemble.

3.9 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by the Board, provided that, after the right of Declarant to appoint the directors terminates, at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

3.10 Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the date, time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery (including commercial delivery service) to such director's home or office; (b) written notice by first-class mail, postage prepaid; (c) by telephone communication (including facsimile), either directly to the director or to the director's home or office; or (d) issued electronically in accordance with the Nonprofit Code, if the director has consented in writing to such method of delivery and has

provided the Board with an address regarding the same. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first-class mail shall be deposited with the U.S. Postal Service at least four (4) days before the day of the meeting. Notices given by personal delivery, electronic transmission or telephone shall be given at least two (2) days before the day of the meeting.

3.11 Waiver of Notice. The business transacted at any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes either in writing or by electronic transmission which is included in the minutes or filed with the official records of the Association. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

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

3.13 Compensation. No director shall receive any compensation from the Association for acting as such.

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

3.15 Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session,

3.16 Action Without A Formal Meeting. Any action required or permitted to be taken at a meeting of the directors may be taken without a meeting if one or more consents, in writing or by electronic transmission, setting forth the action so taken, shall be signed by a majority of the directors and delivered to the Association for inclusion in the minutes for filing in the corporate records. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

3.17 Telephonic Participation. One or more directors may participate in and vote during any meeting of the Board by telephone conference call or any other means of communication by which all directors participating may simultaneously hear each other during the meeting. Any such meeting at which a quorum participates shall constitute a meeting of the Board.

3.18 Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by law, the Declaration, the Articles of Incorporation of the Association, or these Bylaws directed to be done and exercised by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may

hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

- (a) Preparing and adopting an annual budget in which there shall be established the contribution of each member to the common expenses;
- (b) Making assessments to defray the common expenses and establishing the means and methods of collecting such assessments;
- (c) Providing for the operation, care, upkeep, and maintenance of all areas which are the maintenance responsibility of the Association;
- (d) Designating, hiring, and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;
- (e) Collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;
- (f) Making and amending rules and regulations;
- (g) Opening bank accounts on behalf of the Association and designating the signatories required;
- (h) Enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the members concerning the Association, which enforcement power shall include, without limitation, the power to levy fines as provided herein and in the Declaration in such amounts as from time to time the Board may deem proper in the circumstances, counting each day a violation continues after notice from the Board as a separate violation;
- (i) Obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;
- (l) Keeping books with detailed accounts of the receipts and expenditures of the Association and the actions thereof, and specifying the maintenance and repair expenses and any other expenses incurred; and
- (k) Authorizing contracts on behalf of the Association.

3.19 Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. Declarant, or an affiliate of Declarant, may be employed as a managing agent or manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice.

3.20 Borrowing. The Board of Directors shall have the power to borrow money without the approval of the members of the Association; provided, however, except as otherwise provided in the Declaration, the Board shall obtain membership approval in the same manner as for special

assessments, in the event that the total amount of such borrowing exceeds or would exceed ten percent (10%) of the annual budget of the Association.

3.21 Fining Procedure.

- (a) The Board may impose fines and/or require restitution and/or other enforcement remedies for any violation of the Governing Documents. Each incident or each day of a continuing violation may be considered a separate violation for which a fine may be imposed.
- (b) Written notice of the fine may be served by depositing notice in the mail and addressed to the Member or Owner whom it is intended, at the address which such Member or Owner shall have furnished to the Secretary of the Association or, in the absence of any such address having been so furnished to the Association, at the address of the Lot owned by such Member or Owner. The date of service shall be the date of mailing. The rejection or other refusal to accept the notice shall be deemed to be receipt of the notice sent.
- (c) The fine notice may contain the nature of the violation and the fine to be imposed.
- (d) All rights to have the fine reconsidered are waived if a hearing is not requested within ten (10) days or, in the event of an unapproved sign, twenty-four (24) hours, of the date the notice is served.
- (e) If a hearing is requested, it shall be held before the Board.
- (f) If the violation continues past the period allowed in the demand for abatement or if the violation recurs, the Board may impose a fine.

Article 4 Officers

4.1 Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer. Any two (2) or more offices may be held by the same Person, except the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors. This provision shall not apply to officers appointed by Declarant.

4.2 Election, Term of Office, and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association, the officers of the Association shall be appointed annually by the Board of Directors at the first meeting of the Board of Directors following the election of directors. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

4.3 Additional Officers and Agents. The Board of Directors may appoint such other officers, including vice presidents, assistant secretaries and assistant treasurers, and agents as it shall deem necessary. Such officers and agents shall hold their respective offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors.

4.4 Salaries. The officers shall receive no compensation.

4.5 Removal. Except for officers appointed by the Declarant, any officer may be removed, with or without cause, by the Board of Directors.

4.6 President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the members and directors. The immediate supervision of the affairs of the Association shall be vested in the President. It shall be the President's duty to attend to the business of the Association and maintain strict supervision over all of its affairs and interests. The President shall keep the Board of Directors fully advised about the affairs and conditions of the Association, and shall manage and operate the business of the Association pursuant to and in accordance with such policies as may be prescribed from time to time by the Board of Directors.

4.7 Vice President. The Vice President(s), if any, shall act in the President's absence or disability and shall have all powers, duties, and responsibilities provided for the President when so acting, and shall perform such other duties as shall from time to time be imposed upon any Vice President by the Board or delegated to a Vice President by the President.

4.8 Secretary. The Secretary shall keep the minutes of all meetings of the members and of the Board of Directors; notify the members and directors of meetings as provided by these Bylaws and Georgia law; have custody of the seal of the Association; affix such seal to any instrument requiring the same; attest the signature or certify the incumbency or signature of any officer of the Association; and perform such other duties as the President, or the Board of Directors may prescribe. The Secretary shall perform the duties of the Treasurer of the Association in the absence or disability of the Treasurer.

4.9 Treasurer. The Treasurer shall keep, or cause to be kept, the financial books and records of the Association, and shall faithfully account for the Association's funds, financial assets, and other assets entrusted to the Treasurer's care and custody. The Treasurer shall make such reports as may be necessary to keep the President and the Board of Directors informed at all times as to the financial condition of the Association, and shall perform such other duties as the President, or the Board of Directors may prescribe. The Treasurer shall maintain the money and other assets of the Association in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors. The Treasurer may provide for the investment of the money and other assets of the Association consistent with the needs of the Association to disburse such money and assets in the course of the Association's business. The Treasurer shall perform the duties of the Secretary of the Association in the absence or disability of the Secretary.

4.10 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article 5
Committees

Advisory committees to perform such tasks and to serve for such periods as may be designated by the Board or as provided in the Declaration are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the Declaration or resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors. An advisory committee shall not be authorized to exercise any authority of the Board under the Articles of Incorporation of the Association, the Declaration, these Bylaws or the Nonprofit Code.

Article 6
Miscellaneous

6.1 Fiscal Year. The fiscal year of the Association shall be the calendar year unless otherwise determined by resolution of the Board.

6.2 Parliamentary Rules. *Robert's Rules of Order* (current edition) shall govern the conduct of all Association proceedings, when not in conflict with Georgia law, the Articles of Incorporation of the Association, the Declaration or these Bylaws.

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

6.4 Electronic Records, Signatures and Documents To the extent permitted by Georgia law, the Declaration and these Bylaws, the Association and its members, officers, directors, Owners and Occupants may perform any obligation or exercise any right by use of any technological means providing sufficient security, reliability, identification and verifiability, which technological means have been approved by the Board of Directors in its sole discretion.

6.5 Amendment. These Bylaws may be amended by the Board of Directors with the consent of the Declarant if such amendment is necessary to: (a) bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) enable any title insurance company to issue title insurance coverage with respect to the Lots subject to the Declaration; (c) enable an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make or purchase Mortgage loans on the Lots subject to the Declaration; (d) enable any governmental agency or private insurance company to insure or guarantee Mortgage loans on the Lots subject to the Declaration; or (e) comply with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3220, *et seq.* Further, Declarant may unilaterally amend these Bylaws for any other purpose; provided, however, any such amendment shall not materially adversely affect the right of any Owner to use and enjoy such Owner's Lot without the consent of the affected Owner. In addition, these Bylaws may be amended upon the affirmative vote, written consent or any combination of the affirmative vote and written consent of at least two-thirds (2/3) of the Total Association Vote and the consent of Declarant.