



KINGWOOD
GOLF CLUB & RESORT

DECLARATION OF
COVENANTS, CONDITIONS
&
RESTRICTIONS

**SECOND MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS RECORDED AT DEED BOOK A-7, PAGES 487-505, RABUNCOUNTY,
GEORGIA RECORDS, AS MODIFIED BY THAT CERTAIN MODIFICATION RECORDED
IN DEED E-18, PAGES 98-107, RABUN COUNTY, GEORGIA RECORDS**

**Steven M. Winter, Esq.
WEINSTOCK & SCAVO, P.C.
3405 Piedmont Road, NE
Suite 300
Atlanta, Georgia 30305**

GEORGIA, RABUN COUNTY
CLERK'S OFFICE SUPERIOR COURT
FILED FOR RECORD DECEMBER 28
1998 AT 11:30 O'CLOCK A M
RECORDED DECEMBER 30 1998
IN BOOK NO. L-18 PAGE 98-145

[Signature] CLERK

RETURN RECORDED INSTRUMENT TO:
Steven M. Winter, Esq.
WEINSTOCK & SCAVO, P.C.
3405 Piedmont Road, NE
Suite 300
Atlanta, Georgia 30305

Cross Reference Deed Book A-7
Page 98

STATE OF GEORGIA

COUNTY OF *RABUN*

SECOND MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AT DEED BOOK A-7, PAGES 487-505, RABUN COUNTY, GEORGIA RECORDS, AS MODIFIED BY THAT CERTAIN MODIFICATION RECORDED IN DEED E-18, PAGES 98-107, RABUN COUNTY, GEORGIA RECORDS

THIS SECOND MODIFICATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AT DEED BOOK A-7, PAGES 487-505, RABUN COUNTY, GEORGIA RECORDS, AS MODIFIED BY THAT CERTAIN MODIFICATION RECORDED IN DEED E-18, PAGES 98-107, RABUN COUNTY, GEORGIA RECORDS (hereinafter "Second Modification") is made this 28th day December, 1998, by the undersigned owners of property subjected to that certain Declaration of Covenants, Conditions and Restrictions dated October ____, 1978 and recorded on March 21, 1979 at Deed Book A-7, Pages 487-505 of the Rabun County, Georgia records (hereinafter, together with all amendments and modifications thereto, the "Original Declaration").

WITNESSETH

WHEREAS, Section 1 of Article V of the Original Declaration provides that the Original Declaration shall have an initial duration of twenty (20) years from the date it was recorded, the date of recordation being March 21, 1979; and

WHEREAS, Section 1 of Article V of the Original Declaration further provides that the duration of the covenants and restrictions contained therein shall be renewed and extended beyond said twenty (20) year term for successive periods of ten (10) years each unless an agreement for termination or modification is signed by two-thirds (2/3) of the subdivision property owners and such agreement is filed for record in the Office of the Clerk of Superior Court for Rabun County, Georgia at least one hundred

eighty (180) days prior to the date which is twenty (20) years from the date the Original Declaration was recorded; and

WHEREAS, the Original Declaration was modified pursuant to that certain Modification of Declaration of Covenants, Conditions and Restrictions filed for record on September 21, 1998 and recorded on September 23, 1998 in Deed Book E-18, Pages 98-107 of the Rabun County, Georgia records (hereinafter "Modification"), which Modification extended the date by which the Original Declaration may be modified to December 31, 1998; and

WHEREAS, pursuant to the Modification, the Original Declaration may be modified by an agreement signed by two-thirds (2/3) of the subdivision property owners so long as such agreement is signed and recorded in the Office of the Clerk of the Superior Court of Rabun County, Georgia on or before December 31, 1998; and

WHEREAS, this Second Modification has been signed by at least two-thirds (2/3) of the subdivision property owners for the specific purpose of modifying the Original Declaration, including the Modification, by deleting the Original Declaration, including the Modification, in their entirety and substituting the following in their place;

NOW, THEREFORE, the Original Declaration, including the Modification, are hereby amended and modified by deleting the Original Declaration, including the Modification, and every term and provision therefrom, in their entirety and by substituting in their place the following Declaration of Covenants, Conditions and Restrictions for Kingwood:

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DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR KINGWOOD

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR KINGWOOD (hereinafter "Declaration") is made as of 28th day December, 1998 by Killlearn, Inc., a Georgia corporation (hereinafter "Declarant") and the individuals whose signatures appear at the end of this Declaration.

WITNESSETH

WHEREAS, Declarant, together with the individuals whose signatures appear at the end of this Declaration (hereinafter the "Record Owners"), collectively are the owners of at least two-thirds (2/3) of the real property described in Exhibit "A" attached hereto and made a part hereof by this reference (hereinafter the "Property"). Declarant and the Record Owners intend by this Declaration to impose upon the Property mutually beneficial covenants, conditions, restrictions and easements under a general plan of improvement and development for the benefit of all owners of the Property within the development known as Kingwood. Declarant desires to provide a flexible and reasonable procedure for the overall development of the Property and to establish a method for the administration, maintenance, preservation, use and enjoyment of the Property submitted to this Declaration.

NOW, THEREFORE, Declarant, together with the Record Owners, hereby declare that all of the Property and any additional property which may be subjected to this Declaration in accordance with its terms shall be held, sold and conveyed subject to the covenants, conditions, restrictions and easements hereinafter set forth, which are for the purpose of protecting and preserving the value and desirability of the Property, and which shall run with the Property and which shall be binding on all parties having any right, title or interest in and to all or any part of the Property and their heirs, successors, successors-in-title and assigns and which shall inure the benefit of each such party.

ARTICLE I.

Definitions

The following words, when used in this Declaration shall have the following meanings:

Section 1. "Additional Property" shall mean and refer to that real property described in Exhibit "B" attached hereto and made a part hereof by this reference, which may be subjected to this Declaration in accordance with the terms and provisions of Article VII, below.

Section 2. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Association as such document may be amended from time to time.

Section 3. "Association" shall mean and refer to Kingwood Homeowners Association, Inc., a non-profit, non-stock membership corporation incorporated under the laws of the State of Georgia, its successors and assigns.

Section 4. "Board of Directors" or "Board" shall mean and refer to the governing body of the Association having such duties as are provided in the Declaration, the Bylaws, the Articles of Incorporation, the Georgia Nonprofit Corporation Code and under other applicable Georgia law.

Section 5. "Builder" shall mean and refer to the Owner of a Lot (i) who is in the business of constructing Residential Units; (ii) who owns such Lot for the purpose of constructing a Residential Unit thereon for sale to a third party; and (iii) who is designated by Declarant as a Builder under its builder program.

Section 6. "Buildout" shall mean and refer to the date upon which the first of the following events occur: (i) the date on which there has been a Residential Unit constructed on each Lot in the Community and each Lot in the Community has been conveyed to a Person, other than a Builder, for residential occupancy; or (ii) a date established by the Declarant, in its sole discretion, as indicated by a written instrument filed of record with the Clerk of the Superior Court of Rabun County, Georgia.

Section 7. "Bylaws" shall mean and refer to the Bylaws of the Association which govern the administration and operation of the Association, as such document may be amended from time to time.

Section 8. "Certificate of Occupancy" shall mean and refer to any required certification issued by the appropriate governmental authority as a prerequisite to the lawful occupancy of any Residential Unit constructed on any Lot.

Section 9. "Club" shall mean and refer to the property upon which the Declarant may develop a club or conference center and related facilities located in the vicinity of the Property and which is described in Exhibit "C" attached hereto and made a part hereof by this reference. The Club may include, by way of example and not limitation, a clubhouse, conference center, hotels, condominiums, spas, golf course, putting green, tennis courts, swimming pools, lake facilities, tennis and golf pro shop, food and beverage facilities, and any other related facilities. The Club shall be arranged in such capacity or status as determined by Declarant from time to time and may be segmented and separated from the Golf Course as determined by Declarant in its sole discretion. Neither the Association nor any Owner or their family members shall have any rights in or to the Club and any of the related facilities. By execution below, Declarant does not commit, promise or covenant in any manner to build the Club or any related facilities thereto except as Declarant decides in its sole discretion.

Section 10. "Common Area" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or otherwise made available for the use and enjoyment of the Owners, including, but not limited to, the entrance to the Property located off of U. S. Highway 76, and the streets and roads within the Property. Nothing herein shall be construed as to create any obligation for Declarant to construct any improvements on the Common Area. The Common Area shall not include the Club, the Golf Course or the Additional Property unless the Declarant so designates such property by a recorded amendment to this Declaration.

Section 11. "Common Expenses" shall mean and refer to the actual and estimated expenses of operating the Association and the Community, including reasonable capital reserves, all as may be imposed hereunder and found to be necessary or appropriate by the Board pursuant to this Declaration, the Bylaws and the Articles of Incorporation.

Section 12. "Community" shall mean and refer to the residential development on the Property known as "Kingwood" and all of the Additional Property that could be subjected to the terms of this Declaration.

Section 13. "Community-Wide Standard" shall mean and refer to the standard generally prevailing in the Community for conduct, maintenance, architectural and design standards and other

matters as determined by the Declarant for so long as the Class B membership continues to exist, and thereafter as determined by the Board. Such determination by the Board must, however, be consistent with the Community-Wide Standard established by the Declarant.

Section 14. "Conversion Date" shall have the meaning ascribed to it in Section 3 of Article IV of this Declaration.

Section 15. "Declarant" shall mean and refer to Killearn, Inc., a Georgia corporation and its successors and assigns; provided, any recorded instrument must specifically designate that such successor or assign is to become the "Declarant" hereunder. Upon the designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Property, there shall only be one Person entitled to exercise the rights and powers of the "Declarant" hereunder at any time.

Section 16. "Design Review Board" or "DRB" shall mean and refer to the governing body empowered in accordance with Section 1 of Article IX of this Declaration.

Section 17. "Golf Course" shall mean and refer to the property on which a golf course and all related facilities thereto are located in the vicinity of the Property and which is part of the Club. Neither the Association nor any Owner or his or her family members shall have any rights in or to the Golf Course by virtue of this Declaration.

Section 18. "Improvement" shall mean and refer to any Residential Unit, driveway, parking area, fence, wall, recreational equipment, playhouse, play equipment, pool, steps, landscaping, lighting, signage, excavation, ditch, diversion, berm or any other thing or device that alters the flow of water, and all other structures, improvements or landscaping material of any kind and type placed, erected or constructed on a Lot.

Section 19. "Lot" shall mean and refer to a platted portion of the Property, other than Common Area, intended for independent use or ownership. Lots shall be shown on the plats of survey filed in the Rabun County, Georgia records. The term "Lot" shall include within its meaning, unless otherwise specifically stated, a condominium unit and a designated portion of the Property intended for use and occupancy by a single household which is not included within a condominium regime (i.e., a detached house, a townhouse, a cluster home or other similar accommodation).

Section 20. "Member" shall mean and refer to a Person that is a member of the Association as provided in this Declaration.

Section 21. "Modifications Committee" shall mean that certain committee of the Association empowered in accordance with Section 3 of Article IX of this Declaration.

Section 22. "Mortgage" shall mean and refer to a deed to secure debt, deed of trust, mortgage or similar instrument used for the purpose of conveying or encumbering real property as security for the payment of an obligation.

Section 23. "Mortgagee" shall mean and refer to the holder of a Mortgage.

Section 24. "Multi-Family Residential Unit" shall mean and refer to a condominium unit or townhouse within a building or structure containing two or more dwellings designed for single family residential use and occupancy.

Section 25. "Owner" shall mean and refer to the record owner of a Lot which is part of the Property within the Community, but excluding (i) any Person holding an interest in a Lot merely as security for the performance or satisfaction of an obligation; (ii) contract purchasers, and (iii) any governmental authority which holds title as a result of a dedication by Declarant. When the term Owner is used, it shall include all Builders unless otherwise stated.

Section 26. "Person" shall mean and refer to any natural person, corporation, joint venture, partnership (general or limited), association, trust or other legal entity.

Section 27. "Residential Unit" shall mean and refer to any building, structure or improvement on any Lot intended for use and occupancy as a dwelling and all appurtenances thereto, including, but not limited to, all garages, porches, balconies, accessory structures, decks, overhangs, foundations, and extensions or projections therefrom. When the term Residential Unit is used, it shall include a Multi-Family Residential Unit unless otherwise stated.

Section 28. "Rules and Regulations" shall mean and refer to those rules and regulations promulgated by the Board pursuant to this Declaration and the Bylaws, as such rules and regulations may be amended from time to time.

ARTICLE II.

Development

Section 1. Development of Property. The Property, and any right, title or interest therein, shall be owned, held, leased, sold and conveyed by Declarant, any Record Owner and any subsequent owner subject to this Declaration and the covenants, conditions, restrictions, easements, charges and liens set forth herein. All Lots within the Property shall be restricted exclusively to residential use. Until Buildout, Declarant shall have the right, but not the obligation, to make improvements and changes to the Common Area and all Lots owned by Declarant, including, without limitation, construction of improvements to the Common Area, changes in the location, configuration or boundaries of any Lots owned by Declarant or the Common Area and installation of any water, sewer or other utility or drainage systems or facilities.

Section 2. Development of Additional Property. Declarant hereby reserves the right, option and privilege (but not the obligation), to be exercised in its sole discretion, to submit the Additional Property to the provisions of this Declaration and to develop Residential Units thereon. All of the Additional Property may be submitted at once or in smaller parcels from time to time, and not all of the Additional Property may be submitted to this Declaration. This option, right and privilege may be exercised only by Declarant in accordance with the terms, conditions and limitations set forth in Article VII, below.

Section 3. Designation of Lots. Declarant shall have the unilateral right and power to subdivide all or any portion of the Property and the Additional Property owned by Declarant into Lots, without the joinder or consent of any other Person. The Declarant shall exercise such right and power from time to time by causing an appropriate plat or plats to be prepared for the Lots which Declarant desires to designate as such and by filing such plat or plats for public record in the Office of the Clerk of the Superior Court of Rabun County, Georgia.

Section 4. Zoning. Declarant shall have the right and power to change the zoning of all or any portion of the Property owned by Declarant in such a manner as Declarant deems appropriate for the overall development of the Property. No Owner, other than Declarant, shall apply for any change in zoning, including variances, of any portion of the Property, owned by such Owner unless such zoning change, including variances, are approved in writing by Declarant through the date of Buildout and thereafter by the Board. Any such zoning change, including variances, shall not affect the use restrictions contained in this Declaration which shall control over any uses permitted by any such zoning or variance change; provided, however, nothing in this Declaration shall give or be deemed to give either to Declarant or any Owner the right or power to use any portion of the Property in a manner which would violate applicable zoning ordinances, rules or regulations.

ARTICLE III.

Property Rights

Section 1. General. Each Lot shall for all purposes constitute real property which shall be owned in fee simple and which, subject to the terms of this Declaration, shall be conveyed, transferred and encumbered the same as other real property. The ownership of each Lot shall include, and there shall pass with the title to each such Lot as an appurtenance thereto, whether or not separately described, all rights and obligations of a Member in the Association as set forth herein. The Declarant, the Association and their respective employees, agents, successors and assigns shall have the right at all reasonable times to enter upon all parts of the Property, without being deemed to have committed a trespass or wrongful act, to carry out of the provisions of this Declaration.

Section 2. Easement of Enjoyment. Every Owner shall have a right and easement of ingress and egress in, over, across and through the Common Area, and a right of use and enjoyment in, to and of his or her Lot and the Common Area, subject to the terms of this Declaration. Such rights and easements may be exercised by each Owner and their respective family members, licensees, guests and invitees, subject to the Rules and Regulations as may be adopted by the Board of Directors from time to time. An Owner may assign to a tenant of his Lot all such rights and easements so that the tenant, and his family members and guests shall be entitled to use and enjoy the Common Area on the same basis as the Owner acting as landlord. The foregoing rights and easements shall be appurtenant to and shall pass with title to every Lot. The foregoing rights and easements shall be subject to the following easements, reservations, rights and provisions, which are expressly reserved hereby:

(a) The right of the Board to charge reasonable admission or other fees for any nonstandard use, as determined by the Board in its sole discretion, of any portion of the Common Area, including, without limitation, swimming pools, tennis courts and other recreation areas as may exist; to limit the number of guests of an Owner who may use the Common Area; to allow persons who are not Members of the Association to use the Common Area on a regular or temporary basis and to charge or not charge a user fee therefore; and to provide for the exclusive use and enjoyment of specific portions of the Common Area at certain designated times by an Owner, his family members, guests, licensees and invitees;

(b) The right of the Association to suspend the voting rights of an Owner and the right to use the Common Area for any period during which (i) any assessment duly assessed hereunder remains unpaid and (ii) any infraction of the terms of this Declaration, the Bylaws or the Rules or Regulations remain uncorrected or uncured and for an additional period thereafter not to exceed thirty (30) days;

(c) The right of the Board to promulgate reasonable Rules and Regulations governing the use of the Common Area and the Lots, and the conduct of Owners and their family members, guests,

licensees, and invitees thereon, and to impose reasonable fines, upon notice, for any violation or infraction of the Rules and Regulations as determined by the Board in its sole discretion;

(d) The right of the Declarant, without any vote or consent from the Owners, to install and maintain guarded or electronically monitored gates within the Property and to impose rules, regulations and procedures intended to control vehicular and pedestrian access to and from the Property; provided nothing herein shall prevent reasonable access to any Lot; and

(e) The right of the Declarant, until Buildout, and thereafter the Association to dedicate, transfer or grant permits, title, licenses or easements in and to the Common Area to government authorities or third parties for utilities, roads and other purposes reasonably necessary or useful for the proper development, maintenance or operation of the Property.

Section 3. Easement for Construction/Maintenance. Declarant hereby reserves, in addition to any other easement reserved elsewhere in this Declaration, the perpetual, alienable and transferable easement and right for the benefit of Declarant and its successors and assigns and, subject to regulation by Declarant, for the benefit of Builders, to use and to enter upon and travel over and across the Property and Common Area for the purpose of the construction, maintenance and repair of Improvements and for all reasonable purposes to further assist and enhance the marketing, construction and sale of the Property, including Lots or Residential Units and for the maintenance of signs, sales offices, construction offices, business offices and such other facilities as the Declarant, in its sole discretion, may deem necessary or required in connection with the construction, maintenance, repair, improvement and/or marketing and sale of the Property, including Lots and Residential Units. Any damage to the Common Area and any Lot or Residential Unit arising during the use of the foregoing easement shall be repaired by the person who caused the damage.

Section 4. Easement for Golf Course/Club. Declarant hereby reserves, in addition to the other easements reserved in this Declaration, the perpetual, alienable and transferable easement and right for the benefit of Declarant and its successors and assigns and, subject to regulation by the Declarant, for the benefit of the Golf Course, the Golf Course property, the Club and the Club property, and the owner, guests, licensees, invitees and members of the Golf Course and the Club, to enter upon and travel over, under, across and through the Property and the Common Area for the purpose of ingress and egress to and from the Golf Course and the Club and for all other purposes, as determined by Declarant in its sole discretion, to accommodate the use and enjoyment of the Golf Course or the Club and all facilities related thereto or the construction, maintenance, repair, development and operation of the Golf Course or the Club and all facilities related thereto.

Section 5. Easement for Golf Carts and Golf Cart Paths. Declarant hereby reserves, in addition to the other reserved easements in this Declaration, the perpetual, alienable and transferable easement and right for the benefit of Declarant and its successors and assigns and, subject to regulation by the Declarant, for the benefit of the Golf Course, the Golf Course property, the Club, the Club Property and the owner, guests, licensees, invitees and members of the Golf Course and the Club, to enter upon and travel over, under, across and through the Common Area for the purpose of ingress and egress to and from the property upon which the Golf Course or the Club and all facilities related thereto are located, whether by foot, by golf cart or any other means and for the purpose of the construction, maintenance and repair of golf cart pathways that may now or hereafter be located on portions of the Common Area, as decided by Declarant in its sole discretion, so long as the location of any such golf cart pathways does not unreasonably interfere with the use and enjoyment of the Common Area by the Members of the Association.

SECTION 6. Easement for Association. There is hereby reserved for the benefit of the Association and its officers, directors, agents and employees a general right and easement to enter upon any Lot or portion thereof in the performance of their respective duties under the Declaration, the Bylaws or the Rules and Regulations. Except in the event of emergencies, this right and easement shall be exercised only during normal business hours and, whenever practical, only upon advance notice of the Owner of the Lot directly affected thereby.

Section 7. Easement for Maintenance/Repair. There is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns, the perpetual, alienable and transferable easement and right to enter upon any Lot for the purpose of mowing, removing, clearing, cutting or pruning landscape, grass, underbrush, leaves, trees, stumps or other unsightly growth or condition and removing trash located thereon, and to exercise any other rights of maintenance or repair provided in this Declaration so as to maintain the Community-Wide Standard and the reasonable standards of health, fire, safety and aesthetic appearance within the Community; provided that such easement shall not impose any duty or obligation upon the Declarant or the Association to perform any such act.

Section 8. Easement of Encroachment. If any portion of any improvement constructed on the Common Area encroaches upon any Lot, or if any Improvement constructed upon a Lot encroaches upon the Common Area, as a result of construction, shifting, settlement or natural movement, a valid easement for the encroachment and for the maintenance of the encroachment shall exist so long as the encroachment exists; provided, however, if any Improvement on any Lot or any improvement on the Common Area is knowingly and willfully constructed so as to encroach, respectively, on a Lot or the Common Area to an extent greater than five (5) feet, no such easement shall exist.

Section 9. Easement for Utilities, Etc. There is hereby reserved to the Declarant until Buildout and thereafter the Association, by and through the Board, the right and privilege to grant easements upon, over, across, under and through the Property and Common Area for ingress, egress, installation, replacement, repairing and maintaining master television antenna or cable systems, security and similar systems, walkways and utilities serving the Property, the Additional Property, the Common Area, the Golf Course or the Club including but not limited to, water, sewer, telephone, gas, electrical, storm sewers and drainage systems; provided this easement shall not unreasonably impair the ability of any Owner to construct or install any Improvement on his or her Lot or to cause physical, nonrepairable damage to any Improvement on any Lot. To the extent possible, all utility lines and facilities shall be located underground. It shall be expressly permissible for the holder of the easement, with respect to the portion of the Property or Common Area so encumbered, (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities, (ii) to cut and remove trees, bushes, shrubbery or other landscaping, (iii) to grade, excavate or fill, or (iv) to take any other action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and facilities; provided, however, that the holder of any such easement shall take reasonable actions to repair any damages caused during the exercise of any rights granted under such easement.

Section 10. Easement for Government Services. Declarant hereby grants to Rabun County, Georgia or such other governmental authority or agency as shall have from time to time jurisdiction over the Property with respect to law enforcement, fire protection and other emergency and governmental services the perpetual, alienable and transferable easement and right to enter upon and over, under, across and through all of the Property, including all Lots and Common Area, for the purpose of performing such duties and activities as such authority or agency shall be required to perform or as may be appropriate from time to time under applicable law or circumstances.

Section 11. Easement for Golf Course Use. There is hereby reserved for the benefit of the Declarant and the owners, members, guests, licensees and invitees of the Golf Course, the Golf Course property, the Club and the Club property the perpetual, transferable and alienable easement and right to enter upon and over, under, across and through each Lot which abuts or is otherwise contiguous to the Golf Course, the Club and the Common Area to permit the doing of every act and thing reasonably necessary and proper in connection with the playing of golf on the Golf Course. It is hereby acknowledged and agreed that the playing of golf on the Golf Course shall include, but not be limited to the recovery of golf balls from such Lots and the Common Area, the flight of golf balls over, through and upon such Lots and the Common Area, the use of necessary and usual golf equipment on such Lots and the Common Area, the usual and common noise level created by the playing of the game of golf on or near such Lots and the Common Area, and the maintenance and operation of the Golf Course or the Club. From and after the date this Declaration is recorded, no Improvement, including specifically fences, shall be constructed on any Lot which abuts or is otherwise contiguous to the Golf Course or the Club property or upon the Common Area within a fifty (50) foot area measured from the boundary line of each such Lot or the Common Area as separates such Lot or Common Area from the Golf Course or the Club property to a line running parallel thereto and being located fifty (50) feet into the interior of each such Lot or the Common Area. The foregoing easement on any Lot or the Common Area may be increased or decreased by Declarant as shown on any plat recorded in the Rabun County, Georgia records prior to the conveyance of such Lot or the Common Area to a Person other than Declarant, affiliates of Declarant or a Builder.

Each Owner hereby releases and discharges, and agrees to defend and hold harmless, the Declarant, the owner of the Golf Course and the Club and their successors, officers, directors, members and assigns from any and all claims, actions, damages, including personal injury, death or property damage which arises from, relates to or is in any way connected with the use and enjoyment of the Golf Course including, specifically, damage caused by a golf ball.

Section 12. Easement for Ponds, Lakes, Creeks and Water. Declarant hereby reserves, in addition to the other easements reserved in this Declaration, the perpetual, alienable and transferable easement and right for the benefit of Declarant and its successors and assigns, and subject to regulation by the Declarant, for the benefit of the Golf Course, the Golf Course property, the Club, the Club property, and the owners, guests, licensees, invitees and members of the Golf Course or the Club, to use, remove and enjoy any pond, lake, creek and other water as might now or hereafter exist on or flow under, over, through or across the Property or the Common Area for the purpose of irrigation of the Golf Course, the Golf Course property, the Club and the Club property and to construct, repair and maintain on the Property and the Common Area any improvements or facilities necessary to assist with such irrigation use and to maintain any such pond, lake, creek or water as may, in the discretion of Declarant, be necessary in connection with such irrigation use.

ARTICLE IV

Association Membership and Voting Rights

Section 1. Membership. Subject to Section 2 of this Article, every person who is the record owner of a fee or undivided fee interest in any Lot which is subject to this Declaration shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any such Lot, and ownership of a Lot which is subject to this Declaration shall be the sole requirement for such membership. In the event that fee title to such a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. The foregoing is not intended to include any person who has an interest in a Lot merely as a tenant in common.

security for the performance of an obligation; and the giving of a Mortgage in a Lot shall not terminate the grantor's membership in the Association.

Section 2. Multiple Owners. No Owner, whether one or more person, shall have more than one membership per Lot; provided, however, multiple use rights for multiple ownership of a Lot shall exist subject, however, to the right of the Board to regulate and limit use by multiple Owners. Each Owner, by acceptance of a deed or other conveyance of a Lot, consents and agrees to the dilution of his or her voting interest in the Association by virtue of the submission from time to time of Additional Property as set forth herein. The rights and privileges of membership, including the right to vote, may be exercised by a Member, the Member's spouse or other family member.

Section 3. Voting. The Association shall have two (2) classes of membership, Class A and Class B.

(a) Class A. Class A Members shall be all Owners, including Builders, with the exception of the Class B Member. Class A Members who own a Lot designated for the construction of a Residential Unit, excluding a Multi-Family Residential Unit, shall be entitled to cast one vote for each such Lot in which they hold the interest required for membership in Section 1, above, while Class A Members who own a Lot designated for the construction of a Multi-Family Residential Unit, shall be entitled to cast a vote equal to one half (1/2) of the vote entitled to be cast by Class A Members who own a Lot designated for the construction of a Residential Unit excluding a Multi-Family Residential Unit. If more than one (1) person holds an interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine. In the event that more than one of such multiple Owners seeks to exercise the vote and such Owners cannot agree on how to cast the vote, the vote appurtenant to such Lot shall not be counted.

(b) Class B. The Class B Member shall be the Declarant. Prior to the Conversion Date, the Class B Member shall be entitled to cast votes equal to three (3) times the total number of then existing votes eligible to be cast by the Class A Members. The Class B membership shall terminate upon the first to occur of the following events (hereinafter the "Conversion Date"):

(i) ninety (90) days after the Declarant has sold ninety-five percent (95%) of the Lots as are contemplated to be a part of the Community on the master plan thereof, inclusive of lots not yet subdivided pursuant to Section 3 of Article II above, to Owners other than the Declarant, affiliates of Declarant, or Builders;

(ii) twenty (20) years after the date this Declaration is recorded; or

(iii) the date on which the Declarant, in its sole discretion, chooses to terminate the Class B membership by filing of record with the Clerk of the Superior Court of Rabun County, Georgia a written notice that the Class B membership has terminated.

From and after the Conversion Date, the Class B Member shall be deemed to be a Class A Member entitled to one (1) vote for each Lot in which its holds the interest required for membership under Section 1, above.

Section 4. Declarant Control. Notwithstanding any other provision to the contrary in this Declaration, the Bylaws or Articles of Incorporation, Declarant retains the authority and right to appoint and remove any member of the Board of Directors and any officer of the Association until the Conversion Date. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such

interest, agrees that the Declarant shall have the authority to appoint and remove members of the Board of Directors and officers of the Association until the Conversion Date.

ARTICLE V.

Association Powers and Responsibilities

A. IN GENERAL.

Section 1. Common Area. The Association, subject to the rights, easements and privileges set forth in this Declaration, shall be responsible for the management and control of the Common Area and all improvements thereon and shall keep the Common Area in good repair and in a clean and attractive condition. The Association shall maintain, operate and preserve the Common Area for the good and benefit of the Community and the Members as herein provided. The Association, through action of its Board of Directors, may acquire, hold and dispose of all property owned by the Association, whether tangible or intangible, real or personal property.

Section 2. Services. The Association may pay for the services of any person or entity to manage its affairs or the Common Area as the Board of Directors deems necessary or desirable for the proper operation of the Community. Such personnel may be furnished or employed directly by the Association or by any person or entity with which it contracts. The Association may obtain and pay for legal, accounting and any other professional services necessary or desirable in connection with the operation of the Community or the enforcement of this Declaration, the Bylaws and Rules and Regulations. The Association may, but shall not be required to, arrange as an Association expense to furnish trash collection, security, cable television and other common services to each Lot within the Community. All costs and expenses incident to any of the foregoing shall be a Common Expense.

Section 3. Power to Contract. The Association may, acting through its Board of Directors, contract with any other residential or commercial association or neighborhood adjacent to the Community to provide services and/or perform services on behalf of such other association or neighborhood. The Association may, acting through its Board of Directors, contract with any governmental division, department or agency for the provision of services to the Association or its Members.

Section 4. Rules and Regulations. The Association, acting through its Board of Directors, may promulgate Rules and Regulations governing the use and occupancy of the Lots and all Improvements located thereon, and use and operation of the Common Area. Copies of the Rules and Regulations and any changes thereto must be furnished by the Association to all Owners prior to their effective date. The Rules and Regulations shall be binding upon all Owners and their family members, tenants, guests, licensees, invitees and agents. The Owner of each Lot shall be responsible for the conduct of his family members, tenants, guests, licensees, invitees and agents and shall ensure that all of the foregoing individuals comply with the terms of this Declaration, the Bylaws and the Rules and Regulations. The Association, acting by and through its Board of Directors, shall be empowered to impose and assess fines and temporarily suspend voting rights and the right of use of certain of the Common Areas and services paid for as a Common Expense in order to enforce compliance with the Rules and Regulations of the Association, this Declaration and the Bylaws; provided, however, that no such suspension shall deny an Owner, or any occupant of a Lot, access to the Lot owned or occupied.

B. MAINTENANCE.

Section 1. Association Responsibility. The Association shall maintain and keep in good repair the Common Area, the cost of which shall be assessed as a part of the Common Expenses as determined by the Board of Directors in accordance with this Declaration. Maintenance by the Association shall include, but not be limited to, maintenance, repair and replacement of all landscaping and improvements situated on the Common Area. The Association shall not be liable for any injury or damage to any person or property (a) caused by the elements, (b) caused by any Owner or any third party, or by their respective family members, guests, invitees, licensees, successors or assigns, (c) resulting from any rain or surface water which may leak or flow from any portion of the Common Area, or (d) caused by the failure of the Association to maintain the Common Area, unless such failure is caused by the willful misconduct or gross negligence of the Association. The Association shall not be liable to any Owner for any loss or damage, by theft or otherwise, of any property of such Owner or his respective family members, guests, invitees, licensees, successors or assigns. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for the inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or governmental authority, it being acknowledged by each Owner that the obligation to pay assessments pursuant to this Declaration is a separate and independent covenant on the part of each Owner.

Section 2. Owner's Responsibility. Each Owner shall maintain or cause to be maintained his Lot and all Improvements thereon, including his Residential Unit, in good, clean and attractive condition and repair, subject to this Declaration and the Rules and Regulations, and in a manner which is consistent with the Community-Wide Standard. Such maintenance shall include, without limitation, prompt removal of all litter, trash, refuse and waste; reasonable maintenance, repair and replacement of all his Improvements and all exterior portions of his Residential Unit; tree and shrub pruning; watering of landscaped areas; keeping lawn and gardening areas alive, and in attractive condition; keeping driveways in good repair; and complying with all governmental health, building and safety ordinances.

In the event the Board of Directors determines that (i) any Owner has failed or refused to properly discharge his obligations under this Section 2, or (ii) the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused by the willful or negligent act of an Owner or his family members, tenants, guests, licensees or invitees, the Association, except in the event of an emergency situation, shall give the Owner written notice of the Association's intent to provide such maintenance, repair or replacement, at such Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary and shall give the Owner ten (10) days within which to complete such maintenance, repair or replacement, or, in the event such maintenance, repair or replacement is not capable of completion within a ten (10) day period, to commence such work within such ten (10) day period and to complete such work within a reasonable time. If an Owner does not comply with the provisions hereof, the Association may provide such maintenance, repair or replacement at the sole cost and expense of the Owner, and all costs and expenses incurred by the Association shall become part of the assessment for which such Owner is personally liable and shall become a lien against such Owner's Lot.

C. INSURANCE AND CASUALTY OR LIABILITY LOSSES.

Section 1. Insurance. The Board of Directors shall have the authority to obtain insurance for some or all of the insurable improvements on the Common Area against loss or damage by fire or other

hazards, including extended coverage, vandalism and malicious mischief. This insurance should be in an amount sufficient to cover the full cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The Board shall obtain a public liability policy applicable to the Common Area covering the Association, its officers, directors, members and agents. The public liability insurance shall have coverage in the amount of at least One Million Dollars (\$1,000,000.00) per occurrence for bodily injury or property damage and Two Million Dollars (\$2,000,000.00) of aggregate coverage. The cost of all such insurance coverage shall be a part of the Common Expenses of the Association. Each insurance policy may contain a reasonable deductible, which shall be paid by the Association.

All such insurance coverage obtained by the Association shall be written in the name of the Association for the benefit of all Owners. The Board shall use reasonable efforts to obtain policies written by a company licensed to do business in Georgia, having at least an B+ rating as established by A.M. Best Company, Inc. or the most nearly equivalent rating. All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if reasonably available. The Board of Directors shall use reasonable efforts to secure insurance policies that provide a waiver of subrogation by the insurer as to any claims against the Board of Directors, the Owners and their respective family, tenants, guests, invitees, licensees, and agents and a waiver of the insurer's right to cancel without first giving thirty (30) days prior written notice of such cancellation to the Association.

In addition to other insurance required by this Section, the Board shall obtain, as a Common Expense, workers compensation insurance, if and to the extent necessary, and a fidelity policy or bond on officers, directors, employees and other persons handling or responsible for the Association's funds. The amount of all such coverage shall be determined by the Board of Directors, using its best business judgment.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed in payment of any repair or reconstruction covered by such insurance and required to be made hereunder. Unused proceeds shall be retained by and for the benefit of the Association.

Section 3. Damage and Destruction.

(a) Immediately after any Common Area is damaged or destroyed by fire or other casualty, the Board of Directors shall proceed with the filing and adjustment of all claims arising under any available insurance and shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction means repairing and restoring the property to substantially the same condition in which it existed prior to the fire or other casualty.

(b) Any damage or destruction to the Common Area shall be repaired or reconstructed unless the Declarant and, after the Conversion Date, at least seventy-five percent (75%) of the total vote of the Association shall decide within sixty (60) days after the casualty not to repair or reconstruct. If reliable and detailed estimates of the cost of the repair or reconstruction or if the amount of insurance proceeds available as a result of such damage or destruction is not available within such sixty (60) day period, then the period shall be extended until such information shall be made available. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

(c) In the event that it should be determined that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the Common Area affected by such damage or destruction shall be restored to its natural state and maintained as an undeveloped portion of the Common Area.

Section 4. Insufficient Insurance Proceeds. If the damage or destruction for which the insurance proceeds are paid are not sufficient to defray the cost of the required repair or reconstruction, and if the Board determines that the funds in the capital reserve accounts are not sufficient to cover such insurance deficiency, then the Board of Directors shall, without the necessity of a vote of the Owners, levy a special assessment against all Owners, calculated according to their assessment obligation, or a specific assessment against Owners of certain Lots as provided in Section 5 of Article VIII hereof, and such assessment shall be used to complete the required repair or reconstruction.

Section 5. Damage to Lots. By virtue of taking title to a Lot, each Owner covenants and agrees to carry or caused to be carried all risk casualty insurance on all Improvements constructed or placed on his Lot. Each Owner further covenants and agrees that in the event of a partial loss, damage or destruction resulting in less than total destruction of any Improvement located on any Lot, such Owner shall promptly proceed to repair or reconstruct the damage in a manner consistent with the aesthetic appearance and quality of the original construction and with the Community-Wide Standards. In the event that any Improvement is totally destroyed or rendered uninhabitable or unusable, the Owner shall repair or rebuild such Improvement to substantially the same condition as it existed prior to such damage and in accordance with all applicable standards, restrictions and provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such repair and reconstruction shall be commenced promptly following such damage and shall be carried through diligently to conclusion within a reasonable time. If all or any part of the Common Area shall be taken (or conveyed in lieu of and under the threat of condemnation) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association, for the benefit of all of the Owners. If the taking involves a portion of the Common Area on which improvements have been constructed and that the taking occurs prior to the Conversion Date, the Declarant shall have the right, in its sole discretion, to decide whether the Association shall restore or replace such improvements on the remaining Common Area. If the taking involves a portion of the Common Area on which improvements have been constructed and such taking occurs after the Conversion Date, then the Association shall, if possible, restore or replace such improvements so taken on the remaining Common Area unless seventy-five percent (75%) of the Members of the Association vote at a meeting duly called not to restore or replace such improvements, and, until Buildout the Declarant likewise agrees not to restore or replace such improvements. If the improvements are to be repaired or restored, the funds received by the Association shall be disbursed in the same manner as funds are disbursed for casualty damage or destruction as provided above. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such awarded funds or remaining funds shall be deposited to the benefit of the Association.

ARTICLE VI.

Condemnation

If all or any part of the Common Area shall be taken (or conveyed in lieu of and under the threat of condemnation) by any authority having the power of condemnation or eminent domain, the award made for such taking shall be payable to the Association, for the benefit of all of the Owners. If the taking involves a portion of the Common Area on which improvements have been constructed and that the taking occurs prior to the Conversion Date, the Declarant shall have the right, in its sole discretion, to decide whether the Association shall restore or replace such improvements on the remaining Common Area. If the taking involves a portion of the Common Area on which improvements have been constructed and such taking occurs after the Conversion Date, then the Association shall, if possible, restore or replace such improvements so taken on the remaining Common Area unless seventy-five percent (75%) of the Members

of the Association vote at a meeting duly called not to restore or replace such improvements, and, until Buildout the Declarant likewise agrees not to restore or replace such improvements. If the improvements are to be repaired or restored, the funds received by the Association shall be disbursed in the same manner as funds are disbursed for casualty damage or destruction as provided above. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are funds remaining after any such restoration or replacement is completed, then such awarded funds or remaining funds shall be deposited to the benefit of the Association.

ARTICLE VII.

Annexation of Additional Property

Section 1. Unilateral Annexation by Declarant. As the owner thereof or, if not the owner, with the written consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time until twenty (20) years after the recording of this Declaration to subject all or a part of the Additional Property to the provisions of this Declaration and the jurisdiction of the Association by filing of record an amendment to this Declaration describing that part of the Additional Property being annexed. Any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein. Any property so annexed shall thereafter be a part of the Community and a part of the Property for all purposes under this Declaration. The Declarant may unilaterally amend this Declaration to reflect a different character of any Additional Property so annexed and to specify any specific use restrictions or other covenants, conditions or restrictions applicable to such annexed property. No consent or vote of the Members shall be required to annex any of the Additional Property. The rights reserved to Declarant to subject any of the Additional Property to this Declaration shall not impose any obligation upon Declarant to actually subject any of the Additional Property to this Declaration or the jurisdiction of the Association. Additional Property annexed to this Declaration shall become part of the Property.

Section 2. Other Annexation. Subject to the consent of the Owner thereof and, until Buildout has occurred, with the consent of the Declarant, upon the affirmative vote or written consent of Members representing a majority of the total Association vote, the Association may annex real property to the provisions of this Declaration to become a part of the Community and the Property and subject to the jurisdiction of the Association by filing of record an amendment to the Declaration describing the property being annexed. Any such amendment to the Declaration shall be signed by the president and secretary of the Association and the Declarant, if Buildout has not yet occurred, and any such annexation shall be effective upon the filing of record of such amendment to the Declaration, unless otherwise provided therein.

Section 3. Withdrawal of Property. So long as the Conversion Date has not yet occurred, Declarant reserves the right to amend this Declaration unilaterally at any time, without prior notice and without the consent or joinder of any Person, for the purpose of removing certain portions of the Property then owned by the Declarant or its affiliates or the Association from the provisions of this Declaration to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community desired to be effected by the Declarant.

ARTICLE VIII.

Assessments

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

Section 2. Creation of Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, in accordance with the provisions hereof, (a) general assessments as herein provided; (b) special assessments as herein provided; and (c) specific assessments against any particular Lot established pursuant to the terms of this Declaration. All such assessments, together with late charges set by the Board, simple interest at the rate of eighteen percent (18%) per annum, costs of collection and reasonable attorney's fees actually incurred, shall be a charge on and a continuing lien against each Lot against which each assessment is made. Each such assessment, together with the late charges, interests, court costs and attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment became due and his grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, that if the Owner or grantee shall request a statement from the Association as provided in Section 13 of Article XII, such grantee and his or her successors, successors in title and assigns shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments against such Owner in excess of any amount set forth in the statement. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of the annual assessment for Owners who are delinquent in the payment of such assessments. Unless otherwise provided by the Board, assessments shall be paid in annual installments. Any first Mortgagee who obtains title to a Lot pursuant to the remedies provided in a first Mortgage will not be liable for any unpaid assessments which accrued prior to the acquisition of title to the Lot by the first Mortgagee.

Section 3. Computation of General Assessment. It shall be the duty of the Board to prepare a budget covering the estimated cost of operating the Association during the coming year. The budget may include a capital reserve contribution in accordance with a capital budget that may be separately prepared by the Board. The general assessment levied against each Multi-Family Residential Unit shall be one-half (1/2) of the general assessment levied against each Residential Unit other than a Multi-Family Residential Unit. Board shall cause a copy of the budget and the general assessment against each Residential Unit to be levied therefrom to be mailed to each Owner at least thirty (30) days prior to the date on which the budget will become effective. The budget and general assessment established therefrom shall be and become effective unless a written statement of disapproval executed by Members representing at least a majority of the total Association vote is delivered to the Board no later than seven (7) days prior to the effective date of the proposed budget. Notwithstanding the foregoing, in the event that the membership disapproves the proposed budget or the Board fails for any reason to so determine the budget for the succeeding year, then and until such time as a budget shall have been determined by the Board, the budget and assessments in effect for the current year shall continue for the succeeding year. For fiscal year 1999, the Board shall prepare the required budget as soon as is practical after this Declaration is recorded and the assessments due for 1999 shall commence on the date such budget is determined for 1999.

Section 4. Special Assessments. In addition to other assessments authorized herein, the Association may in its discretion levy special assessments against the Owners of Lots in any year for the purpose of paying the costs of unexpected maintenance, repairs or replacement of the Common Area or the cost of other unanticipated expenses, needs or obligations of the Association incurred or projected to be incurred in the performance of its obligations in this Declaration; provided that any such assessment shall have the approval of at least two-thirds (2/3) of the total Association vote and the Declarant until the Conversion Date has occurred and Owners of Lots on which Multi-Family Residential Units exist shall pay one-half (1/2) of any special assessment levied hereunder against Owners of Lots on which Residential Units other than Multi-Family Residential Units exist.

Section 5. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may specifically assess Lots for the following Association expenses, except for expenses incurred for the maintenance and repair of items which are the maintenance responsibility of the Association as provided herein:

(a) any Common Expense benefiting less than all of the Lots shall be specifically assessed equitably among the Lots so benefited, as determined by the Board of Directors;

(b) any Common Expenses occasioned by the conduct of less than all of the Owners or their family, guests, tenants, licensees, or invitees shall be specially assessed against the Owner of such Lots whose conduct, or the conduct of such Owners' family members, guests, tenants, licensees, or invitees occasioned any such Common Expenses; or

(c) any Common Expenses significantly disproportionately benefiting all of the Lots shall be assessed equitably among all of the Lots in the Community as determined by the Board of Directors.

Section 6. Lien for Assessments. All assessments assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs of collection and attorney's fees as provided herein, shall be secured by a lien on such Lot in favor of the Association. Such lien shall be superior to all other liens and encumbrances except for the lien for ad valorem taxes, the lien of any first Mortgage covering the Lot and the lien of any Mortgage recorded prior to the recording of this Declaration. The recording of this Declaration shall constitute record notice of the existence of the lien and the priority of the lien and no further recordation of any claim of lien for assessments shall be required. All Persons acquiring liens or encumbrances after this Declaration shall have been recorded shall be deemed to consent that such liens and encumbrances, except as otherwise provided herein, shall be subordinate to the lien created by this Declaration.

Section 7. Nonpayment of Assessments. Any assessment levied pursuant to this Declaration which is not paid within ten (10) days after it is due shall be delinquent and shall also include a late charge established by the Board of Directors, simple interest at the rate of eighteen percent (18%) per annum, all costs of collection, and reasonable attorney's fees actually incurred. Not less than ten (10) days after notice is sent by certified mail, return receipt requested, to the delinquent Owner at the address of the Lot, or at such other address designated in writing by such Owner, the lien in favor of the Association may be foreclosed by the Association by suit, judgment and foreclosure in the same manner as other liens for the improvement of real property. The notice shall specify the amount of the assessment then due and payable together with all late charges, interest and costs of collection, including attorney's fees. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, encumber and convey such Lot.

Except as stated herein, no Owner may waive or otherwise exempt himself or itself from liability for the assessments provided herein, including, but not limited to, non-use of the Common Areas or abandonment of a Lot. No diminution or abatement of any assessment or setoff shall be claimed or allowed by reason of any failure of the Association or the Board to take some action or perform some function required to be taken or performed by the Association or the Board hereunder, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance or with any order or directive of any governmental authority, it being acknowledged that the obligation to pay assessments is a separate and independent covenant on the part of each Owner.

Section 8. Fiscal Year. The fiscal year of the Association shall begin on January 1 of each year and shall end on December 31 of the same year.

Section 9. Budget Deficit Prior to Conversion Date. Until the Conversion Date and in lieu of all assessments otherwise due on Lots owned by Declarant, affiliates of Declarant or Builders, Declarant may elect to loan to the Association, at a reasonable rate of interest, the difference between the amount of the assessments assessed against all Lots each fiscal year and the amount of actual expenditures required to operate the Association during each fiscal year exclusive of any capital reserve contributions made by the Association. In the event Declarant elects to make a loan to the Association to cover any such budget deficit incurred during a fiscal year, the loan by Declarant shall be in full satisfaction of and in lieu of payment of any assessment otherwise due from Declarant, affiliates of Declarant or Builders, regardless of whether the amount of such deficit is less than or equal to the assessments otherwise due by such parties.

Section 10. Commencement of Assessments. All assessments shall commence as to all Lots on the 30th calendar day after the subdivision of the Lot pursuant to Section 3 of Article II above; provided that neither the Declarant, nor affiliates of Declarant nor any Builder shall be obligated to pay any assessment levied against a Lot owned by Declarant, affiliates of Declarant or any Builder pursuant to this Declaration unless and until a Residential Unit is constructed on said Lot and the Residential Unit is occupied and all loans, together with interest thereon, from Declarant to the Association have been paid in full; and, provided, further that assessments as to Lots which comprise the Property as of the date this Declaration is recorded shall commence as of the recordation date of this Declaration.

ARTICLE IX.

Architectural Standards

Section 1. Creation of the Design Review Board. The Declarant shall establish and maintain a Design Review Board ("DRB") consisting of at least three (3) and no more than five (5) members. Until Buildout, Declarant shall appoint and remove, with or without cause all members of the DRB. After Buildout, the Board shall have the exclusive right and authority at any time, and from time to time, to appoint and remove members of the DRB with or without cause.

Section 2. Function of DRB. No Improvements shall be erected, constructed, placed, altered, remodeled, maintained or permitted to remain on any portion of the Property, including on any Lot, until plans and specifications, in such form and detail as the DRB may deem necessary, shall have been submitted to the DRB and approved by it in writing. The DRB shall have the authority to select and employ professional consultants to assist it in discharging its duties and the cost of such consultants, together with a reasonable fee to cover the administrative expense of the DRB, shall be paid by the Owner of any Lot for which plans and specifications have been submitted for approval. In addition, the DRB shall have the right to charge the Owner of any Lot a reasonable fee to cover any excessive wear and tear

to the Common Area that the DRB, in its sole discretion, decides could occur as a result of work performed pursuant to any submitted plans and a deposit which shall become property of the Association in the event such Owner violates the Declaration, the Bylaws or the Rules and Regulations in connection with the work performed pursuant to any submitted plans.

Section 3. Modifications Committee. Prior to Buildout, the Declarant, in its sole discretion, may form a modifications committee of not less than three (3) nor more than five (5) members (hereinafter "Modifications Committee"), who shall be members of the Association. The Modifications Committee shall have the authority of the DRB, and the DRB shall relinquish such authority, concerning the erection, construction, placement, alteration, remodeling or maintenance of any Improvement on any Lot owned by Persons other than Declarant, affiliates of Declarant or Builders. Declarant shall evidence the formation of a Modifications Committee by filing of record with the Clerk of the Superior Court of Rabun County, Georgia a written notice that Modifications Committee for the Association has been formed. The Modifications Committee shall be governed by and act consistent with all of the rights, obligations, terms, provisions and guidelines concerning and applicable to the DRB as set forth in this Article. After Buildout, the Modifications Committee shall automatically terminate and cease to exist, and all of the rights and powers granted to the Modifications Committee hereunder shall automatically revert to the DRB.

Section 4. Plans and Specifications.

(a) The DRB shall have the right to approve any submitted plans or specifications that are in compliance with this Declaration if the DRB reasonably determines that such plans and specifications are consistent with the Community-Wide Standards considering among other things, the following: (i) architectural character and nature, shape, color, size, material, location and kind of all proposed Improvements, taking in consideration the aesthetic quality of any Residential Unit with respect to height, form, proportion, volume, siting and exterior materials; (ii) adequacy of lot dimensions for proposed Improvements; (iii) conformity and harmony of exterior design with neighboring Lots and Improvements; (iv) relation of topography, grade and finished ground elevations to that of neighboring Lots and Improvements; (v) screening of mechanical and other installations; (vi) functional appropriateness with respect to vehicle handling, siting of buildings (both in relationship to one another and in relationship to buildings, existing or proposed, located on other Lots), drainage, utility service systems and lighting; (vii) extent and quality of landscaped areas; or (viii) compliance with the Community-Wide Standard.

(b) Prior to the commencement of work on Improvements on any Lot, the Owner of such Lot shall submit detailed information in writing regarding the proposed Improvements including site plans and a full set of final drawings and specifications (which shall be sealed and certified by duly licensed architect or engineer if so required by the DRB) (hereinafter the "Plans"), showing or stating all aspects of the proposed Improvements or modifications or alterations thereto including but not limited the following: (i) location of all structures, street rights-of-way and setback lines; (ii) location of all walks, driveways and curve lines; (iii) all landscaping, including location, height, spread, type and number of trees and shrubs and location and type of all ground cover and material, and existing trees and limits of clearing and grading; (iv) location, height, intensity and fixture type of all exterior lighting; (v) location, size and type of all fencing; (vi) architectural floor plans, elevation, wall sections and details of the Residential Unit; (vii) building material and color information, including samples if requested; and (viii) size and square footage and height of the Residential Unit or all other Improvements.

(c) Should the DRB fail either to approve or disapprove the Plans within thirty (30) days after submission in accordance with the terms of this Declaration, it shall be conclusively presumed that the DRB has approved the Plans. Approval of any Plans with regard to a Lot shall not be deemed to be a

waiver of the DRB's right, in its discretion, to disapprove similar plans and specifications, or any features or elements included therein, for any other Lot.

(d) If the approved work has not commenced within one (1) year from the date the Plans are approved, then the approval given pursuant to this Article shall be deemed to be automatically revoked by the DRB, unless the DRB extends the time for commencing work. In any event, all work covered by such approval shall be completed within twelve (12) months of the commencement thereof, except for such period of time as completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, critical material shortages or other intervening forces beyond the control of the Owner, unless the DRB extends the time for completion.

Section 5. Release of Liability. Each Owner hereby releases the Association, the Board of Directors, the DRB, the Declarant and the Modifications Committee, if and when formed, from any and all liability for (i) any defects in any plans and specifications submitted, revised or approved pursuant to the terms of this Declaration, (ii) any loss or damage to any Person arising out of the approval or disapproval of any such plans and specifications, (iii) any loss or damage arising from the noncompliance with such plans and specifications or any governmental ordinance or regulation, or (iv) any defects in work undertaken pursuant to such plans and specifications, regardless of whether such claim arises by reason of mistake in judgment, negligence or nonfeasance.

Section 6. Compliance with Law. All Improvements, including Residential Units, constructed, erected, placed, altered, remodeled, maintained or permitted on any Lot shall comply with any and all applicable federal, state, county and municipal zoning and building restrictions, including, but not limited to, grading, clearing, construction of impervious surfaces, building and other construction rules and regulations.

Section 7. Inspection. The DRB, or its designee, shall have the right during reasonable business hours to enter upon and inspect any Lot or Improvement to determine whether the approved Plans are being followed or adhered to. If the DRB shall determine that such Plans have not been approved or that the Plans are not being followed or adhered to, the DRB may in its discretion give the Owner of such Lot written notice of such violation. If such violation is not corrected within a reasonable time as determined by the DRB, the Board of Directors shall have the right to stop further work and/or require the removal or correction of any work in place that does not comply with the approved Plans, applicable building codes or this Declaration and to take such other action as may be allowed under this Declaration, the Bylaws or under applicable law. The DRB shall have the right to charge an inspection fee established by the DRB to cover its administrative costs and expenses.

Section 8. Interior Alterations. No Owner shall make any alterations or improvements to the interior of a Residential Unit on his Lot, remove any portion thereof, make any additions thereto, or do any thing that would change the exterior appearance of such Improvements without first submitting plans and specifications therefore and obtaining the written consent of the DRB pursuant to this Article. Any other interior alteration of any Improvement may be made by the Owner without first obtaining the approval of the DRB.

ARTICLE X.

Mortgagee Provisions

The following provisions are for the benefit of the holders of First Mortgages on Lots in the Community. To the extent applicable, necessary or proper, the provisions of this Article shall apply to both this Declaration and to the bylaws.

Section 1. Notice 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 identify specifically the Lot encumbered by the first Mortgage, thereby becoming an "eligible holder") will be entitled to timely written notice of: (a) any condemnation loss or casualty loss which affects a material portion of the Community or which affects a portion of the Lot on which there is a first Mortgage held; insured or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the first Mortgage of the eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, the Association may, without request from such eligible holder, provide notice of such delinquency to such first Mortgage; (c) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or (d) any proposed action which, under applicable law, would require the consent of eligible holders.

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

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

Section 4. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days after receipt of the Association's request.

ARTICLE XI

Use Restrictions

Section 1. General. This Article sets out certain use restrictions which must be complied with by all Owners and their respective families, tenants, guests, licensees and invitees. In addition, the Board may from time to time, without the consent of the Owners, adopt, modify or delete Rules and Regulations applicable to the Community as permitted under this Declaration.

Section 2. Residential Use. Except for development, sale and marketing activities carried on by the Declarant, affiliates of Declarant and Builders, each Lot shall be used for residential purposes only. No trade or business of any kind may be conducted in or from a Lot, except for business use ancillary to a primary residential use so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the Residential Unit; (b) the business activity does not involve Persons coming onto the Lots who do not reside in the Community or door-to-door solicitation of Owners of Lots; (c) the business activity conforms to all zoning requirements for the Lot; and (d) the business activities are consistent with the residential character of the Community and does not constitute a nuisance, a hazardous or offensive use, or threaten the security or safety of other Owners of Lots, as may be determined in the sole discretion of the Board of Directors.

Section 3. Play Equipment. Playhouses, treehouses, basketball goals, trampolines, hammocks, play structures and other recreational equipment constitute Improvements and are therefore subject to review and approval by the DRB in accordance with Article IX of this Declaration.

Section 4. Temporary Structures. Other than temporary structures as might be installed by Declarant, affiliates of Declarant or a Builder, with the Declarant's consent, no structure of a temporary character, whether a trailer, tent, shack, garage, barn or other out building, shall be permitted, maintained or used on any Lot at any time as a residence or for any other purpose, either temporarily or permanently.

Section 5. Signs. Except for signs, billboards, posters and advertising devices placed in the Community by Declarant, affiliates of Declarant or a Builder, with the Declarant's consent, no signs, including "For Sale" signs, billboards, posters or advertising devices of any character shall be erected, permitted or maintained on any Lot or on the Common Area without the express written consent of the Board of Directors. Notwithstanding the foregoing, the Owner of each Lot may place one "For Sale" or "For Rent" sign on his Lot; provided, however, the DRB has the right to regulate the size and design of the sign to ensure consistency with the Community-Wide Standard. Declarant hereby reserves the right to construct and maintain such signs, billboard and advertising as is determined by Declarant to be necessary in connection with the development, marketing and sale of Lots in the Community

Section 6. Nuisance. It shall be the responsibility of each Owner and occupant of a Lot to prevent the development of any unclean, unhealthy, unsightly or unkept condition on his Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing which will cause such property to appear to be in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the Owners and occupants of surrounding Lots. No obnoxious or offensive activity shall be carried on within the Community, nor shall any thing be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person on any Lot or the Common Area. Without limiting the generality of the foregoing, no horn, speaker, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes and stereo speakers, shall be located, installed or maintained upon the exterior of any Residential Unit. Any siren or device for security purposes shall contain a device, which causes it to automatically shut-off within a reasonable time after sounding.

Section 7. Animals and Pets. No animals, pets, livestock, birds or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other usual household pets may be kept by an Owner on his respective Lot provided they are not kept, bred or maintained for any commercial purpose and do not endanger the health of or unreasonably disturb Owners of Lots within the Community. The Board of Directors shall have the right to adopt reasonable Rules and Regulations governing animals and pets kept by Owners of Lots in the Community, including the right to prohibit animals of a certain size, weight or type. No structure for the care, housing or confinement of any pet or animal shall be constructed or maintained on any part of the Common Area, and any such structures maintained on a Lot must be approved by the DRB pursuant to Article IX of this Declaration. Pets and animals shall be on a leash at all times when walked or exercised in any portion of the Community, except on the Owner's Lot. No pet or animal shall be permitted to leave its excrement on any portion of the Common Area or on any Lot not owned by the Owner of the animal or pet and the Owner of such animal or pet shall immediately remove such excrement. In the event an animal or pet is deemed by the Board of Directors to be a nuisance or to be kept in violation of this Declaration, the Board of Directors shall have the right to require the Owner of such animal or pet to remove such animal or pet from the Community. The animal control authority shall be permitted to enter the Community to patrol and remove all pets and animals which are in violation of such animal control regulations or this Declaration. All animals and pets shall be registered, licensed and inoculated as required by law.

Section 8. Garbage Cans, Wood Piles, etc. All garbage cans, wood piles, and related equipment and other similar items shall be located or screened so as to be concealed from view from the streets in front of each Lot except on days of trash collection. All rubbish, trash and garbage shall be regularly removed from each Lot and shall not be allowed to accumulate thereon. Trash, garbage or other rubbish shall be kept in sanitary containers with covers or lids, which sanitary containers shall be removed from the front of each Lot promptly after pickup by the local sanitation service. Exterior clotheslines are expressly prohibited on any Lot. The Declarant expressly reserves the right to allow Builders to dump, bury and/or burn construction debris and trees on any Lot as needed for efficient construction; otherwise, no dumping or burning of debris or trees is permitted on any Lot.

Section 9. Lighting. All permanent exterior lighting on each Lot must be submitted and approved by the DRB in accordance with Article IX, above. The Board of Directors shall have the right to adopt reasonable Rules and Regulations concerning seasonal decorative lights.

Section 10. Sight Distance at Intersections. All Lots located at any street intersection shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or landscape planting shall be placed or permitted to remain at any corner of a Lot located at any street intersection where, in the opinion of the DRB, the condition would create a traffic or sight problem for vehicles or persons entering or traveling upon these streets.

Section 11. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed, installed or maintained upon any Lot unless approved by the DRB in accordance with Article IX, above.

Section 12. Pools. Above-ground swimming pools are strictly prohibited and may not be erected, placed or maintained upon any Lot within the Community. No other swimming pool shall be constructed, erected or maintained upon any Lot without the prior written consent of the DRB.

Section 13. Parking. All boats, buses, recreational vehicles, motorcycles, mopeds, all terrain vehicles, scooters, mini bikes, go carts, motor homes, mobile homes, trailers, campers and commercial vehicles (collectively "Specialty Vehicles") kept or maintained in the Community for periods longer than twenty-four (24) hours must be kept in an enclosed garage. All automobiles, vans and trucks, shall be parked within enclosed garages to the extent that garage space is available and, if not, such automobiles, vans and trucks shall be parked on the driveways of Lots, except as otherwise provided herein. Garages shall not be used for storage or in any manner so that they become unavailable for parking automobiles and other transportation vehicles and devices therein. No automobile, van or truck may be parked along any street without the approval of the Board. Any automobile, van, truck or Specialty Vehicle parked on the street without the approval of the Board shall be considered a nuisance and may be removed from the Community by the Board of Directors. An Owner shall be responsible for all charges incurred by the Board in connection with the removal of any Specialty Vehicle or any automobile, van or truck if owned or leased by the Owner or a family member, guest, licensee, invitee or tenant of the Owner.

Automobiles and other transportation vehicles or devices which are either dismantled, partially dismantled, inoperative, discarded or which do not have a valid license plates attached thereto must be stored within an enclosed garage. No Owner or occupant of any Lot shall repair or restore any automobile or other transportation vehicle or device of any kind upon a Lot, except within an enclosed garage or only to the extent necessary to enable its movement in the event of an emergency repair.

Section 14. Antennas or Similar Equipment. No antenna, receiver, satellite dish, equipment serving as an antenna or satellite dish, or other similar device or equipment shall be attached, placed upon or installed

on any Lot, Resident Unit, or any other portion of the Property, unless installed by the Association or in accordance with this Declaration. Direct Broadcast Satellite ("DBS") dishes measuring one meter or greater in diameter are strictly prohibited as are any antennas which extend more than twelve (12) feet above any roof line. DBS dishes measuring less than one meter in diameter and antennas extending less than twelve (12) feet above roof lines are permitted, subject to the Rules and Regulations and provided the plans and specifications therefore are submitted to and approved by the DRB. No radio or television signals nor any other form of electromagnetic radiation or other signal shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Community.

Section 15. Firearms. The use of firearms within the Community is strictly prohibited. The term "firearms" includes B.B. guns, pellet guns and other firearms of all types, regardless of size, power, caliber, or gauge.

Section 16. Traffic Regulations. It is acknowledged that the streets used for ingress and egress to, from and within the Community are owned, maintained and regulated by the Association and/or Rabun County, Georgia. All vehicular traffic and other use of streets owned by the Association shall be subject to the rules and regulations established by the Association from time to time or, if no such rules and regulations are established, subject to the laws of the State of Georgia and Rabun County, Georgia. The Association is authorized to promulgate, administer and enforce Rules and Regulations governing vehicular and pedestrian traffic, including reasonable safety measures and speed limits, on all streets and paved areas within the Community owned by the Association. The Association shall be entitled to enforce such rules and regulations by establishing such enforcement procedures as it deems appropriate, including levying of fines for any violations thereof. Any Specialty Vehicle and any automobile, van or truck of any kind or nature which is operated within the Community shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all Owners and occupants of Lots and in compliance with any applicable rules and regulations.

Section 17. Leasing. Residential Units may be leased for residential purposes only. All leases shall require that the tenant acknowledge receipt of a copy of the Declaration, the Bylaws and Rules and Regulations of the Association and shall also obligate such tenant to comply with those documents. Owners are responsible for the actions and conduct of their tenants and the tenants' family, guests, licensees and invitees.

Section 18. Drainage. Drainage of streets, Residential Units, Lots or driveways of Lots shall not be impaired by any Owner. No Owner shall obstruct or rechannel the drainage flow of water after location and installation of catch basins, berms, drainage areas, drainage swales, storm sewer or storm drain systems.

Section 19. Unsightly or Unkept Conditions. It shall be the responsibility of each Owner to prevent any unclean, unhealthy, unsightly or unkept condition from existing on or within his Lot and Residential Unit. Any item such as outside patio furniture or other articles that can be viewed from the streets within the Community, Common Area, or other Lots shall be maintained in a neat and attractive condition as determined by the Board. The pursuit of hobbies or other activities, including, but not limited to, assembly, disassembly and repair of motor vehicles or other mechanical devices, which might tend to cause disorderly, unsightly or unkept conditions shall not be pursued or undertaken on any part of the Community other than in an enclosed garage.

Section 20. Fences. No fence may be installed or constructed on any Lot without the prior written approval of the DRB in accordance with Article IX, above. Under no circumstances may any fence be installed on any Lot adjacent to the Golf Course if it will violate Section 11 of Article III.

Section 21. Artificial Vegetation, Exterior Sculpture and Similar Items. No artificial vegetation shall be permitted in the Community except within a Residential Unit. Exterior sculptures, fountains, flags and similar items must be approved by the DRB in accordance with Article IX, above.

Section 22. Tree Removal. After completion of construction of a Residential Unit on a Lot, no trees shall be removed from a Lot by an Owner, other than Declarant, affiliates of Declarant or a Builder, without the prior written consent of the DRB, except for a diseased or dead tree requiring removal for safety reasons.

Section 23. Air Conditioning Units. Except as may be permitted by the DRB, no window air conditioning units may be installed on any Improvement on any Lot.

ARTICLE XII

General Provisions

Section 1. Enforcement. Every Owner and every occupant of any Lot, and their respective families, guests, invitees, licensees, successors and assigns, shall comply with this Declaration, the Bylaws and the Rules and Regulations of the Association, as they now exist and may be amended from time to time. Except as otherwise provided herein, the Association shall send written notice of any violation to the violating Owner, who shall have ten (10) days from the date of the notice (in the event of an emergency, as determined by the Board of Directors, only reasonable notice is required) to correct and cure the violation and comply with this Declaration, the Bylaws or the Rules and Regulations. Any lack of such compliance shall entitle the Board of Directors to impose and assess fines and other sanctions against the Owner of the Lot, which shall be collected as provided herein for the collection of assessments. Furthermore, any lack of such compliance shall authorize the Board of Directors to temporarily suspend voting rights and the rights of use of the Common Areas; provided, however, no such suspension shall deny an Owner or any occupant of a Lot access to the Lot owned or occupied. Additionally, any lack of such compliance shall authorize the Board of Directors to institute legal action against the Owner and occupant of a Lot to recover damages as a result of such party's action or for injunctive relief, or both, which action shall be maintainable by the Board of Directors on behalf of the Association or, in a proper case, by any aggrieved Owner. Failure by the Board of Directors or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board of Directors shall have the right to record in the appropriate land records a notice of violation of the Declaration, the Bylaws, or the Rules and Regulations, and assess the cost of the recording and removing of such notice against the Owner responsible for the violation of such documents.

Section 2. Self Help. In addition to any other remedies provided for herein, the Board or its duly authorized agent shall have the power to enter upon any portion of the Property, including Lots, to abate or remove, using such force as may be reasonably necessary, any Improvement, thing or condition which violates this Declaration, the Bylaws, or the Rules and Regulations. The Board shall give the violating Owner ten (10) days written notice of its intent to exercise self-help (except in the event of an emergency, as determined by the Board of Directors in which event only reasonable notice is required). All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. The provisions of this Declaration shall run with and bind the Property and shall be and remain in effect for a period of twenty (20) years after the date that the Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods of twenty (20) years, unless such extension is disapproved in writing by Members representing greater than a Majority of the total Association vote. A written instrument reflecting such disapproval, if disapproved, must be recorded within

two (2) years immediately preceding the beginning of each twenty (20) year renewal period. Every purchaser or grantee of any interest in the Property subject to this Declaration, by acceptance of a deed or other conveyance therefore, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment Unilaterally by Declarant. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable a reputable title insurance company to issue title insurance coverage with respect to any portion of the Property subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including for example the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any portion of the Property subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on any portion of the Property subject to this Declaration; provided, however, no such amendment shall adversely affect the title to any Owner's Lot unless such Owner shall consent thereto in writing. Further, until Buildout, Declarant shall unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially and adversely affect the substantive rights of any Owner hereunder, nor shall it adversely affect title to the Lot of any Owner without the consent of the affected Owner. In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Members representing a majority of the total Association vote and, until Buildout, with the written consent of the Declarant.

Amendments to the Declaration shall become effective upon recordation, unless a later effective date is specified therein. Until Buildout, no provision of this Declaration which reserves or grants rights, privileges, easements or any authority to the Declarant shall be amended without the prior written consent of the Declarant. Any procedural challenge to an amendment must be made within two (2) months of its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

Section 5. Partition. The Common Area shall remain undivided, and no Owner nor any other Person shall bring any action for partition or division of the whole or any part thereof without the written consent of every Owner, together with the written consent of all holders of Mortgages encumbering the Property and, until Buildout, the written consent of the Declarant. No Lot may be subdivided, partitioned or replatted except by Declarant.

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

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

Section 8. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such

provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 9. Indemnification. In accordance with Section 14-3-850, et seq., of the Georgia Nonprofit Corporation Code, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the name of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association, against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

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

Section 10. Books and Records. This Declaration, the Bylaws, the Articles of Incorporation, the Rules and Regulations, design guidelines, membership register, books of account, and minutes of meetings of the Members, of the Board and of committees shall be made available for inspection and copying by any Member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any First Mortgage, at their expense, at any reasonable time and for a purpose reasonably related to his or her interest as a Member or holder, insurer, or guarantor of a First Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

The Board shall establish reasonable rules with respect to:

- (a) notice to be given to the custodian of the records;
- (b) hours and days of the week when such an inspection may be made; and
- (c) payment of the cost of reproducing copies of documents.

Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a reasonable number of extra copies of documents at the expense of the Association.

Section 11. Financial Statements. Financial statements reflecting the accounts of the Association shall be compiled annually in such a manner as the Board may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Members representing a majority of the total Association vote and, until Buildout, with the consent of the Declarant, may require that financial statements of the Association be audited as an Association expense by a certified public accountant. Upon

EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 24 and 25 of the Fourth District, Rabun County, Georgia, and being Lots 1, 2, 4, 5, 12-18, Block A, Lots 1-6, 9-11, 13-16, 18-31, 35-41, Block B, Lots 1-8, 11, 12, 16, Block C, Lots 5-8, 12-22, Block D, Lots 3, 4, 5, 6, 7, 9, 11 - 34, 5A, 6A & 7A, Block E, Lot 42, Block F and Golf Course Lots 10, 11, and 12, recorded in Plat Book 8, Page 126, in the Records of the Clerk of the Superior Court of Rabun County, Georgia.

written request of an institutional holder of a First Mortgage, such holder, upon payment of the costs associated therewith, shall be entitled to receive financial statements within ninety (90) days of the date of the request.

Section 12. Notice of Purchase. Upon acquisition of an interest in the Property, the acquiring Owner shall notify the Board in writing of the name of the acquiring Owner and such other information as the Board may reasonably require.

Section 13. Estoppel Statements. Any Owner, Mortgagee of a Lot, person having executed a contract for the purchase of a Lot or a lender considering the loan of funds to be secured by a Lot shall be entitled upon request to a statement from the Association or its management agent setting forth the amount of the assessments past due and unpaid together with late charges and interest applicable thereto against that Lot. Such request shall be in writing, shall be delivered to the registered office of the Association and shall state an address to which the statement is to be directed. The failure of the Association, within five (5) business days from the receipt of such request, to mail or otherwise furnish such statement regarding amounts due and payable to such address as may be specified in the written request therefore shall cause the lien for assessments created by this Declaration to be extinguished and of no further force or effect. The information specified in such statement shall be binding upon the Association and every Lot Owner. The Association may require the advance payment of a processing fee not to exceed Ten Dollars (\$10.00) for the issuance of each such statement.

Section 14. Agreements. All agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community, except that no such agreements shall be binding as to Declarant until Buildout without the written consent of Declarant.

Section 15. Implied Rights. The Association may exercise any right or privilege given to it expressly by the Declaration, the Bylaws, the Articles of Incorporation, or the Rules and Regulations and every other right or privilege reasonably to be implied from the existence of any such right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 16. Conflict. In the event of a conflict between the provisions of this Declaration and the provisions of Georgia law, then to the extent that the provisions of Georgia law cannot be waived by agreement, Georgia law shall control. In the event of a conflict between the provisions of the Declaration, the Bylaws or the Rules and Regulations of the Association, the provisions of the Declaration, Bylaws and Rules and Regulations shall, in that order, control.

Section 17. SECURITY. ALL OWNERS, MEMBERS, OCCUPANTS, GUESTS, LICENSEES, AND INVITEES, AS APPLICABLE, ACKNOWLEDGE THAT THE DECLARANT, THE ASSOCIATION AND ITS BOARD OF DIRECTORS, AND THE DRB DO NOT REPRESENT OR WARRANT THAT ANY SAFETY OR SECURITY MEASURES WILL BE IMPLEMENTED IN THE COMMUNITY OR, IF IMPLEMENTED, THAT SUCH SAFETY OR SECURITY MEASURES MAY NOT BE COMPROMISED OR CIRCUMVENTED, OR THAT ANY SUCH SAFETY OR SECURITY MEASURES WILL IN ALL CASES PROVIDE THE DETECTION OR PROTECTION FOR WHICH THEY ARE DESIGNED. EACH OWNER, MEMBER, OCCUPANT, GUEST, LICENSEE, OR INVITEE, AS APPLICABLE, ACKNOWLEDGES AND UNDERSTANDS THAT THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS AND DRB ARE NOT INSURERS AND THAT EACH OWNER, MEMBER, OCCUPANT, GUEST, LICENSEE, AND

EXHIBIT B

All of that land lying in Land Lots 1, 24, 25 and 27 in the 4th District of Rabun county, Georgia.

All that tract or parcel of land lying and being in Land Lot 25, 4th District Rabun County, Georgia and being more particularly described as follows:

COMMENCING at a 5/8" rebar set being located in the northern right-of-way of Hwy 76 (100' R/W) and the southern most corner of the Julius Fiske Tract; thence North 80°01'33" East a distance of 1345.81 feet to the POINT OF BEGINNING. Thence North 83°14'03" West a distance of 167.23 feet to a point; thence South 61°10'07" West a distance of 54.70 feet to a point; thence South 39°50'47" West a distance of 50.00 feet to a point; thence North 68°27'52" West a distance of 98.45 feet to a point; thence South 10°03'33" West a distance of 51.92 feet to a point; thence South 00°34'36" East a distance of 49.49 feet to a point; thence South 15°14'54" East a distance of 40.97 feet to a point; thence South 16°19'46" East a distance of 83.53 feet to a point; thence South 70°02'45" West a distance of 39.90 feet to a point; thence South 08°21'24" East a distance of 133.70 feet to a point; thence North 88°30'29" West a distance of 81.20 feet to a point; thence South 39°45'22" East a distance of 678.84 feet to a point; thence North 82°43'36" East a distance of 36.61 feet to a point; thence North 47°55'36" East a distance of 24.60 feet to a point; thence North 29°53'36" East a distance of 71.60 feet to a point; thence South 14°04'24" East a distance of 71.00 feet to a point; thence South 07°10'24" East a distance of 30.70 feet to a point; thence South 24°52'24" East a distance of 42.20 feet to a point; thence South 41°57'24" East a distance of 58.30 feet to a point; thence South 65°59'24" East a distance of 30.80 feet to a point; thence South 84°34'24" East a distance of 52.60 feet to a point; thence North 82°49'36" East a distance of 48.10 feet to a point; thence North 78°15'36" East a distance of 47.20 feet to a point; thence North 68°15'36" East a distance of 30.30 feet to a point; thence North 47°35'36" East a distance of 155.00 feet to a point; thence North 12°52'30" West a distance of 988.30 feet to a point; thence South 73°36'47" West a distance of 300.00 feet to the POINT OF BEGINNING, containing 14.50 Acres more or less.

In addition the "Club" includes the golf course adjoining the above described property.

INVITEE ASSUMES ALL RISKS OF PERSONAL INJURY AND PROPERTY DAMAGE AND FURTHER ACKNOWLEDGES THAT THE DECLARANT, THE ASSOCIATION, THE BOARD OF DIRECTORS, AND DRB HAVE MADE NO REPRESENTATIONS OR WARRANTIES, NOR HAS ANY OWNER, MEMBER, OCCUPANT, GUEST, LICENSEE, OR INVITEE RELIED UPON ANY REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE RELATIVE TO ANY SAFETY OR SECURITY MEASURES IMPLEMENTED OR APPROVED.

Section 18. Gender and Grammar. The singular whenever used herein shall be construed to mean and include the plural, when applicable, and vice versa, and the use of the masculine or neuter pronoun shall include the feminine, when applicable, and vice versa.

Section 19. Variances. Notwithstanding anything herein to the contrary, until Buildout, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration, except the provisions concerning assessments, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

IN WITNESS WHEREOF, the undersigned have set their hands and seals as of the day and year first above written.

KILLEARN, INC., a Georgia corporation, as Declarant
and as owner of the Lots listed below

By: J.J. Williams
J.J. Williams, President

[CORPORATE SEAL]

Lot numbers: Block A, Lots 1, 2, 4, 5, 12, 14, 17, 1
Block B, Lot 1, 2, 4-6, 9-11, 13, 18-28, 37-41
Block C, Lot 2-8, 16 Block D, Lot 5-8,
12, 14-16, 18-22, Block E, Lot 9, 12-16, 19-23
34, 5A, 6A

Signed, sealed and delivered in
the presence of:

Robin Wright
Witness

Camela Hodson
Notary Public

My Commission Expires: _____ My Commission Expires Aug. 20, 1999

[NOTARY SEAL]