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FRANCIS W. LITTLE JR.

Upon recordation return to:
Richard A. Hills, Jr., Esq.
Womble Carlyle Sandridge & Rice, PLLC
1201 West Peachtree Street, Suite 3500
Atlanta, GA 30309

**DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS
FOR HABERSHAM MILL**

This Declaration of Restrictive Covenants and Easements is made and published by Metropolitan Foundation of Atlanta, Inc. ("Declarant").

WITNESSETH

WHEREAS, the Declarant is the owner of the real property in Habersham County, Georgia, described in Exhibit "A" attached hereto and made a part hereof (the "Property"), which has been divided into approximately 75 separate parcels in substantial conformity with the plat recorded in Plat Book 50, Page 293, Habersham County, Georgia Records (the "Plat"), which Plat is incorporated herein by reference and made a part hereof; and

WHEREAS, it is to the interest, benefit and advantage of the Declarant and to each and every person who shall hereafter become a Property Owner, except the owners of Excluded Parcels, that certain covenants and easements governing and regulating the use and occupancy of the same shall be established, set forth and declared to be covenants and easements running with the land; and

WHEREAS, the Property shall sometimes be referred to as "Habersham Mill."

NOW, THEREFORE, for and in consideration of the premises and of the benefits to be derived by the Declarant and each and every Property Owner, except the owners of Excluded Parcels, the Declarant does hereby set up, establish, promulgate and declare the following covenants and easements; which shall become effective immediately upon recordation and shall run with the land and be binding upon all persons claiming under and through the Declarant until September 22, 2021, unless extended as provided by Georgia law.

1. Definitions. The terms used herein and in the Bylaws of the Habersham Mill Homeowners' Association shall have meanings as follow:

(a) "Parcels" shall mean the numbered parcels of land within the Property and the improvements thereon.

(b) "Property Owner" means the owner of a Parcel, other than an Excluded Parcel.

(c) "Association" means Habersham Mill Homeowners' Association, Inc., a Georgia non-profit corporation, and its successors and assigns, which Association shall be incorporated by the Declarant, and which shall own and be responsible for the operation and maintenance of the Common Property and have such other rights, duties and obligations as are set forth in this Declaration.

(d) "Bylaws" shall mean such bylaws as are established by the Association from time to time.

(e) "Common Expenses" means the expenses for which the Property Owners are liable to the Association.

(f) "Assessment" means a share of the funds required for the payment of Common Expenses that from time to time is assessed against a Property Owner.

(g) "Common Surplus" means the excess of all receipts of the Association, including, but not limited to Assessments, rents, profits, and revenues over the amount of Common Expenses.

(h) The "Property" means and includes the land described on Exhibit "A" (and including any other property which the Declarant may subsequently make subject to the provisions of this Declaration), and all improvements thereon and hereinafter constructed thereon, together with all easements and rights appurtenant thereto intended for use in connection with the Property, and necessary to effectuate the purpose and intent of the Declarant as set forth herein.

(i) "Common Property" means and includes the land described on Exhibit "B" attached hereto and made a part hereof, and is that portion of the Property owned or to be owned by the Association, and includes but is not limited to, easements and water rights.

(j) "Excluded Parcels" means those Parcels shown on the Plat that are not subject to this Declaration except for the permanent utility easement referred to in Section 16 (a). The numbers of the Excluded Parcels are 22 (a cemetery), 31 (a landfill), 43 (mill property), 44 and 45 (Habersham Baptist Church), 65 (to be part of Common Property), and 66 and 67 (to be sold to a utility provider); except that (1) Declarant reserves the right to subject Parcels 66 and 67 to this Declaration at any time prior to December 22, 2001, in which case such Parcels would no longer be Excluded Parcels; and (2) Parcel 31 shall become subject to this Declaration at any time it is conveyed to a party other than the Declarant's grantee.

2. Land Use.

(a) Parcels shall be used only for residential purposes.

(b) No structure other than a new, single-family dwelling is allowed, except private garage, guest house, private stable and out-buildings incidental to private use, but no more than one of each such type of accessory structure shall be allowed on a Parcel. The Property Owner of Parcel 54 shall have the right to build a bridge across the Soque River subject to all applicable governmental requirements. Boat docks and boat houses are not allowed on any Parcel.

(c) Currently existing houses and other structures on the Property shall be allowed to remain in place and shall be grandfathered under the provisions of this Declaration.

(d) Any garage, storage or outbuilding on said Property shall be of substantial construction, and conform to the general appearance of the dwelling, and shall be set back from the road at least as far as the back line of the dwelling. Any barn shall be of good quality and appearance.

(e) All landscaping, including, but not limited to, lawns and shrubbery shall be neatly maintained.

(f) No noxious or offensive activity shall be carried on upon any part of any Parcel, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the surrounding neighborhood.

(g) No excavation of any minerals, sand, chert, shale, dirt, rock, gravel, or any other earthen material for commercial purposes will be permitted.

(h) No signs shall be installed or maintained on any Parcel except for one sign to identify the Property Owner and, when appropriate, one sign to indicate that the Parcel is for sale or for rent, but neither sign shall have a face area of more than four square feet.

(i) Parcels 12 through 42 and 61 through 70 may not be subdivided. Any other Parcel may be subdivided, but no subdivided Parcel shall contain less than two acres, and shall be a Parcel for all purposes under this Declaration.

3. Building Type and Size. The minimum size for any new single-family dwelling located on a Parcel shall be 1,200 square feet, exclusive of porches, garages and deck areas.

4. Building Location; Set-backs. All structures shall be erected in accordance with the applicable local zoning code. In no event shall any structure be erected nearer than 50 feet from the front property line of a Parcel, 40 feet from a side property line, 40 feet from a rear property line, or 150 feet from the bank of the Soque River.

5. Roadway Easements. As shown on the Plat, there are certain areas of the Property which are identified as roadway and utility easements, which shall be subject to easements for ingress and/or egress and utility rights-of-way to and from Parcels. As to the roadway areas shown on the Plat, there is hereby granted, created and imposed upon said areas perpetual nonexclusive easements for the use and benefit of the Association and all Property Owners, and for their respective heirs, successors, assigns, guests and licensees, for the purposes of ingress and egress, utility rights-of-way, and such other purposes as may be set forth herein.

6. Membership in the Association.

(a) Each Property Owner shall be a member of the Association until that person no longer owns the particular Parcel that gave rise to Association membership.

(b) Each Property Owner shall be entitled to one vote for each Parcel that person owns. When more than one person owns an interest in a Parcel, all such persons shall be members and the vote for such Parcel shall be exercised as they may determine among themselves in accordance with the Bylaws of the Association.

(c) If any Parcel is subdivided, the new Property Owner(s) shall become a member of the Association and subject to this Declaration.

7. Assessments and Liens. Each Property Owner, shall pay the Association:

(a) Annual Assessments or charges as herein set forth and as established by the Association;
and

(b) Special Assessments for capital or other improvements or acquisitions, which Assessments are to be established and collected as hereinafter provided.

The annual and special Assessments, together with interest, costs and reasonable attorney's fees required to collect the same, if any, shall be a lien against the Parcel or Parcels owned by the party failing to pay the same; provided, however, that any such lien shall be subordinate and inferior to any first mortgage on

such Parcel or Parcels. No Property Owner shall be exempt from Assessments by waiver of the use or enjoyment of any of the Common Property or by the abandonment of a Parcel.

8. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively by the Association to promote and maintain the recreation, health, safety and welfare of the members of the Association, and in particular, for the improvement and maintenance in a first class condition and in a good state of repair of the Common Property, including, but not limited to, landscape areas and water detention facilities, the roadways and rights-of-way, the dams located on the Property, any security lights that may be located on the Property, and such other areas which are maintained by the Association, whether or not owned by the Association.

9. Deposit of Assessments. Any and all sums collected from Assessments or related payments may be commingled with each other in a single account and shall be held and used for the purposes set forth in the Declaration, Articles, Bylaws or other agreements relating to Habersham Mill.

10. Annual Assessments. Commencing on the effective date of this Declaration, the annual Assessment shall be \$100.00 per calendar year per Parcel due and payable in advance on January 1 of each year. The amount of the annual Assessment may be increased each year by not more than 10% above the previous year's amount by the Association's Board of Directors without a vote of the membership, but any greater increase may be made only upon two-thirds vote of the members of the Association. The first full annual Assessments shall commence and be due and payable as to all Parcels on the first day of January 2002, of that year, and annual Assessments for the year 2001 shall be prorated as of each Property Owner's date of purchase and paid at closing.

11. Special Assessments. In addition to the annual Assessments authorized above, the Association may, by two-thirds vote of its members, levy in any Assessment year a special Assessment applicable to that year only for the purposes of defraying in whole or in part the cost of any construction, reconstruction, repair or replacement of any of the Common Property, or any other area or improvement which is the responsibility of the Association, including improvements, fixtures and real or personal property related thereto.

12. Collection of Assessments. No set-offs shall be allowed to any Property Owner for repairs or improvements, or services contracted for by any Property Owner without the express written authorization of the Board of Directors of the Association. The Association shall be entitled to collect from any Property Owner all legal costs including reasonable attorney's fees incurred by the Association in connection with or incident to the collection for such Assessment and/or late charges or fees or in connection with the enforcement of the lien resulting therefrom.

13. Service Charge of Delinquent Assessments; Suspension of Membership Rights. In order to defray the cost of additional bookkeeping, billing and related expenses, all Assessments not paid within thirty (30) days after the due date may, upon decision of the Board of Directors of the Association, bear a service charge of \$5.00 per month from the due date. After 30 days delinquency in the payment of any such Assessments, the Property Owner's membership rights in the Association shall be suspended until payment has been made, as provided in the Bylaws of the Association.

14. Effect of Transfer of Title on Assessments. The sale or transfer of any Parcel shall not affect the Assessment lien, provided however, the sale or transfer of any Parcel pursuant to a first mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer.

15. Initial Capitalization. The Declarant shall provide to the Association a one-time capital contribution in the amount of \$35,000 on November 1, 2001 to be used for all purposes for which annual or special Assessments may be used.

16. Additional Duties and Powers of Association. In addition to the duties and powers of the Association as set forth herein, and in addition to any powers and duties set forth in the Articles of Incorporation and Bylaws of the Association, the Association shall:

(a) Maintain in a good and safe condition and otherwise manage the Common Property including, but not limited to, the dams and roadways, except as otherwise provided in the next sentence. The following roads, drives, and easements will not be deeded to or maintained by the Association: the gravel drive crossing Parcels 4, 5 and 6; the gravel drive on Parcel 12; the gravel drive on Parcel 63; the gravel drive on Parcel 64; the gravel road and 20-foot easement crossing Parcels 19 and 20; the 20-foot easement along the line dividing Parcels 12 and 13; the gravel road and 20-foot easement crossing Parcel 75; the asphalt road shown as Habersham Mill Complex Road crossing Parcel 43; the gravel road and 20-foot easement crossing Parcels 55 and 56; and the 60-foot easement across the east side of Parcel 50.

(b) Grant easements where necessary for utilities, cable television and sewer and drainage facilities over the easement areas or Common Property; however, Association does not possess power of condemnation of individual Property Owners.

(c) Obtain and maintain such policy or policies of insurance as the Association may deem necessary or desirable in protecting the interests of the Association and its members.

(d) Have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.

(e) Have the right (which may be exercised by the Association's officers or agents) to enter upon any Parcel to abate any violation or breach of any provision of this Declaration, after having first given the Property Owner not less than ten (10) days prior written notice of the violation or breach and the Association's intent to enter and abate.

17. Exterior Maintenance of Houses and Other Areas. The Association shall, notwithstanding anything to the contrary contained in this Declaration and notwithstanding the ownership of any particular Parcel of land, maintain all roadway easement areas within the Property. The Association shall maintain the landscaping, including the trees, shrubs and grass located within the boundaries of property owned by the Association, or within any easement areas. The Association may, by rule duly adopted, reasonably regulate the use of the Common Property; provided, however, that any such rule of the Association may not be less restrictive than any covenant set forth herein. Any item or area not expressly the responsibility of the Association shall be the responsibility of each Property Owner; provided, however, that if a Property Owner shall fail to maintain or make the repairs or replacements which are the responsibility of such Property Owner, then the Association shall have the appropriate authority to pursue remedies in law or in equity to enforce compliance with the provisions of this Declaration.

18. Easements. The following easements shall be deemed to be covenants running with the land with relation to the property described in Exhibit "A." These easements are not in limitation of any easement defined, imposed and created in any other paragraph hereof, but are supplemental thereto:

(a) Utility easements are reserved through the Property for utility service in order to properly and adequately serve all areas of the Property; provided, however, that such easements through any house shall be only according to the plans and specifications or as the building is actually constructed unless approved in writing by the homeowner. Utilities as used in this paragraph shall be given a broad meaning and shall include but not be limited to an easement for the installation, repair and maintenance of electric, telephone, water, gas, cable television and sanitary sewer lines and facilities, and drainage facilities.

(b) Easements for all roadways shown on the Plat.

In addition to road right-of-way, there shall be an additional 25-foot permanent utility easement along each side of the 60-foot road right-of-way.

(c) Whatever sanitary sewer, water, gas, electricity, cable television, telephone lines or connections are in place within the Property at time of sale of property subject to these covenants, which connections or lines or any portions thereof in Parcels owned by other than the owner of a Parcel served by said lines or connections, the owner of any Parcel served by said connections shall have the right and is hereby granted an easement to the full extent necessary therefor to enter upon such Parcel or to have the utility companies enter upon the Parcels on the Property in or upon which said connection or lines or any portions thereof lie or are located, to repair, replace and generally maintain said connections as and when the same may be necessary. Whenever sanitary sewer, water, gas, electricity, cable television or telephone lines or connections are installed within the Property, which connections or lines serve more than one Parcel, the owner of each such Parcel served by said connections and lines shall be entitled to the full use and enjoyment of such portions of said connections and lines as services his Parcel, and such owners shall be jointly and equally responsible for the maintenance or repair of any jointly used connections aforementioned. All new utility installations shall be within utility easements unless permission is granted by an individual Property Owner.

19. Nuisances. No noxious or offensive activities shall be carried on, in, upon or around any Parcel or in or upon any of the Common Property, nor shall anything be done thereon which may be or may become an annoyance or a nuisance to any Property Owner.

20. Temporary Structures.

(a) No temporary structure, trailer, basement, tent, shack, garage, barn or other out building shall be used on any Parcel at anytime as a residence, either temporarily or permanently; provided, however, a contractor may maintain a temporary storage facility to store the contractor's materials during construction for a period not to exceed six months.

(b) No mobile homes, manufactured homes, modular homes on trailers or other moveable or temporary living quarters shall be permitted on a Parcel.

21. Garbage Disposal.

(a) All rubbish, trash and garbage (including discarded appliances) shall be regularly removed from the Property and shall not be allowed to accumulate thereon. All trash and garbage shall be kept in sanitary and closed containers.

(b) No part of the Property shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

22. Boats, Trailers and Recreation Vehicles; Parking Restrictions.

(a) No boat, trailer, recreational vehicle or disabled automobile, machinery or equipment may be parked or stored on any street in Habersham Mill, and shall not be parked or stored on any Parcel except in a garage or upon a location behind the front building setback line of the owner's House. The purpose of this restriction is to minimize the visibility of such items to residents of Habersham Mill and passers-by.

(b) No vehicles without current tags and registration may be kept outside, but shall be kept in an enclosed building. No junk vehicles may be kept on the Property.

(c) No vehicles shall be permitted to park on the Common Property except on a temporary basis not to exceed eight hours, and never in such a manner as to impede access to and from any part of the Property by any party.

23. Pets. Household pets, such as dogs or cats, are permitted but shall not be kept, maintained, bred or raised for commercial purposes and shall not become a nuisance to the neighborhood. Swine, sheep, goats, cattle and commercial poultry including game chickens/fighting cocks shall be prohibited on the Property. Horses shall be allowed to be maintained upon any Parcel, so long as there are no more than two and they are not kept for commercial purposes.

24. Miscellaneous.

(a) No laundry, mattresses, bedding materials, clothing or other materials may be hung on or over any fences.

(b) No window air-conditioning units shall be permitted which would be exposed to the exterior of any House.

25. Limitation of Liability. Notwithstanding the duties of the Association, specifically including, but not limited to, its duty to maintain and repair portions of the Property, the Association shall not be liable to Property Owners, their invitees or guests for injury or damage caused by any latent defect or condition of the property owned, or to be maintained and repaired by the Association, or caused by acts of God or by third parties.

26. Estimates of Cost of Repairs and Reconstruction. Within a reasonable time after a casualty or loss to property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reasonably accurate estimates of the cost of repairing or replacing said damaged property. The Association shall diligently repair or replace the same unless a majority of the Property Owners vote to the contrary.

27. Amendments to Declaration. Except as may be otherwise specifically provided herein, this Declaration may be amended or terminated only by the written consent, in a recordable form, signed by 80% of the Property Owners.

28. Development by Declarant. No provisions contained herein shall prevent the Declarant, its contractors, subcontractor or agents from performing such work and activities as are reasonably necessary or advisable in connection with the construction of any Houses or other improvements upon the Property, nor shall said provisions in any way prevent the Declarant from maintaining such sign or signs on the Property as it shall deem appropriate for the sale, lease or other disposition thereof.

29. Election of Board of Directors. In addition to all other rights and privileges granted to the Declarant under this Declaration, and notwithstanding any provisions of the Articles of Incorporation and Bylaws to the contrary, the Declarant shall be entitled to appoint all of the members of the Board of Directors of the Association until the earlier of January 1, 2002, or the date on which Declarant has conveyed all Parcels located within the Property.

30. Termination of Responsibility of Declarant. At such time as the Declarant sells, conveys or otherwise disposes of their interest in and to all of the Parcels, the Declarant shall automatically be relieved of the performance of any further duty or obligation hereunder.

31. Variances. Variances for minor deviations from the setback requirements of this Declaration and construction-related matters may be granted by the Association, acting through its officers, at any time to any Property Owner. The granting of such variances is within the sole discretion of such officers, and they shall have no liability whatsoever for failing to grant any requested variance.

32. No Liability. In the event that this Declaration, or any part of it, is declared to be unenforceable for any reason whatsoever, the Declarant shall have no liability to any Property Owner as a result thereof.

33. Severability. Invalidation of any one of the covenants by judgment, or court order, shall in no way effect any of the other provisions herein, which shall remain in full force and effect.


IN WITNESS WHEREOF, Declarant has executed this Declaration under seal as of September 25, 2001.

METROPOLITAN FOUNDATION
OF ATLANTA, INC.

BY: 

Richard A. Hills, Jr., Its Attorney-
in-Fact, pursuant to Power of
Attorney recorded in Deed Book
518, Page 977, Habersham County
Records

Signed, sealed, and delivered
in the presence of:


Unofficial Witness

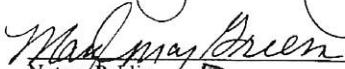

Notary Public



EXHIBIT A

All that tract or parcel of land lying and being in Land Lots 15, 16, 17, 22, 23, 24, 25, 38, and 39, 10th District, Habersham County, Georgia, and being all of the property shown on the plat recorded in Plat Book 50, Page 293, Habersham County, Georgia, Records.

EXHIBIT B

All that tract or parcel of land lying and being in Land Lots 15, 16, 17, 22, 23, 24, 25, 38, and 39, 10th District, Habersham County, Georgia, and being more particularly described as follows:

All of the property shown on the plat recorded in Plat Book 50, Page 293, Habersham County, Georgia, Records, less and except numbered parcels 1 through 64 inclusive and 66 through 75 inclusive, together with all appurtenant easements and water rights of the Declarant.