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**HIGHLAND VILLAGE PHASE 3  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS**

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**HIGHLAND VILLAGE PHASE 3****DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS HIGHLAND VILLAGE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made as of the 5 day of January, 2024 by Egypt Bluff Properties, LLC, an Alabama Limited Liability Company.

## RECITALS:

Developer, as hereinafter defined, desires to own, develop, improve, lease and sell the Property for quality single-family residential housing purposes, subject to certain easements, covenants, conditions, restrictions, requirements and obligations in order to protect the value and desirability of the Property and to have a flexible and reasonable method for the development, administration and maintenance of the Property.

NOW, THEREFORE, Developer does hereby declare that all of that certain real property situated in Limestone County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference shall be held, owned, developed, improved, transferred, sold, conveyed, leased, occupied and used subject to the following easements, covenants, conditions, restrictions, charges, liens and regulations, which shall be binding upon and inure to the benefit of all parties acquiring or having any right, title or interest in any portion of the Property described in Exhibit A attached hereto and any of the Additional Property, as hereinafter defined (but only to the extent that Developer submits any Additional Property to the terms and provisions of this Neighborhood Declaration), and their respective heirs, executors, administrators, personal representatives, successors and assigns.

## ARTICLE I

DEFINITIONS

As used throughout this Neighborhood Declaration, the following terms shall have the meanings set forth below, which meanings shall be applicable to both the singular and plural forms and tenses of such terms:

1.01 ACCESSORY BUILDING. The term "Accessory Building" shall mean and refer to any building on a Lot or Dwelling, other than a residential housing unit, the use of which is incidental to, subordinate to, and directly related to the use of the residential housing unit.

1.02 ADDITIONAL PROPERTY. The term "Additional Property" shall mean and refer to any real property and any Improvements situated thereon lying adjacent to or in close proximity with the Property (but which does not presently comprise any part of the Property) which Developer may from time to time submit and add to the provisions of this Neighborhood Declaration pursuant to the provisions of Section 2.02 below. The Additional Property may also include additional Common Areas.

1.03 AFFILIATE. The term "Affiliate" shall mean, as to any Person, any other Person which, directly or indirectly, is in common control of, is controlled by, or is under direct or indirect common control with, such Person, and, if such Person is an individual, any member of the immediate family of such individual and any trust whose principal beneficiary is such individual or one or more members of such immediate family and any Person which is controlled by any such member or trust. As used herein, the term "control" (and like terms) when used with respect to any Person, means the direct or indirect beneficial ownership of more than five percent (5%) of the outstanding voting securities or voting equity of such Person or possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of voting securities or by contract or otherwise.

1.04 ACC. The term or letters "ACC" shall mean the Architectural Control Committee for the Neighborhood Association to be appointed pursuant to Article V hereof with the rights and obligations conferred upon such Architectural Control Committee pursuant to this Neighborhood Declaration.

1.05 ARTICLES OF INCORPORATION. The term "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Neighborhood Association, as the same may be amended from time to time.

1.06 ARCHITECTURAL STANDARDS. The term "Architectural Standards" shall mean the standards prepared, issued and amended from time to time by the ACC pursuant to Article V below for the purpose of establishing architectural styles and standards for any Improvements to be constructed on any of the Lots and procedures for reviewing and approving all Dwellings, landscaping and any other Improvements which may be made to any Lot or Dwelling.

1.07 BOARD. The term "Board" shall mean and refer to the Board of Directors of the Neighborhood Association and their duly elected successors as may be provided in the Articles of Incorporation and Bylaws.

1.08 BYLAWS. The term "Bylaws" shall mean and refer to the Bylaws of the Neighborhood Association, as the same may be amended from time to time.

1.09 COMMON AREAS. The term "Common Areas" shall mean and refer to all real and personal property now or hereafter owned by the Neighborhood Association for the common use and enjoyment of the Owners. The Common Areas shall also mean and include (regardless of whether legal title to the same has been conveyed to the Neighborhood Association) (a) all signage (including, without limitation, informational, traffic and street signage) situated within any portion of the Property, street lights, roadways, walkways, sidewalks, on-street parking spaces and facilities situated within any portion of the Property, gates, walls, fences, Improvements, landscaping and landscaped or other areas immediately adjacent to any public roadways, whether the same are located within the boundaries of the Property or on or within the rights-of-way of any public roadways which may provide ingress to and egress from any portion of the Property (other than any such areas located solely within the boundary lines of any Lot or Dwelling), (b) any community buildings or facilities provided for the common use by the Owners and Occupants and any buildings and personal property utilized by the Neighborhood Association in connection with the performance of its duties or obligations hereunder, (c) all lakes, water features, storm drains and sewers, drainage and/or watershed protection or retention ponds, basins or other areas and facilities located within the Property (other than such areas located solely within the boundary lines of any Lot or Dwelling), (d) all utility and irrigation lines, pipes, ducts, conduits, equipment, machinery and other apparatus and appurtenances which serve any portion of the Common Areas (which are not owned or maintained by any public or private utility providers or Governmental Authorities), (e) any Recreational Facilities, and (f) any other areas or Improvements which are designated by Developer as Common Areas from time to time. The designation of any land and/or Improvements as Common Areas shall not mean or imply that the public at large acquires any easement of use or enjoyment or any other rights, licenses or benefits therein or to the use thereof.

1.10 COMMON EXPENSES. The term "Common Expenses" shall mean and refer to all expenditures made or incurred by or on behalf of the Neighborhood Association, including, without limitation, those expenses described in Section 8.03(c) below, together with all funds assessed for the creation or maintenance of reserves pursuant to the provisions of this Neighborhood Declaration.

1.11 DEVELOPER. The term "Developer" shall mean Egypt Bluff Properties, LLC, an Alabama Limited Liability Company, and its successors and assigns.

1.12 DWELLING. The term "Dwelling", with an initial capital letter, shall mean and refer to any improved Lot intended for use as a single-family attached or detached residential housing unit, including all improvements located thereon. Common Areas shall not constitute Dwellings.

1.13 GOVERNMENTAL AUTHORITY. The term "Governmental Authority" shall mean and refer to any and all city, county, state and federal governmental or quasi-governmental agencies, bureaus, departments, divisions or regulatory authorities having jurisdiction now or hereafter over any portion of the Property or any Improvements thereto.

1.14 IMPROVEMENT. The term "Improvement", with an initial capital letter, shall mean and refer to all Dwellings and any building, structure or device constructed, erected or placed upon any Lot or Dwelling which

in any way affects, alters or causes a change in the exterior appearance of any Lot or Dwelling. Improvements shall include, by way of illustration and not limitation, buildings, sheds, foundations, covered patios, underground utilities, roads, driveways, walkways, paving, curbing, parking areas, swimming pools, tennis courts, treehouses, playhouses, swingsets, trees, shrubbery, landscaping, fences, screening, walls, signs and any other artificial or man-made changes or alterations to the natural condition of any Lot or Dwelling and any fixtures, appurtenances, personal property or devices installed, erected, constructed, attached, placed or maintained on the exterior of any Dwelling or any other buildings situated on any Lot or Dwelling. "Improvements" shall also mean any exterior alterations or additions to any existing Dwelling or other structure situated on a Lot; any grading, any excavation or fill, the volume of which exceeds eight (8) cubic yards; and any excavation, fill, ditch, diversion dam or other thing/device which affects and alters the natural flow of surface waters from, upon and across any Lot (including any change in the grade of the Lot of more than six inches).

1.15 LIVING SPACE. The term "Living Space" shall mean and refer to the enclosed and covered areas within a Dwelling which are heated and cooled by heating, ventilating and air conditioning equipment, exclusive of any of the following areas of a Dwelling which are not heated and cooled by heating, ventilating and air conditioning equipment: "bonus" rooms in garages or attics, garages, carports, porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements. Following initial approval by the ACC of the minimum and maximum Living Space for any Dwelling, none of the foregoing described areas which are not heated and cooled by heating, ventilating and air conditioning equipment shall be enclosed or otherwise improved to create Living Space out of such areas unless (a) the same is approved by the ACC and (b) any additional Living Space created out of such areas will not result in the Dwelling exceeding the maximum Living Space limitations established for such Lot and Dwelling unless the same has been specifically approved in writing by the ACC.

1.16 LOT. The term Lot shall mean and refer to any unimproved portion of the Property upon which it is intended that a Dwelling be constructed thereon. Upon the recordation of any subdivision plat for any portion of the Property, each lot indicated thereon (other than any lots designated thereon as Common Areas or which subsequently become Common Areas) shall be deemed a Lot for purposes of this Neighborhood Declaration. A parcel of land shall be deemed unimproved and thus considered to be a Lot, rather than a Dwelling, until the Improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon completion of construction of such Improvements, such Lot and the Improvements thereon shall collectively be considered to be a Dwelling for purposes of this Neighborhood Declaration. Common Areas (and any portion of the Property that the Developer designates as an area that will subsequently become a Common Area) shall not constitute Lots.

1.17 MORTGAGE. The term "Mortgage", with an initial capital letter, shall mean and refer to any mortgage, deed of trust or other security device encumbering a Lot or Dwelling or any interest therein and which shall have been duly and properly recorded in the Probate Office.

1.18 MORTGAGEE. The term "Mortgagee", with an initial capital letter, shall mean and refer to the holder of any Mortgage.

1.19 NEIGHBORHOOD ASSESSMENT. The term "Neighborhood Assessment" shall mean, collectively, the Annual Assessments (as defined in Section 8.03(a) below), Special Assessments (as defined in Section 8.04 below), and Individual Assessments (as defined in Section 8.05 below).

1.20 NEIGHBORHOOD ASSOCIATION. The term "Neighborhood Association" shall mean Highland Village Homeowners Association, Inc., an Alabama nonprofit corporation, and its successors and assigns.

1.21 NEIGHBORHOOD DECLARATION. The term "Neighborhood Declaration" shall mean and refer to this Highland Village Neighborhood Declaration of Covenants, Conditions and Restrictions, together with all amendments hereto.

1.22 NEIGHBORHOOD TURNOVER DATE. The term "Neighborhood Turnover Date" shall mean the first to occur of the following: (i) the date on which Developer and any Affiliates of Developer cease to own any portion of the Property or (ii) the date on which Developer elects, in its sole and absolute discretion, to relinquish (1)

all rights to appoint and remove members of the Board pursuant to Section 4.02 below and (2) all voting rights in the Neighborhood Association reserved to Developer pursuant to Section 4.03(a) below.

1.23 OCCUPANT. The term "Occupant" shall mean and include any family members, guests, tenants, agents, servants, employees and invitees of any Owner and their respective family members, guests, tenants, agents, servants, employees, invitees and any other person who occupies or uses any Lot or Dwelling within the Property. All actions or omissions of any Occupant is and shall be deemed the action or omission of the Owner of such Lot or Dwelling.

1.24 OWNER. The term "Owner", with an initial capital letter, shall mean and refer to the Person, including Developer, who is the record owner of fee simple title to any Lot or Dwelling, but shall not include (i) any Mortgagee unless and until such Mortgagee has foreclosed on its Mortgage and purchased such Lot or Dwelling at the foreclosure sale held with respect to the foreclosure of such Mortgage or (ii) any lessee, purchaser, contract purchaser or vendee who has an interest in any Lot or Dwelling solely by virtue of a lease, contract, installment contract or other agreement.

1.25 PERSON. The term "Person" with an initial capital letter, shall mean and refer to any individual, corporation, association, partnership, limited liability company, joint venture, trust, estate or other entity or organization.

1.26 PROBATE OFFICE. The term "Probate Office" shall mean and refer to the Office of the Judge of Probate of Limestone County, Alabama, and any successors thereto which serves as the official public registry for the public recording of real estate documents in Limestone County, Alabama.

1.27 PROPERTY. The term "Property", with an initial capital letter, shall mean and refer to that certain real property situated in Limestone County, Alabama which is more particularly described in Exhibit A attached hereto and incorporated herein by reference. The Property shall also include any Additional Property made subject to this Neighborhood Declaration pursuant to Section 2.02 hereof and shall include all Lots, Dwellings and Common Areas.

1.28 RECREATIONAL FACILITIES. The term "Recreational Facilities" shall mean and refer to any swimming pool, club house, and other recreational amenities or facilities, if any, situated within the Property which are owned by the Neighborhood Association (and thus constitute Common Areas). Notwithstanding anything provided herein to the contrary, in no event shall Developer be obligated to construct, maintain, or continue to make available or otherwise provide any Recreational Facilities within any portion of the Property.

## ARTICLE II

### PROPERTY SUBJECT TO THE NEIGHBORHOOD DECLARATION

2.01 GENERAL DECLARATION. Developer hereby declares that the Property is and shall be subject to the easements, covenants, conditions, restrictions, charges, liens and regulations of this Neighborhood Declaration and the Property, any part thereof and each Lot, Dwelling and Common Area thereof shall be held, owned, sold, transferred, conveyed, hypothecated, encumbered, leased, occupied, built upon and otherwise used, improved and maintained subject to the terms of this Neighborhood Declaration, which easements, covenants, conditions, restrictions, charges, liens and regulations shall run with the title to the Property and shall be binding upon and inure to the benefit of Developer and all Owners and Occupants of the Property and any Lot, Dwelling and Common Area thereof. Furthermore, this Neighborhood Declaration shall apply only to the Property (and any Additional Property added to the terms and provisions hereof by Developer) but this Neighborhood Declaration shall not apply to any other real property owned by Developer unless the same is subjected specifically by written instrument to this Neighborhood Declaration.

2.02 ADDITIONAL PROPERTY. Developer reserves the right, in its sole and absolute discretion, at any time and from time to time during the pendency of this Neighborhood Declaration (whether before or after the Neighborhood Turnover Date), to add and submit any Additional Property to the provisions of this Neighborhood Declaration and, to the extent any of the Additional Property is specifically submitted to the terms and provisions of

this Neighborhood Declaration by Developer, then any such Additional Property shall constitute part of the Property. Additional Property may be submitted to the provisions of this Neighborhood Declaration by an instrument executed by Developer in the manner required for the execution of deeds and recorded in the Probate Office, which instrument shall be deemed an amendment to this Neighborhood Declaration (which need not be consented to or approved by any Owner, Occupant or Mortgagee of any Lot or Dwelling) and shall (a) refer to this Neighborhood Declaration, (b) contain a statement that such Additional Property is conveyed or subject to the provisions of this Neighborhood Declaration or only specified portions thereof, (c) contain a legal description of such Additional Property and (d) state such other or different covenants, conditions and restrictions as Developer, in its sole discretion, may specify to regulate and control the use, occupancy and improvement of such Additional Property. From and after the date on which an amendment to this Neighborhood Declaration is recorded in the Probate Office submitting any Additional Property to the terms and provisions of this Neighborhood Declaration, the number of votes in the Neighborhood Association shall be increased by the number of Lots or Dwellings within the Additional Property which are added and submitted to this Neighborhood Declaration so that there shall continue to be one vote in the Neighborhood Association per Lot or Dwelling within the Property. In no event shall Developer be obligated to submit any Additional Property to the provisions of this Neighborhood Declaration or to impose any of the covenants, conditions or restrictions set forth in this Neighborhood Declaration upon any real property owned by Developer situated adjacent to or in close proximity with the Property. Notwithstanding anything provided in this Neighborhood Declaration to the contrary, (i) the provisions of this Section 2.02 may not be abrogated, modified, rescinded, supplemented or amended, in whole or in part, without the prior written consent of Developer, (ii) the rights reserved by Developer to add Additional Property to this Neighborhood Declaration pursuant to this Section 2.02 shall not be deemed to inure to the benefit of any transferee or purchaser of the Property, the Additional Property or any portion thereof, unless Developer, in its sole discretion, transfers and conveys to such transferee or purchaser the rights reserved herein by express reference to this Section 2.02 of this Neighborhood Declaration and (iii) if Developer elects to add Additional Property to this Neighborhood Declaration, whether before or after the Neighborhood Turnover Date, then for the purpose of adding such Additional Property to the Neighborhood Declaration, this Neighborhood Declaration may be amended solely by Developer in accordance with the provisions of this Section 2.02 without any requirement that the consent approval of any Owner or Mortgagee be obtained.

**2.03 RIGHT OF DEVELOPER TO MODIFY RESTRICTIONS WITH RESPECT TO LOTS OR DWELLINGS OWNED BY DEVELOPER.** With respect to any Lot or Dwelling owned by Developer, Developer may, by deed, contract or other instrument filed for record in the manner specified in Section 2.02 above, modify the provisions of this Neighborhood Declaration as the same apply to any such Lot or Dwelling.

**2.04 MUTUALITY OF BENEFIT AND OBLIGATION.** The provisions of this Neighborhood Declaration are made (a) for the mutual and reciprocal benefit of each Lot and Dwelling and are intended to create mutual, equitable servitudes upon and in favor of each Lot and Dwelling, (b) to create reciprocal rights and obligations between the respective Owners and all future and subsequent Owners of any Lot or Dwelling within the Property and (c) to create a privity of contract and estate between the Owners, their respective heirs, successors and assigns.

**2.05 ADDITIONAL COVENANTS.** Developer may, in its sole and absolute discretion, create additional restrictive covenants, in addition to the terms and provisions of this Neighborhood Declaration, for any portions of the Property. Furthermore, other owner associations may be created for portions of the Property subject to any such additional covenants. Only those portions of the Property which are specifically subjected to and encumbered by any such additional restrictive covenants shall be bound by the terms and provisions thereof or shall be allowed to have any membership interest in any such additional owners' associations which may be established from time to time by Developer. In the event of any conflict or ambiguity between the terms and provisions of any such additional restriction covenants and the terms and provisions of this Neighborhood Declaration, the terms and provisions of this Neighborhood Declaration shall at all times control.

**2.06 DEVELOPMENT OF PROPERTY.** Developer shall have the right, but not the obligation, for so long as Developer owns any portion of the Property, to make improvements and changes to all Common Areas and to all Lots and Dwellings owned by Developer, including, without limitation, (a) installation and maintenance of any Improvements in or to the Common Areas, (b) changing the location of the boundaries of any Lots or Dwellings owned by Developer or the boundaries of any of the Common Areas, (c) changing the boundaries of any portion of

the Property owned by Developer, including any Additional Property owned by Developer, (d) the installation and maintenance of any water, sanitary sewer, storm sewer and my other utility systems and facilities within any of the Common Areas, (e) converting and changing any Lots or any portion thereof owned by Developer into Common Areas, streets, roadways, paths, parks or other uses and (f) removing or exempting any portion of the Property and any Lots, Dwellings or Common Areas from the terms and provisions of this Neighborhood Declaration. The exercise by Developer of any of the rights set forth in this Section 2.06 may be exercised solely by Developer without any requirement that the consent or approval of any Owners or Mortgagees be obtained. Each Owner, by acceptance of a deed to any Lot or Dwelling, acknowledges and agrees that Developer or Affiliates thereof may either own or may in the future own real property situated adjacent to or in close proximity with the Property, which real property will not be subject to any of the terms and provisions of this Neighborhood Declaration unless Developer, in its sole and absolute discretion, elects to add such real property to the terms and provisions of this Neighborhood Declaration pursuant to the provisions of Section 2.02 above.

2.07 SUBDIVISION. Developer reserves the right to record, modify, amend, revise and otherwise add to, at any time and from time to time, one or more subdivision plats setting forth such information as Developer may deem necessary with regard to the Property, including, without limitation, the number, locations and dimensions of all Lots, Dwellings, Common Areas, public or private roads, utility systems, drainage systems, utility easements, drainage easements, access easements, set-back line restrictions, lakes, retention ponds and drainage basins. Any such subdivision plats and any amendments thereto shall be binding on the portions of the Property indicated thereon as if such subdivision plat were specifically incorporated into this Neighborhood Declaration. Notwithstanding anything provided to the contrary in this Neighborhood Declaration, the rights reserved by Developer pursuant to this Section 2.07 may be exercised by Developer without any requirement that the consent or approval of any Owners or Mortgagees be obtained (other than the Owner or Mortgagee of any Lot which is being subdivided or resubdivided) and shall include, without limitation, the right to (a) divide and re-subdivide, combine, subdivide and re-subdivide any Lots, Dwellings, Common Areas and other portions of the Property owned by Developer, and (b) amend from time to time and at any time Exhibit A to this Neighborhood Declaration to reflect any such subdivision or re-subdivision of any portion of the Property.

ARTICLE III

EASEMENTS

3.01 GRANT OF NON-EXCLUSIVE EASEMENTS TO COMMON AREAS.

(a) Subject to the rights of the Neighborhood Association to limit and prohibit access to and the use of the Common Areas and the Recreational Facilities, if any, as provided in Sections 3.01(b) and 11.01 below, Developer does hereby grant to each Owner and Occupant the non-exclusive right, privilege and easement of access to and the use and enjoyment of the Common Areas in common with Developer, its successors and assigns, and all other Owners, Occupants and other parties having any rights or interest therein. Subject to the rights of the Neighborhood Association to limit and prohibit access to and the use of the Common Areas and the Recreational Facilities, if any, as provided in Sections 3.01(b) and 11.01 below, the easement and rights granted pursuant to this Section 3.01(a) are and shall be permanent and perpetual, are non-exclusive, are appurtenant to and shall pass and run with title to each Lot and Dwelling.

(b) Subject to the limitations, restrictions, terms and provisions set forth in this Section 3.01(b) and in Section 11.01 below, Developer does hereby grant to each Owner and the respective family members of each Owner the right and privilege to use and enjoy any Recreational Facilities in common with Developer, its successors and assigns, all other Owners and their respective family members and any other parties who have rights to use the Recreational Facilities, as determined by the Board from time to time. Notwithstanding anything provided herein to the contrary, access to and the use and enjoyment of the Recreational Facilities, if any, (i) shall be subject to any and all rules and regulations established from time to time by the Board pursuant to Section 4.06 below, (ii) shall be limited to the Owners, their spouses and their dependent children (as may be defined from time to time by the Board, in its sole discretion) and any other persons authorized by the Board from time to time to use the same and (iii) may be suspended or permanently revoked by the Board for any Owner or the respective family members of any Owner who (1) violates any of the rules and regulations applicable to the use and enjoyment of the Recreational Facilities or (2) fails to timely pay all Assessments due and payable by such Owner to the Neighborhood



Association. The easement and rights granted pursuant to this Section 3.01(b) are and shall be permanent and perpetual, are non-exclusive, are appurtenant to and shall pass and run with title to each Lot and Dwelling.

**3.02 RESERVATION OF GENERAL ACCESS AND MAINTENANCE EASEMENT.** Developer does hereby establish and reserve for itself, the ACC, the Neighborhood Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual nonexclusive easement appurtenant over, across, through and upon each Lot and Dwelling for the purpose of (a) providing ingress to and egress from each Lot and Dwelling for (i) inspecting each Lot and Dwelling and any Improvements thereon in order to determine compliance with the provisions of this Neighborhood Declaration (ii) constructing, maintaining, repairing, improving or reconstructing any Improvements to the Common Areas, (iii) the performance of the respective duties of Developer, the ACC and the Neighborhood Association hereunder, including, without limitation, taking any action required or permitted to be taken by Developer, the ACC and the Neighborhood Association pursuant to any of the terms or provisions of this Neighborhood Declaration; provided, however, that upon completion and occupancy of any Dwelling, then except in the event of emergencies, the foregoing easement shall be utilized only during normal business hours and then, whenever practicable, only upon advance notice to the Owner or Occupant of such Dwelling directly affected thereby, and (b) mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash on a Lot or Dwelling so as to maintain reasonable standards of health, fire, safety and appearance within the Property; provided, however, that such easement shall not impose any duty or obligation upon Developer, the ACC or the Neighborhood Association to perform any of the foregoing actions.

**3.03 RESERVATION OF EASEMENTS WITH RESPECT TO COMMON AREAS.**

(a) Developer does hereby establish and reserve, for itself, the ACC, the Neighborhood Association and their respective agents, employees, representatives, invitees, successors and assigns, a permanent and perpetual non-exclusive easement appurtenant, over, across, under, through and upon all of the Common Areas for the purpose of (i) constructing Dwellings and other Improvements in and to any Lots, Dwellings and Common Areas, (ii) installing, maintaining, repairing and replacing any other Improvements to the Property or to the Common Areas, including, without limitation, sidewalks, walkways, signage and traffic directional signs and (iii) doing all other things reasonably necessary and proper in connection therewith; provided, however, that in no event shall Developer, the ACC or the Neighborhood Association have any obligation to undertake any of the foregoing.

(b) Developer does hereby establish and reserve for itself and its successors and assigns the permanent right to change, modify and realign the boundaries of any of the Common Areas. Developer hereby establishes and reserves for itself and its successors and assigns (i) a permanent and perpetual non-exclusive easement to have access, ingress to and egress from and the right and privilege to use and enjoy all of the Common Areas and all Improvements thereon for such purposes as Developer deems appropriate, (ii) the right to grant to third parties rights to use the Common Areas and (iii) the right to grant to third parties, other real property and the owners of such real property rights to use any of the Common Areas. Developer further reserves the right, but shall not have any obligation, to convey by quitclaim deed to the Neighborhood Association at any time and from time to time any portion of the Property or any Improvements thereto to be utilized as Common Areas, as Developer, in its sole discretion, may determine.

**3.04 RESERVATION OF EASEMENT FOR UTILITIES.** Developer does hereby establish and reserve for itself and the Neighborhood Association and their respective successors and assigns permanent and perpetual non-exclusive easements appurtenant over, across, under, through and upon all those portions of the Property as shown on the recorded subdivision plat for all or part of the Property, as well as all portions of the Common Areas, for the purpose of installing, erecting, replacing, relocating, maintaining and operating master television and/or cable systems, security and similar systems and all utilities necessary or convenient for the use of any portion of the Property or other real property, including, without limitation, publicly or privately owned and operated electrical, gas, telephone, water and sanitary sewer services, storm drains and sewers, drainage systems, retention ponds, lakes, basins and facilities, lines, pipes, conduits, equipment, machinery and other apparatus and appurtenances necessary or otherwise reasonably required in order to provide any utility service to any portion of the Property or any other real property. The easements established and reserved herein shall include the right to cut and remove trees, undergrowth and shrubbery, to grade, excavate or fill and to otherwise take all other action reasonably necessary to provide economical and safe installation, maintenance, repair, operation and replacement of all such

utility services and the systems, equipment and machinery used to provide the same. Notwithstanding anything provided in this Section 3.04 to the contrary, (i) the utilization of any of the easements and rights established and reserved pursuant to this Section 3.04 shall not unreasonably interfere with the use or occupancy of any Dwelling situated on any Lot, (ii) Developer shall use good faith efforts to attempt to cause any utility company or other supplier or provider of any utility service which may utilize any of the easements and rights reserved and established pursuant to this Section 3.04 to take reasonable action to repair any damage caused by such utility company or other supplier or provider of such utility service during the exercise of any rights established and reserved herein and (iii) the establishment and reservation of easements pursuant to this Section 3.04 shall not create any obligation, responsibility or liability of Developer or the Neighborhood Association to undertake any of the actions allowed or permitted pursuant to the terms of the Section 3.04.

### 3.05 RESERVATION OF EASEMENTS FOR SIGNS WALKS, TRAILS, WALLS AND FENCES.

(a) Developer does hereby establish and reserve for itself and the Neighborhood Association and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land ten (10) feet in width lying parallel to and running along the common exterior boundary between each Lot or Dwelling and any roadway which is directly adjacent to and abuts such Lot or Dwelling for the purpose of constructing, installing, maintaining, repairing, operating, replacing and the use of sidewalks, walkways, trails, bicycle and jogging paths and lanes, traffic directional signs and related improvements; provided, however, that neither Developer nor the Neighborhood Association shall have any obligation to construct any of the foregoing improvements.

(b) Developer does hereby establish and reserve for itself and the Neighborhood Association and their respective successors and assigns, a permanent and perpetual easement appurtenant over, across, through and upon a strip of land fifteen (15) feet in width running parallel to and along the boundary of any Lot or Dwelling which constitutes the perimeter boundary of the Property for the purpose of constructing, installing, maintaining, repairing, operating and replacing a perimeter wall, fence, mound or berm around the perimeter boundary of the Property; provided, however, that (i) neither Developer nor the Neighborhood Association shall have any obligation to construct any such perimeter wall, fence, mound or berm and (ii) to the extent Developer desires to exercise the easement rights reserved in this Section 3.05, then Developer shall have the further right, at any time and from time to time, to alter, change, modify, terminate and remove any improvements constructed by Developer on any portion of the Property pursuant to this Section 3.05.

3.06 RESERVATION OF ENVIRONMENTAL EASEMENT. Developer does hereby establish and reserve for itself, the ACC, the Neighborhood Association and their respective agents, employees, successors and assigns, a permanent and perpetual right and easement on, over, across, through and upon all Lots and all unimproved portions of any Dwellings for the purpose of taking any action necessary to effect compliance with the Architectural Standards and any watershed, soil erosion or environmental rules, regulations and procedures from time to time affecting or otherwise promulgated or instituted by any Governmental Authorities or the Board. The easement and right established and reserved herein shall include, without limitation, the right to implement erosion control procedures and practices, the right to drain standing water and the right to take any other action which may be required in order to satisfy the requirements of the Architectural Standards or any Governmental Authorities, including, without limitation, any watershed, soil erosion, stormwater discharge or environmental rules, regulations or procedures affecting the Property. Except in the case of an emergency situation or a perceived emergency situation, the exercise by Developer, the ACC or the Neighborhood Association of the rights reserved in this Section 3.06 shall not unreasonably interfere with the use or occupancy of any Dwelling.

## ARTICLE IV

NEIGHBORHOOD ASSOCIATION

4.01 **MEMBERSHIP.** The Owner of each Lot or Dwelling shall be a member of the Neighborhood Association. For purposes of determining membership in the Neighborhood Association, only one (1) membership in the Neighborhood Association shall be allowed per each Lot or Dwelling, regardless of the number of Dwellings situated on any Lot. Membership in the Neighborhood Association shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling; provided, however, that (a) Developer shall be deemed a member of the Neighborhood Association and shall have one (1) vote for each Lot or Dwelling within the Property owned by Developer, (b) in the event any Lot or Dwelling is owned by more than one (1) person, then the Owner of such Lot or Dwelling shall, by written notice to the Board, designate only one (1) representative to serve as a member of the Neighborhood Association, which representative shall exercise all voting rights attributable to the Lot or Dwelling owned by such Owner and (c) no Mortgagee shall become a member of the Neighborhood Association until such time, if at all, that the Mortgagee becomes an Owner by virtue of foreclosure of its Mortgage and title to such encumbered Lot or Dwelling is vested in Mortgagee pursuant to a duly recorded deed. The transfer or conveyance of fee title to any Lot or Dwelling (other than by a Mortgage as security for the payment of an obligation), shall automatically include the transfer of all membership rights of such Owner in the Neighborhood Association with respect to the Lot or Dwelling transferred and conveyed, notwithstanding any failure of the transferor to endorse to his transferee any certificates, assignments or other evidence of such membership. Membership in, or the rights and benefits of, the Neighborhood Association may not be transferred, assigned, conveyed or otherwise alienated in any manner separately and apart from the ownership of a Lot or Dwelling. Each member of the Neighborhood Association shall at all times comply with the provisions of this Neighborhood Declaration, the Articles of Incorporation, the Bylaws and all rules and regulations which may from time to time be adopted by the Board or the members of the Neighborhood Association.

4.02 **BOARD.** The Board shall have the rights and duties set forth in the Articles of Incorporation and the Bylaws. Developer hereby retains and shall have the sole and exclusive right to appoint and remove, with or without cause, any and all members of the Board and any and all officers of the Neighborhood Association until the occurrence of the Neighborhood Turnover Date. From and after the Neighborhood Turnover Date, the number of members of the Board shall increase to five (5) and the Owners shall have the exclusive right to appoint and remove all five (5) members of the Board in accordance with the terms and provisions of the Bylaws. As used throughout this Neighborhood Declaration, all actions required or permitted to be taken by the Neighborhood Association shall, unless otherwise expressly provided herein to the contrary, be by the majority vote of the members of the Board. Each Owner, by acceptance of a deed to a Lot or Dwelling, vests in Developer the sole and absolute authority to appoint and remove all of the members of the Board and all of the officers of the Neighborhood Association until the occurrence of the Neighborhood Turnover Date.

4.03 **VOTING RIGHTS.**

(a) **Notwithstanding anything provided to the contrary in this Neighborhood Declaration, the Articles of Incorporation or the Bylaws, Developer shall, subject to the remaining terms and provisions of this Section 4.03(a), have the sole and exclusive right to exercise all voting rights in the Neighborhood Association until the Neighborhood Turnover Date;** provided, however, that (i) any Special Assessments must be approved by the Owners in accordance with the terms and provisions of Section 8.04 below and (ii) certain amendments to this Neighborhood Declaration are subject to the terms and provisions of Section 10.02 below. Each Owner, by acceptance of a deed to any Lot or Dwelling, shall be deemed to have irrevocably and unconditionally agreed to the foregoing terms and provisions of this Neighborhood Declaration and shall further be deemed to waive any and all voting rights in the Neighborhood Association prior to the Neighborhood Turnover Date other than as specifically set forth in Sections 8.04 and 10.02 hereof.

(b) With respect to those two (2) matters described in Section 4.03(a) above which must be approved or voted on by the Owners prior to the occurrence of the Neighborhood Turnover Date and at all times following the Neighborhood Turnover Date, the Owner of each Lot or Dwelling who is "in good standing", as defined in the Bylaws, shall be entitled to one (1) vote in any matter submitted to the members of the Neighborhood Association for approval. No Owner, whether one or more persons shall have more than one membership and one

vote per Lot or Dwelling owned and, to the extent any Lot contains more than one dwelling, then such Lot and Dwelling shall be entitled to only one (1) vote regardless of the number of Dwellings situated on such Lot. Such voting rights shall continue to apply to each Lot or Dwelling upon the addition of any of the Additional Property to this Neighborhood Declaration. Only those Owners who hold legal title to a Lot or Dwelling shall be entitled to vote on any matter submitted to the members of the Neighborhood Association for approval. For purposes of this Section 4.03, at all times prior to and after the Neighborhood Turnover Date, Developer shall be deemed the Owner of, and entitled to, all voting rights attributable to any Lots or Dwellings owned by Developer.

(c) Each Owner, by acceptance of a deed to a Lot or Dwelling, consents and agrees to the dilution of his or her voting interest in the Neighborhood Association by virtue of the resubdivision or addition of any Lot by Developer pursuant to Article II above or the submission of any Additional Property to the terms of this Neighborhood Declaration. In no event, whether as a result of there being multiple ownership interests in any Lot or Dwelling or otherwise, shall more than one vote be allowed for any one Lot or Dwelling. Fractional voting shall not be permitted.

(d) Notwithstanding anything provided herein to the contrary, the Neighborhood Association shall have the right to suspend any Owner's voting rights or privileges in the Neighborhood Association pursuant to the terms and provisions of Section 11.01 below. To the extent any Owner is not "in good standing", as defined in the Bylaws, then the voting rights of such Owner shall be suspended and shall not be counted or included in determining whether a quorum is present or whether the applicable number of votes have been cast in any vote of the Owners, as more particularly described and provided in the Bylaws.

#### 4.04 DUTIES AND POWERS OF NEIGHBORHOOD ASSOCIATION.

(a) In addition to the rights, duties, responsibilities and obligations of the Neighborhood Association otherwise set forth in this Neighborhood Declaration, the Neighborhood Association shall have the power to do, cause to be done and otherwise perform or cause to be performed any of the duties and powers set forth in the Articles of Incorporation and the Bylaws. The Neighborhood Association may exercise any other right or privilege granted to it expressly by this Neighborhood Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. The powers and authority granted herein and in the Articles of Incorporation and Bylaws of the Neighborhood Association may be exercised by the Board, acting through the officers of the Neighborhood Association, without further consent or action on the part of the Owners. Subject to the conditions, restrictions and other provisions of this Neighborhood Declaration, all agreements, actions and determinations lawfully authorized by the Board shall be binding upon all Owners, their heirs, executors, personal representatives, administrators, successors and assigns and all others having any interest in the Property.

(b) In performing its responsibilities hereunder, the Neighborhood Association, through the Board, shall have the right and authority to delegate to such persons of its choice, including third party management companies which may be Affiliates of Developer, such duties of the Neighborhood Association as may be determined by the Board. In furtherance of the foregoing and not in limitation thereof, the Neighborhood Association may obtain and pay for the services of any person or entity to manage its affairs or any part thereof, to the extent it deems advisable, as well as such other personnel as the Neighborhood Association shall deem necessary or desirable for the proper operation of any portion of the Common Areas, whether such personnel are furnished or employed directly by the Neighborhood Association or by independent contract with the Neighborhood Association. All costs and expenses incident to the employment of a manager of the Neighborhood Association or any of the Common Areas shall be part of the Common Expenses. During the term of any such management agreement entered into by the Neighborhood Association with a third party, such manager may, if authorized by the Board, exercise all the powers and shall be responsible for the performance of all of the duties of the Neighborhood Association, excepting any of such powers or duties specifically reserved to the Board or the officers of the Neighborhood Association by this Neighborhood Declaration, the Articles of Incorporation or the Bylaws. Such manager may be any Person and may be bonded in such manner as the Board may require, with the cost of such bond to be part of the Common Expenses. In addition to the foregoing, the Neighborhood Association may pay for and the Board may hire and contract for such legal, accounting and other professional services as are necessary or desirable in connection with the administration and operation of the Property and the Neighborhood Association or the enforcement of this

Neighborhood Declaration, the Articles of Incorporation, the Bylaws, the Architectural Standard or any rules and regulations of the Neighborhood Association.

4.05 MANAGEMENT BY DEVELOPER OR ITS AFFILIATES. Developer or any of Developer's Affiliates may be employed as the manager of the Neighborhood Association and for the Properly until the Neighborhood Turnover Date at such compensation and on such terms as would be usual, customary and obtainable in an arms-length transaction with any third party providing comparable services for any similar real estate development in the southeastern United States.

4.06 RULES AND REGULATIONS. In addition to the terms and provisions set forth in this Neighborhood Declaration, the Board may establish and enforce rules and regulations governing the use, improvement, maintenance and repair of all Lots, Dwellings and Common Areas, including, specifically, the Recreational Facilities. Without limiting the foregoing, the Board may adopt rules and regulations which shall govern the use of any of the Common Areas by Owners and Occupants, including, specifically, rules and regulations which (a) allow persons other than Owners the right, subject to the payment of any applicable fees, to utilize the Recreational Facilities, if any, situated within the Common Areas, (b) restrict or limit the number of guests of any Owner utilizing the Recreational Facilities, (c) specify the hours and days on which any of the Recreational Facilities may be utilized or (d) prohibit the use of all or any portion of the Recreational Facilities by those Owners who have violated the rules and regulations of the Neighborhood Association or who have not paid all Assessments hereunder. Such rules and regulations shall be binding upon all Owners and Occupants until and unless such rule or regulation is specifically overruled, canceled or modified by the Board or by the vote of the members of the Neighborhood Association entitled to vote thereon at any regular or special meeting of the Neighborhood Association or any ballot vote held in accordance with the terms and provisions of the Bylaws.

4.07 INDEMNIFICATION. The Neighborhood Association shall and does hereby indemnify, defend and agree to hold each and every member of the Board and each and every officer, agent, employee and representative (including any person designated by the Board to serve as a committee member on any committee established by the Board) of the Neighborhood Association harmless from and against any and all expenses, including court costs and reasonable attorneys' fees, suffered, paid or incurred by any of them in connection with any action, suit or other proceeding, including the settlement of any suit or proceeding to which such person may be made a party by reason of being or having been a member of the Board or an officer, agent, employee or representative (including any person designated by the Board to serve as a committee member on any committee established by the Board) of the Neighborhood Association. The members of the Board and the officers, agents, employees and representatives of the Neighborhood Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) shall not be liable for any mistake in judgment, negligence or otherwise except for their own willful misconduct or reckless disregard of duty, as finally determined by a court of competent jurisdiction. The members of the Board and the officers, agents, employees and representatives of the Neighborhood Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Neighborhood Association and the Neighborhood Association shall and does hereby indemnify, defend and agree to forever hold each such member of the Board and each such officer, agent, employee and representative of the Neighborhood Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) harmless from and against any and all liability to others on account of any such contract or commitment. The indemnification obligations and rights provided for herein shall not be exclusive of any other rights to which any member of the Board or any officer, agent, employee or representative of the Neighborhood Association (including any person designated by the Board to serve as a committee member on any committee established by the Board) may be entitled, including anything provided to the contrary in the Articles of Incorporation or the Bylaws. The Neighborhood Association shall maintain adequate general liability and, to the extent financially feasible, officers' and directors' liability insurance in order to fulfill its obligations under this Section 4.07 and the costs of such insurance shall constitute a Common Expense.

4.08 TURNOVER. On or prior to the occurrence of the Neighborhood Turnover Date, all Common Areas, if any, owned by Developer shall be transferred and conveyed by Developer to the Neighborhood Association by quitclaim deed. Developer may, in its sole and absolute discretion, elect to transfer and convey to the Neighborhood Association by quitclaim deed any other real property owned by Developer at any time prior to or

after the occurrence of the Neighborhood Turnover Date. Notwithstanding the foregoing, Developer shall, at its sole cost and expense, cause any real property conveyed to the Neighborhood Association to be conveyed free and clear of (i) liens and encumbrances other than taxes for the then current year and all subsequent years thereafter, (ii) the terms and provisions of this Neighborhood Declaration, (iii) all other easements, restrictions, rights-of-way, reservations and other matters of record, and (iv) such other terms, covenants and agreements as may be required by Developer (which may include, by way of illustration, but not limitation, the reservation of easements and other rights as to such real property conveyed by Developer to the Neighborhood Association). The Neighborhood Association, by execution of this Neighborhood Declaration, agrees to accept conveyances by quitclaim deeds of any and all real property which may be conveyed to it by Developer and, if requested by Developer, from any builders or developers of any portion of the Property and all such Property shall thereafter constitute and be deemed to be part of the Common Areas. In addition, on or before the Neighborhood Turnover Date, Developer shall transfer and assign to the Neighborhood Association and the Neighborhood Association shall assume all of Developer's rights and obligations under any and all agreements entered into by Developer on behalf of the Neighborhood Association or which benefit the Neighborhood Association. **Developer does not make, and has not made any representations or warranties, either express or implied, as to the physical condition of any real or personal property which may be conveyed by Developer to the Neighborhood Association and the Neighborhood Association shall accept any such real or personal property in its then "AS IS" condition, "WITH ALL FAULTS".**

## ARTICLE V

### ARCHITECTURAL REVIEW AND ARCHITECTURAL STANDARDS

5.01 COMMITTEE COMPOSITION. The ACC shall consist of not less than two (2) nor more than five (5) persons, each of whom shall be appointed or elected as provided in Section 5.02 below. The persons designated to serve on the ACC may, but shall not be required to be, Owners or Occupants. The regular term of office for each member of the ACC shall be one (1) year, coinciding with the fiscal year of the Neighborhood Association. Any member of the ACC may be removed with or without cause in the manner provided in Section 5.02 below.

#### 5.02 APPOINTMENT AND REMOVAL OF ACC MEMBERS.

(a) **DEVELOPER RESERVES THE RIGHT AT ALL TIMES (EITHER PRIOR TO OR AFTER THE OCCURRENCE OF THE NEIGHBORHOOD TURNOVER DATE) TO APPOINT AND REMOVE ALL MEMBERS OF THE ACC.** Any person appointed as a member of the ACC by Developer may be removed, with or without cause, at any time by Developer. In the event of the death or resignation of a member of the ACC who has been appointed by Developer, then the Developer shall appoint a substitute member of the ACC to fill such vacancy.

(b) Developer reserves the right, at any time either prior to or after the occurrence of the Neighborhood Turnover Date to elect, in a written notice given to the Neighborhood Association, to no longer retain the exclusive rights to appoint and remove members of the ACC as set forth in Section 5.02 (a). Following the giving of such written notice by Developer to the Neighborhood Association, the Board shall, at all times thereafter, have the right to appoint and remove all persons who will serve on the ACC. Any person appointed as a member of the ACC by the Board may be removed, with or without cause, at any time by the Board. In the event of the death or resignation of a member of the ACC who has been appointed by the Board, then the Board shall appoint a substitute member of the ACC to fill such vacancy. Any person appointed by the Board to serve on the ACC shall be deemed an agent of the Neighborhood Association. The terms and provisions of this Section 5.02(b) shall not be effective until such time as Developer elects, in its sole and absolute discretion, to relinquish the right to appoint and remove members of the ACC, which election must be evidenced by a written notice provided by Developer to the Neighborhood Association in accordance with the terms and provisions of Section 5.02(a) above.

5.03 PROCEDURE AND MEETINGS. The ACC shall elect a chairman and he or she, or in his or her absence, any vice-chairman so elected, shall be the presiding officer at all meetings of the ACC. The ACC shall meet on a regular basis as well as upon call of the chairman or vice-chairman and all such meetings shall be held at such places as may be designated by the chairman or vice-chairman. The presence, either in person or by proxy, of

a majority of the total number of members of the ACC shall constitute a quorum of the ACC for the transaction of business and the affirmative vote of a majority of those present in person or by proxy at a meeting of the ACC shall constitute the action of the ACC on any matter which comes before it. The ACC is authorized to retain the services of consulting architects, landscape architects, designers, engineers, inspectors and/or attorneys in order to advise and assist the ACC in performing its functions set forth herein. Any such costs and expenses incurred by the ACC which are not paid by Owners as part of the plan review fee established from time to time by the ACC shall constitute Common Expenses. Each member of the ACC may be paid a stipend or honorarium as may from time to time be determined by the Board and shall otherwise be entitled to a reimbursement of expenses incurred on behalf of the ACC, subject to the approval of such expenses by the Board. The ACC shall have the right from time to time to adopt and establish such rules and regulations as may be determined to be necessary concerning the procedure, notice of meetings and all other matters concerning the conduct of the business of the ACC, including, without limitation, the right to designate one (1) person to act on behalf of the entire ACC in all matters in which the ACC is granted the right to act under the terms of this Neighborhood Declaration.

5.04 ARCHITECTURAL STANDARDS. The ACC is hereby authorized to promulgate and amend and modify from time to time written Architectural Standards governing policies, guidelines and minimum requirements to be satisfied with respect to the construction, location, landscaping and design of all Dwellings and any other Improvements on any Lot or Dwelling, the content and manner in which plans and specifications and other documentation and information concerning the construction of any Dwelling or other Improvements on a Lot or Dwelling are to be submitted to and approved by the ACC, and any other matters affecting the construction, repair or maintenance of any Dwelling or other Improvements on any Lot or Dwelling. The Architectural Standards and any and all amendments thereto adopted from time to time by the ACC shall be in addition to the provisions and requirements set forth in this Neighborhood Declaration and shall be binding upon and enforceable against all Owners.

**5.05 APPROVAL OF PLANS AND SPECIFICATIONS.**

**(a) IN ORDER TO PRESERVE THE ARCHITECTURAL AND AESTHETIC APPEARANCE AND THE NATURAL SETTING AND BEAUTY OF THE PROPERTY, TO ESTABLISH AND PRESERVE A HARMONIOUS DESIGN FOR THE PROPERTY AND TO PROTECT AND PROMOTE THE VALUE OF THE PROPERTY, THE LOTS, THE DWELLINGS AND ALL IMPROVEMENTS THEREON, NO IMPROVEMENTS OF ANY NATURE SHALL BE COMMENCED, ERECTED, INSTALLED, PLACED, MOVED ONTO, ALTERED, REPLACED, RELOCATED, PERMITTED TO REMAIN ON OR MAINTAINED ON ANY LOT OR DWELLING (OTHER THAN BY DEVELOPER), WHICH AFFECT THE EXTERIOR APPEARANCE OF ANY LOT OR DWELLING UNLESS PLANS AND SPECIFICATIONS THEREFOR HAVE BEEN SUBMITTED TO AND APPROVED BY THE ACC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 5.05(b) BELOW. WITHOUT LIMITING THE FOREGOING, THE CONSTRUCTION AND INSTALLATION OF ANY DWELLINGS, SIDEWALKS, DRIVEWAYS, PARKING LOTS, MAILBOXES, PORCHES, ANTENNAS, FLAG POLES, FENCES, CURBING, PAVING, WALLS, HEDGES, SIGNBOARD, DECKS, PATIOS, COURTYARDS, SWIMMING POOLS, TENNIS COURTS, GREENHOUSES, PLAYHOUSES, PLAY EQUIPMENT, AWNINGS, WEATHER VANES, WALLS, EXTERIOR LIGHTS, GARAGES, GUEST OR SERVANT'S QUARTERS, OR ANY OTHER OUTBUILDINGS OR IMPROVEMENTS, SHALL NOT BE UNDERTAKEN, NOR SHALL ANY EXTERIOR ADDITION TO OR CHANGE OR ALTERATION TO AN EXISTING DWELLING, GARAGE OR OTHER STRUCTURE ON A LOT BE MADE (INCLUDING, WITHOUT LIMITATION, PAINTING OR STAINING OF ANY EXTERIOR SURFACE), UNLESS THE PLANS AND SPECIFICATIONS FOR THE SAME HAVE BEEN SUBMITTED TO AND APPROVED BY THE ACC IN ACCORDANCE WITH THE TERMS AND PROVISIONS OF SECTION 5.05(b) BELOW. NO INTERIOR PORTIONS OR AREAS WITHIN A DWELLING OR OTHER STRUCTURES LOCATED ON A LOT WHICH DO NOT CONSTITUTE LIVING SPACE MAY BE CONVERTED INTO LIVING SPACE UNLESS THE ACC, IN ITS SOLE AND ABSOLUTE DISCRETION, APPROVES THE SAME.**

**(b) The ACC is hereby authorized and empowered to approve all plans and specifications and the construction of all Dwellings and other Improvements on any part of the Property, including, specifically, all Common Areas but specifically excluding any and all of those areas of the Property being developed by Developer**

for which no ACC approval shall be required. Prior to the commencement of any Dwelling or other Improvement; on any Lot or Dwelling, the Owner thereof shall submit to the ACC plans and specifications and related data for all such improvements, which shall include the following:

(i) Three (3) copies of a professionally and accurately drawn and dimensioned site development plan indicating the location of any and all Improvements, including, specifically, the Dwelling to be constructed on said Lot, the location of all driveways, walkways, decks, terraces, patios, fences, walls, swimming pools, and outbuildings and the relationship of the same to any set-back requirements applicable to the Lot or Dwelling;

(ii) Three (3) copies of a foundation plan, floor plans, lighting plans (including specifically, any exterior lighting to be utilized with respect to such Lot or Dwelling) and exterior elevation drawings of the front, back and sides of the Dwelling or other Improvements to be constructed on the Lot as relative to sea level;

(iii) Three (3) copies of written specifications and, if requested by the ACC, samples indicating the nature, color, type, shape, height and location of all exterior materials to be used in the construction of the Dwelling on such Lot or any other Improvements thereto, including, without limitation, the type and color of all brick, stone, stucco, wood, roofing and other materials to be utilized on the exterior of a Dwelling and the color of paint or stain to be used on all doors, shutters, trim work, eaves and cornices on the exterior of such Dwelling;

(iv) Three (3) copies of a landscaping plan prepared and submitted in accordance with the provisions of Section 5.06 below, together with the irrigation (underground sprinkler) plan and drainage plan for such Lot or Dwelling;

(v) Such other plans, specifications or other information or documentation as may be required by the ACC or the Architectural Standards.

(c) The ACC shall, in its sole and absolute discretion, determine whether the plans and specifications and other data submitted by any Owner for approval are acceptable. The ACC shall have the right to disapprove any plans and specifications upon any ground which is consistent with the objectives and purposes of this Neighborhood Declaration, including purely aesthetic considerations, any failure to comply with any of the provisions of this Neighborhood Declaration or the Architectural Standards, failure to provide requested information, objection to exterior design, appearance or materials, objection on the ground of incompatibility of any such proposed improvement with the scheme of development proposed for the Property, objection to the location of any proposed Improvements on any such Lot or Dwelling, objection for failure to take into consideration the particular topography, vegetative characteristics, natural environment, and stormwater runoff, objection to the landscaping plan, irrigation plan, or drainage plan for such Lot or Dwelling, objection to the color scheme, finish, proportions, style of Architecture, height, bulk or appropriateness of any Improvement or any other matter which, in the sole and absolute judgment of the ACC, would render the proposed Improvement inharmonious with the general plan of development contemplated for Highland Village. The ACC shall have the right to approve any submitted plans and specifications with conditions or stipulations by which the Owner of such Lot or Dwelling shall be obligated to comply and must be incorporated into the plans and specifications for such Improvements. Approval of plans and specifications by the ACC for Improvements to one particular Lot or Dwelling shall not be deemed an approval or otherwise obligate the ACC to approve similar plans and specifications or any of the features or elements for the Improvements for any other Lot or Dwelling. One copy of all plans, specifications and related data so submitted to the ACC shall be retained in the records of the ACC and the other two (2) copies shall be returned to the Owner submitting the same marked "approved", "approved subject to conditions as noted" or "disapproved". Notwithstanding anything provided herein to the contrary, an Owner may make interior improvements and alterations within such Owner's Dwelling without the necessity or requirement that the approval or consent of the ACC be obtained so long as (i) such improvements and alterations do not affect the exterior appearance of such Dwelling and (ii) the Living Space within such Dwelling is not increased.

(d) The ACC may establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting Architects, landscape Architects, designers, engineers, inspectors and/or attorneys retained in order to approve such plans and specifications and to monitor and otherwise enforce the terms hereof. Such fee or fees shall be paid by the Owner who is seeking approval of plans and specifications. The



ACC shall also have the right, in its sole and absolute discretion, to require the Owner of each Lot or Dwelling to deposit a construction escrow/security deposit with the ACC at the time the ACC approves the plans and specifications for any Improvements to such Owner's Lot. Such construction escrow/security deposit in the amount of one thousand dollars (\$1,000.00) shall be held by the Neighborhood Association, shall serve as security for the full and faithful completion by such Owner of all Improvements to be made by such Owner on such Owner's Lot or Dwelling and the compliance with all of the terms, conditions and provisions of this Neighborhood Declaration and interest, if any, earned on said deposit shall belong to and remain the property of the Neighborhood Association. Any such escrow/security deposit shall be returned to the Owner who has deposited the same upon completion of all Improvements on such Lot or Dwelling and the determination by the ACC, in its sole and absolute discretion that all of the other terms and provisions of this Neighborhood Declaration have been satisfied and complied with in all respects by such Owner, his or her agents, employees and independent contractors. If the ACC, in its sole discretion, determines that such Improvements are not timely completed in accordance with the terms and provisions of this Neighborhood Declaration, or if, in the construction of such Improvements, such Owner or his or her agents, employees or independent contractors fail to abide by all of the terms and provisions of this Neighborhood Declaration and any of the Architectural Standards, then the ACC shall have the right, in its sole and absolute discretion, to use all or any portion of such escrow/security deposit to complete, correct or remedy any such breach by such Owner or his or her agents, employees or independent contractors; provided, however, that application of such escrow/security deposit to the costs to complete, correct or remedy any such breach or violation shall not be deemed a release or waiver of any rights of the ACC or the Neighborhood Association to exercise any of their other respective rights or remedies set forth in this Neighborhood Declaration.

(e) In the event the ACC fails to approve or disapprove in writing any proposed plans and specifications within thirty (30) days after such plans and specifications have been submitted, then the plans and specifications so submitted to the ACC will be deemed to have been disapproved.

(f) Any revisions, modifications or changes in any plans and specifications previously approved by the ACC must be approved by the ACC in the same manner specified above.

(g) If construction of the Dwelling or the Improvements has not substantially commenced (e.g., by clearing and grading, pouring of footings and commencing framing and other related construction work) within six (6) months of approval by the ACC of the plans and specifications for such Dwelling or other Improvements, then no construction may be commenced (or continued) on such Lot or Dwelling and the Owner of such Lot or Dwelling shall be required to resubmit all plans and specifications for any Dwelling or other Improvements to the ACC for approval in the same manner specified above.

(h) Each Owner acknowledges and agrees that no Governmental Authority will issue building permits for any Improvements on a Lot until such time as the ACC has approved the plans and specifications for such Improvements, if such permits are required by any Governmental Authority.

5.06 LANDSCAPE APPROVAL. In order to preserve, to the extent practicable, the natural landscaping and plant life currently situated on the Property and in order to enhance the aesthetic appearance of the Property, no landscaping, grading, excavation or fill work of any nature shall be implemented or installed by any Owner (other than by Developer) on any Lot or Dwelling unless and until landscaping plans therefore have been submitted to and approved by the ACC.

5.07 CONSTRUCTION WITHOUT APPROVAL. If (a) any Improvements are initiated, installed, maintained, altered, replaced or relocated on any Lot or Dwelling without ACC approval of the plans and specifications for the same or (b) the ACC shall determine that any approved plans and specifications for any Improvements or the approved landscaping plans for any Lot or Dwelling are not being complied with, then, in either event, the Owner of such Lot or Dwelling shall be deemed to have violated this Neighborhood Declaration and the ACC shall have the right to exercise any of the rights and remedies set forth in Section 5.12 below.

5.08 INSPECTION. The ACC and any agent, employee or representative thereof may at any reasonable time and from time to time enter upon and inspect any Lot or Dwelling or any Improvements being constructed thereon in order to determine whether the approved plans and specifications therefore are being complied with. Any such entry shall not be deemed to be a trespass or any other wrongful act by the ACC.

5.09 SUBSURFACE CONDITIONS. The approval of plans and specifications by the ACC for any Dwelling or other improvements on a Lot or Dwelling shall not be construed in any respect as a representation or warranty by the ACC or Developer to the Owner submitting such plans or to any of the successors or assigns of such Owner that the surface or subsurface conditions of such Lot or Dwelling are suitable for the construction of the Improvements contemplated by such plans and specifications. It shall be the sole responsibility of each Owner to determine the suitability and adequacy of the surface and subsurface conditions of any Lot or Dwelling for the construction of any contemplated Improvements thereon.

5.10 LIMITATION OF LIABILITY. Notwithstanding anything provided herein to the contrary, (a) neither Developer, the ACC, the Neighborhood Association, nor any agent, employee, representative, member, shareholder, partner, officer or director thereof shall have any liability of any nature whatsoever for, and (b) each Owner, by acceptance of a deed to any Lot or Dwelling, does hereby irrevocably and unconditionally waive and release Developer, the ACC, the Neighborhood Association and each agent, employee, representative, member, shareholder, partner, officer and director thereof from, any and all damage, loss, action, cause of action, liability, expense or prejudice suffered, claimed, paid or incurred by any Owner on account of (i) any defects in any plans and specifications submitted, reviewed or approved in accordance with the provisions of this Article V, (ii) any defects, structural or otherwise, in any work done according to such plans and specifications, (iii) the failure of the ACC to approve or the disapproval of any plans, drawings, specifications or other data submitted by any Owner for approval pursuant to the provisions of this Article V, (iv) the construction or performance of any work related to such plans, drawings and specifications, (v) the failure of any improvements or Dwelling on any Lot to comply with the requirements of this Neighborhood Declaration, (vi) bodily injuries (including death) to any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of any such Owner or Occupant, or any damage to any Dwellings, Improvements or the personal property of any Owner, Occupant or the respective family members, guests, employees, servants, agents, invitees or licensees of such Owner or Occupant, which may be caused by, or arise as a result of, any defect, structural or otherwise, in any Dwellings or Improvements or the plans and specifications therefore, or any past, present or future soil and/or subsurface conditions, known or unknown, and (vii) any other loss, claim, damage, liability or expense, including court costs and attorneys' fees, suffered, paid or incurred by any Owner arising out of, or in connection with, the use (and occupancy of any Lot or Dwelling, or any Improvements situated thereon.

5.11 COMMENCEMENT AND COMPLETION OF CONSTRUCTION. Upon commencement of construction of any Dwelling, construction work thereon shall be prosecuted diligently and continuously and shall be completed within one (1) year of the commencement date of said construction (unless an extension is granted in writing by the ACC), such completion to be evidenced by a final certificate of occupancy issued by the appropriate Governmental Authorities, if such certificate is applicable.

5.12 ENFORCEMENT AND REMEDIES. In the event any of the provisions of this Article V are breached or are not otherwise being complied with in all respects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the ACC and the Neighborhood Association shall each have the right, at their option, to (a) enjoin any further construction on any Lot or Dwelling and require the removal or correction of any work in place which does not comply with the plans and specifications approved by the ACC for such Improvements and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot or Dwelling and take all action necessary to extinguish such violation or breach. All costs and expenses incurred by the ACC or the Neighborhood Association in enforcing any of the provisions of this Article V including, without limitation, attorneys' fees, court costs, costs and expenses of witness, engineers, architects, designers, land planners and any other persons involved in the correction of nonconforming work, the completion of uncompleted work or in any judicial proceeding, together with any other costs or expenses incurred by the ACC or the Neighborhood Association in causing any Owner or such Owner's contractors, agents or invitees to comply with the terms and provisions of this Article V, shall be paid by such Owner, shall constitute an Individual Assessment to such Owner pursuant to Section 8.05 below and, if the same is not paid when due, shall be subject to the lien provided for in Section 8.01 and 8.07 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ACC and the Neighborhood Association set forth in this Section 5.12 shall not be deemed exclusive of any other rights and remedies which the ACC or the Neighborhood Association may exercise at law or in equity or any other rights and remedies specified in this Neighborhood Declaration.

5.13 COMPLIANCE CERTIFICATION. The ACC (or any authorized representative thereof) shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to an Owner a certificate in writing setting forth whether all necessary ACC approvals have been obtained and whether any Dwelling or Improvement has been constructed in accordance with the provisions of this Neighborhood Declaration.

ARTICLE VI

USE AND PROPERTY RESTRICTIONS

6.01 USE RESTRICTIONS. (a) Except as otherwise provided to the contrary in this Section 6.01, each Lot and Dwelling shall be used for single-family residential purposes only; provided, however, that (i) any portion of the Property may be used for Common Areas to the extent approved by either Developer or the ACC, (ii) the Developer may utilize Lots and Dwellings owned by Developer for marketing purposes, and (iii) any portion of the Property may be used as otherwise approved by the Developer. No trade or business may be carried on in or from any Lot or Dwelling; provided, however, that the use of any portion of a Dwelling as an office by an Owner shall not be considered a violation of this covenant if such use does not create regular customer, client or employee traffic. The leasing or rental of a Dwelling for residential purposes only shall not be considered a violation of this covenant so long as the lease (i) is for not less than the entire Dwelling, (ii) is for a term of at least six (6) months (iii) is otherwise in compliance with the rules and regulations promulgated and published from time to time by the Neighborhood Association, and (iv) the Owner of the Dwelling provides the tenant with a copy of this Neighborhood Declaration. In no event shall any of the lots be used for trailers and mobile homes; provided, however, that with ACC approval, construction trailers (not used for residential purposes) may be located on any of the Property during the construction of Improvements on the Property.

(b) As used in this Section 6.01, a family is defined as one or more persons related by blood, marriage or adoption, living and cooking together as a single housekeeping unit. A number of persons, but not exceeding three (3), living and cooking together as a single housekeeping unit, though not related by blood, marriage or adoption, shall be deemed to constitute a family.

6.02 PLAN APPROVAL. No Dwellings or other Improvements of any nature whatsoever shall be constructed on any Lot or Dwelling unless such Dwelling or Improvements have been approved by the ACC in the manner set forth in Article V above.

6.03 UNDERGROUND UTILITIES. All utility lines, pipes, conduits and wiring for electrical, gas, telephone, water, sanitary sewer (to the extent available), cable television, security and any other utility service for any portion of the Property shall be installed and maintained below the surface of the ground.

6.04 BUILDING SETBACKS. No building, or any part thereof, may be constructed within the setback areas established in this section.

- (a) The front yard set back line shall extend 15 feet from the edge of the Lot line in the front yard.
- (b) The side yard set back line shall extend 8 feet from the edge of the Lot line in the side yard.
- (c) The rear yard set back line shall extend 20 feet from the edge of the Lot line in the rear yard.
- (d) As used herein, a “building” shall mean any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of person or property. Driveways, walkways, and steps shall not be considered a part of a “building”; provided, however, that this shall not be construed to permit any portion of the same to encroach on another Lot.

- (e) Porches may encroach three (3) feet into the area beyond which this Section 6.04 prohibits buildings.
- (f) As used herein, “front yard” shall mean that portion of a Lot or Dwelling extending to a Lot boundary line that faces or lies adjacent to, in whole or in part, a roadway available to use by all Owners in the Property for regular traffic. As used herein, a “rear yard” shall mean the portion of a Lot extending to a Lot boundary line that is substantially on the opposite side of the Lot from the “front yard,” unless said boundary line lies, all or part, adjacent to a roadway available to use by all owners in the Property. As used herein, the term “side yard” shall mean any remaining portion(s) of a Lot extending to a Lot boundary line that remains after the front yards and any rear yards have been identified.

**6.05 SITING OF DWELLINGS.** Prior to commencing any construction-related activities on any Lot or Dwelling (including any grading or clearing), the location of any building (s) to be constructed thereon (or any alterations to the existing building (s) situated thereon) shall be set forth on the site development plan for such Lot or Dwelling which must be approved by the ACC pursuant to the provisions of Section 5.05(b) above. Notwithstanding anything provided in Section 6.04 above to the contrary, subject to the terms and provisions of this Section 6.05, the ACC may require building setback requirements different from those described in or established pursuant to Section 6.04, including building setbacks which are less than or greater than those specified in or established pursuant to Section 6.04 above. This Section 6.05 shall not apply to construction-related activities undertaken by the Developer. Notwithstanding any provision of this Neighborhood Declaration all Dwellings must comply with the applicable setback requirements of Governmental Authorities.

**6.06 HEIGHT AND WIDTH LIMITATIONS.** The height of all buildings on a Dwellings shall be compatible with all other Dwellings adjacent to such Lot or Dwelling. No building on a Dwelling shall exceed fifty (50) feet in height, as measured from the finished grade of the Lot on the front of the building on a Dwelling facing a street or roadway. No building on a Dwelling shall have a width of less than thirty-five (35) feet. Towers, decks and outside porches shall be subject to the foregoing height and width limitations. Chimneys and roof finials are not subject to the foregoing height and width limitations. This Section 6.06 shall not apply to Accessory Buildings, as height and width of such shall be as otherwise determined by the ACC.

**6.07 MINIMUM LIVING SPACE.** No Dwelling shall be permitted on any Lot of less than 2,500 square feet of Living Space.

**6.08 LANDSCAPING AND TREES.**

(a) Subject to the provisions of Sections 3.07 and 3.08(b) above, unless located within ten (10) feet of a Dwelling or any driveway or sidewalk, no Owner shall cut, remove or mutilate any tree, shrub, bush or other vegetation having a trunk diameter of six (6) inches or more at a point of two (2) feet above ground level, without first obtaining the approval of the ACC; provided, however, that the foregoing shall not be deemed to prohibit the cutting and removal of any dead or diseased trees, prohibit Developer from cutting or removing trees to the extent reasonably required to construct roads, utilities or Common Areas within the Property or clearing any portion of the Property in connection with the development of the same for any of the uses described in Section 6.01 above.

(b) Each Owner shall, to the extent practicable, attempt to incorporate into the landscaping plan for his or her Dwelling the natural plant life existing on such Lot and shall otherwise take such steps which would, to the extent practicable, preserve the existing trees, plant life, wildflowers, and natural environment, including natural drainage channels, which exist on such Lot.

(c) All yards of each Lot or Dwelling shall, unless otherwise approved by the ACC be sodded with grass. A maximum of 60% of the front yard (excluding any sidewalks, driveways, steps, and parts of buildings) may be sodded with grass, and the remainder shall be in landscaping beds. A maximum of 75% of the side and rear yards (excluding any sidewalks, driveways, steps, and parts of buildings) may be sodded with grass and the remainder shall be in landscaping beds. The front yard must contain one or more canopy trees, and one or more ornamental trees. Fifty (50) percent of the shrubs or trees planted in the front yard must be evergreen. The

side and rear yards must contain one or more canopy trees, respectively. All yards and other landscaped areas of each Dwelling is encouraged to have underground irrigation (sprinkler) systems, which should be installed at the time the initial landscaping for such Dwelling is installed.

(d) All landscaping for a Lot or Dwelling shall be completed in accordance with the landscaping plan approved by the ACC no later than the date of occupancy of any Dwelling situated thereon.

(e) No hedge or shrubbery planting which obstructs sightlines of streets, driveways, alleys, and roadways at elevations of over three (3) feet shall be placed or permitted to remain on any Lot or Dwelling where such hedge or shrubbery interferes with traffic sight-lines for any roadway within or adjacent to the Property. The determination of whether any such obstruction exists shall be made by the ACC, whose determination shall be final, conclusive and binding on all Owners.

(f) No lawn decorations, bird baths, basketball goals, sporting equipment, fountains, reflectors, flag poles, statues, lawn sculptures, lawn furnishings, artificial plants, rock gardens, rock walls, bird houses or other objects, fixtures and accessories (other than yard furniture as set forth in Section 6.20) shall be placed or installed on any Lot or Dwelling, except as may be authorized by the ACC.

(g) Each Owner shall maintain the yard and landscaping on his or her Lot or Dwelling in a neat and orderly condition at all times. Each Owner shall keep his or her Lot or Dwelling free of refuse and debris, and shall promptly remove fallen trees.

(h) No Owner shall allow the grass on his or her Lot or Dwelling to grow to a height in excess of six (6) inches, measured from the surface of the ground.

6.09 ROOFING. The ACC shall have the right to establish specific requirements for the pitch of any roof and the type of roofing materials which may be utilized for any building on a Dwelling. No solar or other energy collection panel, equipment or device shall be installed or maintained on any Lot or Dwelling. All plumbing and heating vents, stacks and other projections of any nature on the roof shall (i) be painted the same color as the roofing material used for such Dwelling and (ii) to the extent practicable, not be visible from any roadways within or adjacent to the Property. No projections of any type shall be placed or permitted to remain above the roof of any building on a Dwelling except for approved chimneys and vent stacks.

6.10 EXTERIOR LIGHTING. Outside lighting at eaves and door entrances shall be permitted but all other exterior lighting, including, without limitation, free standing lighting, accent lighting and utility (e.g., flood) lighting, must be approved by the ACC.

6.11 EXTERIOR SIDING AND FOUNDATION.

(a) The exterior siding of any buildings on a Dwelling must be natural woods, clay-based brick, drivit-type material, natural cut stone, or such other exterior siding as is approved by the ACC. Foundations are not included with the definition of "exterior siding" although concrete blocks may not be used for foundations unless they are covered with a brick or stone veneer, concrete, plaster, or stucco. The use of asbestos, aluminum, steel, or vinyl exterior siding is prohibited.

(b) All buildings on a Dwellings must be constructed on a concrete basement, slab or crawlspace.

6.12 OFF-STREET PARKING, GARAGES AND ALLEYS.

(a) Each Dwelling shall provide for off-street parking for at least two (2) automobiles in enclosed garages (which must be equipped with garage doors). All driveways and sidewalks shall be paved (exposed aggregate or concrete); chert, gravel and loose stone driveways and sidewalks are prohibited. Garage doors shall be constructed of such materials as are approved by the ACC.

(b) Garage doors shall be kept closed at all times except when in use. No garage shall be converted to any use other than for the parking of vehicles therein without the approval of the ACC. Garage doors shall not open facing the front yard, unless otherwise approved by the ACC. All automobiles owned or used by the Owner or Occupant of any Dwelling and their respective family members shall be parked in such garages and garages shall not be used for storage or for any other purposes or uses which would result in the garage being unavailable for the parking of vehicles therein. Non-operable vehicles shall not be stored in any garages if the same would result in any vehicles being parked outside and not in a garage.

(c) In no event shall any automobiles or other vehicles, machinery or equipment be parked or left unattended on or within (i) any areas of a Lot or Dwelling which are not paved driveways or enclosed garages, (ii) any Common Areas or (iii) any of the public roadways within the Property (unless parking on or within such roadways is required for guests or invitees or any Owner or Occupant due to full utilization of any off-street parking for such Lot or Dwelling and then, only to the extent that such vehicles do not remain parked on or within such roadways for more than 24 hours). Each Lot or Dwelling shall provide for adequate off-street parking (i.e., parking areas located solely within the property lines of such Lot or Dwelling). Vehicles shall be parked only in driveways or in garages. Vehicles shall not be parked on any landscaped or natural areas of a Lot or Dwelling. No vehicles, machinery or equipment, shall be (1) repaired or restored outside an enclosed structure (e.g., a garage) on any Lot or Dwelling or (2) placed on any types of blocks or other types of fixtures or personal property which are located outside of an enclosed garage. All vehicles on a Lot or Dwelling must be properly licensed pursuant to the rules of any applicable Governmental Authority.

(d) No portion of any Lot or Dwelling may be utilized to provide access, ingress to or egress from any property outside the boundaries of the Property without the express prior written consent of the ACC, which consent may be withheld by the ACC in its sole and absolute discretion.

6.13 FENCES. No chain link, vinyl coated, or wooden fences shall be allowed on any Lot or Dwelling. All fences and walls, including the height, materials to be used, paint colors, style or architectural features of such fences and walls and the location of any fences and walls, must be approved in writing by the ACC. Once erected, no fence or walls may be altered or removed without the written permission of ACC.

6.14 ACCESSORY BUILDINGS. No buildings shall be erected, altered, placed or permitted to remain on any Lot other than (i) one detached single-family residential housing unit with an attached garage, and (ii) one Accessory Building. The Accessory Building shall only be permitted upon the written consent of the ACC. If allowed, the Accessory Building must be architecturally compatible with the single-family residential housing unit, and consistently maintained in an attractive manner and in a good condition. No Accessory Building may be constructed prior to the completion of the single-family residential housing unit.

6.15 MAILBOXES. Each Lot or Dwelling shall have only one (1) mailbox. All mailboxes shall be of the type, design, color and location as may be established in the Architectural Standards or approved by the ACC. Each Owner shall be responsible for the purchase, installation, maintenance, and replacement of his/her mailbox, and must keep it in a state of good repair at all times.

6.16 UTILITY CONNECTIONS AND HVAC EQUIPMENT. No window mounted heating or air conditioning units or window fans shall be permitted. The ACC may designate where all utility service lines and connections will be placed on a Lot. All Dwellings or Lots shall be connected to private septic systems constructed and maintained in accordance with the rules and regulations of applicable Governmental Authorities.

6.17 SATELLITE DISHES AND ANTENNA. One (1) satellite dish of no more than two (2) feet in diameter may be installed on a Dwelling so long as the location of such satellite dish is approved by the ACC. No radio antenna, radio receiver or other similar device or aerial shall be attached to or installed on any Lot or Dwelling unless the same is (i) contained entirely within the interior of a building or other structure, (ii) not visible from any roadway within or adjacent to the Property or any adjacent Lot or Dwelling, and (iii) approved by the ACC. No radio or television signals or any other form of electromagnetic radiation or transmission shall be permitted to originate from any Lot or Dwelling which may interfere with the reception of radio or television signals within the Property or any other real property situated in close proximity to the Property.

6.18 DRIVEWAYS AND SIDEWALKS. To the extent any Owner or Occupant or any of their respective builders, contractors, subcontractors, agents, employees, guests or invitees damage or destroy any sidewalks, curbing or gutters within the Property which constitutes part of the Common Areas, then the Owner of such Lot or Dwelling shall promptly cause, at his, her or its sole cost and expense, such damaged sidewalk, curbing or gutters to be repaired and replaced in accordance with any and all requirements of the Neighborhood Association.

6.19 SOIL EROSION AND DRAINAGE. Each Owner shall provide and maintain on his or her Lot or Dwelling adequate soil erosion measures and drainage facilities to accommodate any stormwater runoff resulting from any Improvements being or having been constructed on such Owner's Lot or Dwelling. Each Owner shall also insure that his or her Lot or Dwelling and any Improvements thereto are at all times in strict compliance with (a) all soil erosion protection requirements of all applicable Governmental Authorities, (b) all stormwater drainage and runoff requirements and regulations of all applicable Governmental Authorities and (c) all other statutes, ordinances, codes, laws, permits, legislation, rules, regulations, requirements, and rulings of any applicable Governmental Authority. Each Owner shall, in connection with the construction of any Dwelling or other Improvements on such Owner's Lot, be solely responsible for providing adequate stormwater drainage improvements and facilities on such Owner's Lot which shall be sufficient to adequately channel any stormwater which may either cross or come upon such Owner's Lot from adjoining Lots or Common Areas or which may originate and drain from such Owner's Lot and any Improvements thereto onto adjoining Lots and Common Areas. **Each Owner, by acceptance of a deed to his or her Lot or Dwelling, shall and does hereby indemnify, defend and agree to hold Developer, the ACC, the Neighborhood Association and their respective agents, employees, officers, directors, shareholder, member, managers and representatives, harmless from and against any and all fines, penalties, costs and expenses, including court costs and reasonable attorneys fees, and expenses, and any and all other amounts suffered, paid or incurred by Developer, the ACC, the Neighborhood Association, and their respective agents, employees, officers, directors, shareholders, members, managers and representatives in connection with any action, suit or proceeding (including the settlement of any suit or proceeding) to which any such person may be made a party by reason of the breach by such Owner (or such Owner's Occupants, contractors, subcontractors, guests, agents, employees or invitees) of any of the terms and provisions of this Section 6.19.**

6.20 OUTDOOR FURNITURE AND CLOTHESLINES.

(a) All Lots and Dwellings shall be subject to the following restrictions, limitations, covenants and conditions:

(i) Unless otherwise specifically approved by the ACC, any yard (exterior) furniture placed, kept, installed, maintained or located in or on any Lot or Dwelling shall, to the greatest extent practicable, be located so that the same will not be visible from any roadways within or adjacent to the Property. No interior furniture or furnishings (i.e., sofas, appliances, etc.) shall be allowed outside any Dwelling;

(ii) Outside clotheslines or other outside facilities for drying or airing clothes shall be prohibited on any Lot or Dwelling unless such clotheslines or other facilities are screened by appropriate landscaping from view from any roadways within or adjacent to the Property and from any adjacent Lot or Dwelling. No clothing, rugs or other items shall be hung, placed or allowed to remain on any railing, fence or wall;

(iii) Barbecue grills or other types of outdoor cooking equipment and apparatus shall be located only at the rear or side of a Dwelling and shall not be visible from any roadways within or adjacent to the Property. No commercial barbecue equipment, including, without limitation, commercial grade smokers and grills, shall be placed, stored or operated on any Lot or Dwelling; and

(iv) Bird feeders, wood carvings, plaques and other types of home crafts shall not be permitted in the front or side yards of any Lot or Dwelling nor shall any of the foregoing items be attached to the front or side of any Dwelling. All bird feeders, wood carvings, plaques, statues, and other types of home crafts shall be located only at the rear of a Dwelling and shall not be visible from my roadways within or adjacent to the Property.

6.21 PETS AND ANIMALS. No animals of any kind shall be kept, raised or bred by any Owner upon any Lot or Dwelling or any other portion of the Property; provided, however, that not more than four (4) total

animals, consisting all or in part of domesticated dogs, birds, and/or domesticated cats and may be kept and maintained on a Dwelling so long as they are not kept for breeding or commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or become a nuisance. All such animals on a Dwelling must be kept indoors or within a fenced or walled area when not under the direct supervision of the Owner or Occupant of said Dwelling. Dogs and cats shall not be allowed to roam unattended within the Property; all dogs shall be kept and maintained within fenced or walled areas on a Dwelling which are screened with appropriate landscaping approved by the ACC or otherwise under leash. There shall be no outdoor dog pens. Pets shall not be permitted to leave excrement on the Lot or Dwelling of any other Owner or within any street right-of-way or any portion of the Common Areas and the Owner of such pet shall immediately remove the same. Each Owner shall be liable to the Neighborhood Association for the costs of repairing any damage to the Common Areas caused by the pet of such Owner or Occupant.

#### 6.22 TRASH, RUBBISH AND NUISANCES.

(a) No trash, garbage, rubbish or debris of any kind (including, but not limited to, discarded or dismantled equipment, machinery, or automobiles) shall be dumped, placed or permitted to accumulate upon any portion of the Property nor shall any nuisance or odors be permitted to exist or operate upon, or arise from, any Lot or Dwelling which would render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using, occupying or owning any other Lots, Dwellings or Common Areas or any other real property in close proximity to the Property. Noxious or offensive activities shall not be carried on in or from any Lot or Dwelling or in any part of the Common Areas, and each Owner and Occupant shall refrain from any act or use of a Lot or Dwelling which could cause disorderly, unsightly or unkept conditions, result in the cancellation of or increase in insurance coverage or premiums for any portion of the Property or be in violation of any law, statute, ordinance, rule, regulation or requirement of any Governmental Authority. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, other than security and fire alarm devices used exclusively for such purposes, shall be located, used or placed upon any Lot or Dwelling or any other portion of the Property; provided, however, that the foregoing shall not apply to the use of any of the foregoing devices within or for any of the Recreational Facilities, if any. Any Owner or Occupant who dumps, places or allows trash or debris to accumulate on his or her Lot or Dwelling or on any other portion of the Property shall be liable to the Neighborhood Association for all costs incurred by the Neighborhood Association to remove the same.

(b) Each Owner shall maintain his or her Dwelling and/or Lot in good condition, good order, and good repair, at his or her own expense.

(c) No Owner shall cause, suffer or allow any activity which causes air, water, soil or noise pollution to occur that would violate applicable rules of applicable Governmental Authorities. Without limiting the generality of the foregoing, no Owner shall willingly or knowingly drain or dump any refuse, sewage, or other materials on the property.

(d) Trash, garbage and any other refuse or waste shall not be kept on any Lot or Dwelling except in sanitary containers or garbage compactor units, maintained and kept in a clean and sanitary condition. Trash cans and containers shall at all times be kept at the rear of or inside a Dwelling and shall be screened from view from all roadways within or adjacent to the Property and all adjacent Lots and Dwellings by appropriate landscaping or fencing approved by the ACC; provided, however, that trash cans and containers may be moved to the side or front yard of any Dwelling on trash collection days so long as such trash cans and containers are removed from the front and side yard promptly after trash has been collected to the extent that trash collection service is available and in use. No trash or garbage cans or other rubbish shall be placed within any portions of the Property to the extent the same would interfere with either vehicular or pedestrian ingress to and egress from any Lots or Dwellings.

(e) No outdoor burning of trash, garbage, leaves, wood, shrubbery or other materials shall be permitted on any Lot or Dwelling, except as may be approved by the ACC with respect to and in connection with the construction of houses and other improvements. The ACC will permit such burning where a nuisance is not created thereby.



6.23 RECREATIONAL VEHICLES AND MACHINERY AND EQUIPMENT.

(a) Mobile homes, motor homes, trailers of any kind, campers, vans, motorcycles, bicycles, motorized carts and all-terrain vehicles, lawnmowers, tractors, tools, construction machinery and equipment of any type or nature, golf carts, boats and any other type of watercraft, including boat trailers, and any other similar types of vehicles, machinery or equipment shall not be permitted, stored or allowed to remain on any Lot or Dwelling unless the same is placed, stored and maintained within a wholly-enclosed structure, with roofing and doors, on such Lot or Dwelling. Any such enclosed structure must be approved by the ACC. Neither the Common Areas nor the roadways within the Property shall be utilized for the parking or storage of any of the foregoing. No Lot shall be used to keep or store any of the items or vehicles referenced in this Section 6.23 unless such items or vehicles are owned or leased by the Owner or Occupant of the Lot.

(b) Any vehicle which is inoperable shall be immediately removed from the Property. No Owner or Occupant shall repair or restore any vehicle, machinery or equipment of any kind upon or within any Lot or Dwelling or within any portion of the Common Areas, except (i) within enclosed garages or workshops or (ii) for emergency repairs and then, only to the extent necessary to enable the immediate movement thereof to a proper repair facility located outside of the Property.

(c) The Board shall have the right at any time and from time to time to adopt rules and regulations with respect to the keeping, storage, parking, operation, use or maintenance of mobile homes, motor homes, tractors, equipment, machinery, trailers (with or without wheels), trucks (other than pick-up trucks), vans (other than mini-vans used solely for passenger uses), commercial vehicles of any type, campers, motorized campers or trailers, boats or other water craft, boat trailers, motorcycles, motorized bicycles, golf carts, all-terrain vehicles, motorized go-carts and other forms of transportation. No motorcycles, motorized bicycles, all-terrain vehicles or motorized go-carts shall be allowed to be operated on any of the streets within the Property in violation of any of the laws, statutes, ordinances, rules and regulations of any applicable Governmental Authorities.

(d) Notwithstanding any other provision in this Section 6.23, an Owner may park a boat and trailer, trailer, camper, recreational vehicle, or motor home outside the garage and on the Dwelling's off-street parking (but not on any alley or roadway) for one day during a 30-day period.

(e) No more than a total of three boats, trailers, motor homes, recreation vehicles, and/or campers shall (not three apiece, but three collectively) be kept on a Lot or Dwelling at any give time.

6.24 SIGNAGE. No signs or advertising posters of any kind (other than one (1) "for sale" sign of not more than 12 square feet) shall be maintained or permitted within any windows or on the exterior of any Lot or Dwelling or elsewhere on any portion of the Property without the express written permission of the ACC. The approval of any signs and posters, including, without limitation, political campaign signs and name and address signs, shall be upon such conditions as may from time to time be determined by the ACC, in its sole and absolute discretion. Notwithstanding the foregoing, the restrictions set forth in this Section 6.24 shall not be applicable to (i) any signs erected pursuant to Section 6.27(b) below, and (ii) any signs erected by the Developer in connection with the marketing and sales of Lots.

6.25 ABOVE OR BELOW GROUND TANKS AND WELLS. No exposed above-ground tanks for the storage of fuel, water or any other substances shall be located on any Lot or Dwelling or within any of the Common Areas. No private water wells may be drilled or maintained on any Lot or Dwelling without the prior written consent of the ACC.

6.26 TEMPORARY STRUCTURES. No temporary house, trailer, shack, tent, bam, shed, storage shed, utility building, portable building, stable, poultry house or yard, rabbit hutch, treehouse or other outbuilding or structure of any kind, shall be permitted, constructed, installed or allowed to remain on any Lot or Dwelling; provided, however, that the foregoing shall not be deemed to prohibit, to the extent approved by the ACC, temporary structures for social functions as may be permitted by the rules and regulations of the Board and construction trailers, security stations, storage facilities and/or sales offices of Developer.

6.27 CONSTRUCTION OF IMPROVEMENTS.

(a) During the construction of any Improvements (including a Dwelling) on any Lot, (i) such Lot or Dwelling shall be maintained in a clean and orderly condition, (ii) all unused construction materials shall be stored to the extent practicable, out of view from any roadways within or adjacent to the Property, (iii) there shall be no dumping of debris and/or waste material within or adjacent to the Property, and (iv) all construction trash, debris and rubbish on each Lot shall be properly disposed of outside the Property at least weekly. In no event shall any used construction materials be buried on or beneath any Lot, Dwelling or any other portion of the Property. No Owner shall allow dirt, mud, gravel or other substances to collect or remain on any roadways within or adjacent to the Property. Each Owner and each Owner's contractor, subcontractors, laborers and suppliers shall cause all such dirt, mud, gravel and other substances to be removed from the treads and wheels of all vehicles used in or related to the construction of Improvements on a Lot or Dwelling prior to such vehicles traveling on any roadways within or adjacent to the Property.

(b) During the initial construction of any Dwelling, one (1) sign of not more than twelve (12) square feet may be posted on a Lot at a height not to exceed five (5) feet from the ground level advertising the Lot or the Dwelling thereon for sale or containing information identifying the builder of such Dwelling. No other signage, banners, or advertising posters shall be allowed on any portion of the Property. No signage shall be attached, nailed or otherwise adhered to any tree or other plant life.

(c) Upon completion of construction of any Improvements or any Dwelling, all construction machinery, tools and equipment, all unused construction materials and all trash, debris and rubbish shall be immediately removed from the Lot or Dwelling and such Lot or Dwelling shall be kept and maintained in a clean and uncluttered condition. All builders, contractors, subcontractors, laborers, suppliers, materialmen and other professionals involved in the construction of any Dwelling or other Improvements on a Lot shall be required to abide by, and comply with, all construction standards, guidelines and requirements adopted from time to time by the ACC as part of the Architectural Standards, and which may involve, among other things, vehicle parking, dumpster placement, and port-a-john placement.

(d) All Dwellings and any other Improvements shall be constructed in compliance with the Architectural Standards and all applicable federal, state, county and local laws, ordinances, rules, regulations and zoning and building code requirements (including but not limited to all EPA and ADEM best management practices). Each Owner shall be solely responsible for obtaining from any appropriate Governmental Authorities all necessary permits and licenses and otherwise paying all required fees for the construction of any improvements on such Owner's Lot. Each Owner shall also be responsible for strict compliance with the Architectural Standards and all applicable watershed protection, soil erosion and other governmental requirements, both during and after completion of construction of any Improvements on such Owner's Lot.

(e) All construction on a Lot shall be carried on within the boundary lines of the Lot.

6.28 **SUBDIVISION AND INTERVAL OWNERSHIP.** No Lot may be further subdivided into more than one (1) Lot unless such Lot is owned by Developer. Lots may be resurveyed and/or resubdivided to combine two (2) Lots into one (1) Lot or resurveyed and/or resubdivided to reflect the same number of Lots which existed immediately prior to any such resubdivision so long as the same is approved by the ACC. Nothing contained in this Section 6.28 shall be applicable to the subdivision, resubdivision, resurvey or combination of any Lots or other real property owned by Developer. No Lot or Dwelling shall be sold or owned under any time-sharing, time-interval or similar right-to-use programs. To the extent the ACC has approved the resurvey or resubdivision or combination of any Lot as required by the terms and provisions of this Section 6.28, then such resurveyed, resubdivided or combined Lot shall continue to constitute the same number of Lots which existed immediately prior to the resurvey, resubdivision or combination of such Lots and the Owner of such combined Lots shall continue to pay Neighborhood Assessments on the basis of the number of Lots which existed immediately prior to the resurvey, resubdivision or combination of such Lots. To the extent that two Lots are combined into one Lot, Section 6 shall be applied to such combined Lots as if they were one Lot.

6.29 SWIMMING POOLS. Swimming pools, outdoor hot tubs, reflecting ponds, saunas, whirlpools, lap pools may be constructed, installed and maintained on the rear yard of a Lot or Dwelling but only to the extent that the ACC has approved the same in writing and the construction of the same satisfy all restrictions and requirements imposed by the ACC with respect thereto. Above-ground pools shall not be permitted.

6.30 RECREATIONAL FACILITIES.

(a) The Recreational Facilities, if any, provided for the use and benefit of all Owners and Occupants and the use of any swimming pools or water features within the Property by any Owners or Occupants are provided without lifeguards or other supervisory personnel and neither the Neighborhood Association nor Developer will provide any such lifeguards or supervisory personnel in connection with the utilization of the Recreational Facilities, if any, or such water features by any Person.

(b) **The Owner of each Lot or Dwelling, for himself or herself and any Occupant of such Lot or Dwelling of their respective heirs, executors, personal representatives, administrators, successors and assigns, by acceptance of a deed to such Lot or Dwelling, and such Mortgagee, by acceptance of a Mortgage encumbering any such Lot or Dwelling, for themselves and their respective successors and assigns, do hereby:**

*(i)* **Irrevocably and unconditionally waive, release and forever discharge Developer, the ACC, the Neighborhood Association and each Governmental Authority and their respective officers, directors, members, managers, partners, agents, representative, successors and assigns, of and from any and all actions, causes of action, claims, demands, agreements, covenants, suits, obligations, controversies, accounts, damages, costs, expenses, losses and liabilities of every kind or nature, known or unknown, arising out of or on account of any loss, damage or injury to person or property, including death, as a result of any entry onto any river, lake, water feature(s), or the Recreational Facilities, if any, by any such Owner, Occupant, Mortgagee or any of their respective family members, guest, invitees, heirs, executors, personal representatives, administrators, successors and assigns; and**

*(ii)* **Acknowledge and agree that: (1) neither Developer, nor the ACC, nor the Neighborhood Association, nor any Governmental Authority nor any of their respective agents, employee, representatives, successors and assigns, shall provide any lifeguard or any other supervisory personnel or assistance in the conduct of any activities on or about any river, lake, other water feature(s) or the Recreational Facilities, if any; (2) the use of any such water features, and/or the Recreational Facilities, if any, by any such Owner or Occupant or any of their respective family members, guests, invitees or heirs, executors, personal representatives, administrators, successors and assigns, shall be at the sole risk and expense of the person or entity using such river, lake or other water feature(s) and/or Recreational Facilities, if any; and (3) any river, lake, other water feature(s) on, within or adjacent to the Property and any Recreational Facilities, if any, as with any other body of water, pose a potential threat of life threatening harm and each Owner or Occupant and his respective family members, guests and invitees should exercise utmost care and safety precautions in and around any such river, lake or other water feature(s), including specifically, the Recreational Facilities, if any.**

6.31 COMPLIANCE WITH GOVERNMENTAL REGULATIONS. Each Owner and Occupant shall at all times comply with all applicable laws, ordinances, statutes, rules, regulations, requirements and code provisions of all applicable Governmental Authorities.

6.32 ADDITIONAL REGULATIONS. In addition to the restrictions set forth in this Neighborhood Declaration, the (a) ACC shall have the right, in its sole and absolute discretion, from time to time and at any time to adopt, modify and amend the Architectural Standards in order to impose such other, further or different requirements or restrictions which shall be binding on all Owners, and each Lot or Dwelling, including the adoption of additional or more specific requirements and restrictions governing the improvement and use of any Lot or Dwelling, and (b) Board shall have the right from time to time and at any time to adopt, modify and amend such rules and regulations as the Board, in its sole discretion, determines to be in the best interest of all Owners, which rules and regulations shall be binding on all Owners and each Lot or Dwelling.

6.33 VARIANCES. The ACC, in its sole and absolute discretion, shall have the exclusive right to grant variances with respect to any of the provisions of Article V above and this Article VI. Any variance request submitted to the ACC shall be in writing and, upon approval of the same by the ACC, shall be evidenced by a written variance executed by either the chairman or vice chairman of the ACC.

6.34 ENFORCEMENT AND REMEDIES. In the event any of the provisions of this Article VI are breached or are not otherwise being complied with in all aspects by any Owner or Occupant or the respective family members, guests, invitees, agents, employees or contractors of any Owner or Occupant, then the Neighborhood Association or the ACC shall each have the right, at their option, to (a) enjoin such violation or noncompliance and/or (b) through their designated agents, employees, representatives and independent contractors, enter upon such Lot or Dwelling and take all action necessary to extinguish or correct such violation or breach. All costs and expenses incurred by the ACC or the Neighborhood Association in enforcing any of the provisions of this Article VI, including, without limitation, attorneys' fees, court costs, costs and expenses of witnesses, engineers, architects, designers, land planners and any other persons involved in the correction of any noncompliance or the removal of such violation or in any judicial proceeding, together with any other costs or expenses incurred by the ACC or the Neighborhood Association in connection therewith, shall be paid by such Owner who has violated or breached any of the provisions of this Article VI, shall constitute an Individual Assessment to such Owner pursuant to Section 8.05 below and, if the same is not paid when due, shall be subject to the lien provided for in Sections 8.01 and 8.07 below and be subject to foreclosure as provided for therein. Notwithstanding anything provided herein to the contrary, the rights and remedies of the ACC and the Neighborhood Association set forth in this Section 6.34 shall not be deemed exclusive of any other rights and remedies which the ACC or the Neighborhood Association may exercise at law or in equity or any other rights and remedies specified in this Neighborhood Declaration.

## ARTICLE VII

### MAINTENANCE RESPONSIBILITIES

#### 7.01 RESPONSIBILITIES OF OWNERS.

(a) Unless specifically identified herein as being the responsibility of the Neighborhood Association, the maintenance and repair of all Lots, Dwellings, all other Improvements situated thereon or therein and all lawns, landscaping and grounds on or within a Lot or Dwelling shall be the responsibility of the Owner of such Lot or Dwelling. Each Owner shall be responsible for maintaining his or her Lot and Dwelling in a neat, clean and sanitary condition, both the inside and outside of any Dwelling or other Improvements thereto. Such responsibilities shall include, without limitation, maintaining at all times appropriate paint and stain finishes on all Dwellings and other Improvements and re-roofing or replacing roofing shingles when the same become worn or would be replaced by a prudent Owner or as may be required by the ACC. No exterior changes, alterations or Improvements shall be made to any Lot or Dwelling without first obtaining the prior written approval of the same from the ACC.

(b) Each Lot or Dwelling shall be landscaped in accordance with plans and specifications approved by the ACC pursuant to Section 5.06 above. All areas of any Lot or Dwelling which are not improved by the construction of a Dwelling thereon shall at all times be maintained by the Owner thereof in a fully and well kept landscaped condition utilizing ground cover and/or shrubbery and trees. The maintenance obligations set forth in this Section 7.01(b) shall apply to all portions of a Lot or Dwelling up to the edge of the pavement of the roadway abutting such Lot or Dwelling and shall be applicable at all times either prior, during or after the construction of any Improvements thereon. Grass, hedges, shrubs, vines and any other vegetation of any type on any Lot or Dwelling shall be cut and trimmed at regular intervals at all times in order to maintain the same in a neat, safe and attractive condition. Trees, shrubs, vines, plants and other vegetation which die shall be promptly removed and replaced with living plants of like kind and quantity. Dead vegetation, stumps, weeds, trash, refuse, rubbish, debris, garbage and waste material shall be promptly removed from any Lot or Dwelling and properly disposed of outside of the Property. In no event shall any dead trees, shrubs, vines, plants or other vegetation, leaves, grass clippings, limbs, dirt or any rubbish, debris, trash, refuse, garbage or waste be allowed to accumulate on any Lot or Dwelling nor shall any Owner or Occupant place, deposit or discard any of the foregoing items on or within any of the Common Areas or any other portion of the Property.

(c) No Owner shall decorate, change or otherwise alter the appearance of any portion of the exterior of any Lot or Dwelling or the landscaping, grounds or other Improvements within a Lot or Dwelling unless such decoration, change or alteration is first approved, in writing, by the ACC.

7.02 RESPONSIBILITIES OF NEIGHBORHOOD ASSOCIATION.

(a) Except as otherwise provided in this Neighborhood Declaration to the contrary, the Neighborhood Association shall, to the extent it has received sufficient sums from the Owners through Neighborhood Assessments, maintain and keep in good repair and condition all portions of the Common Areas. The Neighborhood Association and/or the Developer shall not be liable for injuries or damages to any person or property (i) caused by the elements, acts of God or any Owner or other person, (ii) resulting from any surface or subsurface conditions or which may be caused by rain or other surface water which may leak or flow from any portion of the Common Area onto a Lot or Dwelling or (iii) resulting from thief, burglary or other illegal entry onto the Property or any Lot or Dwelling. No diminution or abatement of Assessments shall be claimed or allowed by reason of any alleged failure of the Neighborhood Association to take some action or perform some function required to be taken by or performed by the Neighborhood Association hereunder or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Neighborhood Association or from any action taken by the Neighborhood Association to comply with any requirements of the Governmental Authorities.

(b) In the event that the Board determines that (i) any Owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he, she or it is responsible hereunder or (ii) any maintenance, cleaning, repair or replacement for which the Neighborhood Association is responsible hereunder is caused by either the negligence or willful act of an Owner or Occupant, or their respective family members, guests, servants, employees, invitees or contractors, and the costs of such maintenance, cleaning, repair or replacement are not paid in full from insurance proceeds, if any, received by the Neighborhood Association with respect thereto, then, in either event, the Neighborhood Association, in addition to the exercise of any of the rights and remedies set forth in this Neighborhood Declaration, may give such Owner written notice of the Neighborhood Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner and setting forth in reasonable detail what action is deemed necessary. Except in the event of emergency situations, such Owner shall have seven (7) days within which to complete the same in a good and workmanlike manner or, if the same is not capable of completion within such seven (7) day period, to commence such maintenance, cleaning, repair or replacement within such seven (7) day period and to proceed diligently with the completion of the same in a good and workmanlike manner. In the event of emergency situations or the failure by any Owner to comply with the provisions hereof after such notice, the Neighborhood Association may provide (but shall not be obligated to provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner, said cost shall be a personal obligation of such Owner, shall constitute an Individual Assessment to such Owner and shall be subject to the lien and foreclosure rights granted pursuant to Sections 8.01 and 8.07 below. If, and to the extent that, the Neighborhood Association undertakes any action pursuant to this Section 7.02(b) on behalf of any Owner, then all costs and expenses incurred by or on behalf of the Neighborhood Association, including, without limitation, reasonable administrative costs and expenses, attorneys' fees and court costs, if any, shall be due and payable by such Owner and such costs and expenses shall be deemed to constitute Individual Assessments and shall be recoverable by the Neighborhood Association in accordance with the terms and provisions of this Neighborhood Declaration.

ARTICLE VIII

ASSESSMENTS

8.01 ASSESSMENTS AND CREATION OF LIEN. Each Owner of a Lot or Dwelling, by acceptance of a deed or other instrument conveying any interest therein, regardless of whether such deed or instrument contains a reference to this Neighborhood Declaration, is hereby deemed to covenant and agree to pay to the Neighborhood Association (a) Annual Assessments, as established and to be collected as provided in Section 8.03 below, (b) Special Assessments, to be established and collected as provided in Section 8.04 below, and (c) Individual Assessments which are established or assessed pursuant to Section 8.05 below. All Assessments, together with late

charges and interest at the Applicable Rate, as provided in Section 8.07(a) below, and all court costs and attorneys' fees and expenses incurred by the Neighborhood Association to enforce or collect such Assessments shall be an equitable charge and a continuing lien upon each Lot or Dwelling for which the Owner thereof is responsible for the payment of the same, which lien may be enforced in the manner provided in Section 8.07(c) below. Each Owner shall be personally liable for the payment of all Assessments coming due while he or she is the Owner of a Lot or Dwelling and his or her grantee shall take title to such Lot or Dwelling subject to the equitable charge and continuing lien therefore, but without prejudice to the rights of such grantee to recover from his or her grantor any amounts paid by such grantee to the Neighborhood Association which were the legal obligations of the grantor. All Assessments, together with late charges and interest at the Applicable Rate, as specified in Section 8.07(a) below, court costs and attorneys' fees and expenses incurred with respect thereto by the Neighborhood Association shall also be a personal obligation of the person who was the Owner of the Lot or Dwelling at the time such Assessments and other costs and charges were assessed or incurred. In the event of co-ownership of any Lot or Dwelling, all of the co-owners shall be jointly and severally liable for the entire amount of such Assessments. All Assessments shall commence as to each Lot or Dwelling as provided in Section 8.06 below and be paid in such manner and on such dates as may be fixed by the Board. All Assessments shall be payable in all events without offset, diminution or abatement by reason of fire or other casualty or any taking as a result of, in lieu of or in anticipation of, the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof with respect to any Lot, Dwelling, Common Area or any other portion of the Property or any other cause or reason of any nature. The Annual Assessments and Special Assessments shall be used for the general purposes of promoting the recreational, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Property and otherwise for the general upkeep and maintenance of the Property, including, specifically, the Common Areas thereto, all as may be more specifically authorized from time to time by the Board. Notwithstanding anything provided herein to the contrary, each Owner and Occupant does hereby acknowledge and agree that certain portions of the Annual Assessments and the Special Assessments as well as certain Common Expenses to be incurred by the Neighborhood Association may not benefit all of the Owners and Occupants equally but that the levy of such Annual Assessments and Special Assessments and the incurrence of Common Expenses shall be deemed to be for the benefit of all of the Property.

#### 8.02 UNIFORM RATE OF ASSESSMENTS.

(a) Both Annual and Special Assessments, as described in Sections 8.03 and 8.04 below, shall be assessed against each Lot or Dwelling at a uniform rate, with the Owner of each Lot or Dwelling being required to pay his or her pro rata portion of such Annual Assessments and Special Assessments, as determined by a fraction, the numerator of which shall be the total number of Lots or Dwellings owned by such Owner and the denominator of which shall be the total number of Lots and Dwellings within the Property at the time such Annual Assessments or Special Assessments are levied. In no event shall the amounts previously paid as either Annual Assessments or Special Assessments be subject to recalculation or refund to an Owner as a result of a sale of a lot or Dwelling.

(b) Notwithstanding anything provided in Section 8.02(a) above to the contrary, in the event any Additional Property is added to the Property, then (i) each Lot or Dwelling within the Additional Property shall be subject to the same Annual Assessments and Special Assessments then being paid by the Owners of all other Lots and Dwellings in the Property, subject to proration for the actual number of days remaining in the calendar year in which such Additional Property was added to the Property, and (ii) in no event shall the amounts previously paid as either Annual Assessments or Special Assessments during such calendar year by any Owners be subject to recalculation or refund as a result thereof.

(c) Each Owner of a Lot or Dwelling, by acceptance of a deed to such Lot or Dwelling, acknowledges and agrees that the Annual Assessments and Special Assessments payable by such Owner are subject to change, modification, increase or decrease, respectively, in the event that (i) any Additional Property is added to the Property or any Lots or Dwellings are combined, added, subdivided, resurveyed or resubdivided pursuant to Article 2, Section 6.28 above, or (ii) any portion of the Property or Additional Property becomes Common Areas.

**8.03 COMPUTATION OF ANNUAL ASSESSMENTS.**

(a) The Board shall determine and approve annually an annual budget covering the estimated Common Expenses for the Property for the upcoming year, such budget to include (i) a capital contribution or reserve account, if necessary, for the capital needs of the Neighborhood Association and (ii) the amount of Annual Assessments which shall be payable by each Lot or Dwelling. The amount set forth in such budget shall constitute the aggregate amount of Annual Assessments for all of the Property for the then applicable year and each Owner shall pay his or her pro rata share of the same as provided in Section 8.02 above. As used herein, the term "Annual Assessments" with respect to each Lot or Dwelling shall mean the pro rata portion of the Common Expenses payable each calendar year by each Owner in accordance with the provisions of this Section 8.03, or prior to the Neighborhood Turnover Date, may also mean, at the Board's election, a lesser amount. A copy of the budget setting forth the amount of Annual Assessments to be levied against the Lots and Dwellings for the following year shall be delivered to each Owner upon written request of any such Owner.

(b) If any budget or the amount of Annual Assessments collected by the Neighborhood Association at any time proves to be inadequate or insufficient for any reason to fully pay all costs and expenses of the Neighborhood Association and all Common Expenses, then the Board may call a meeting of the Neighborhood Association for the purpose of approving Special Assessments as provided in Section 8.04 below. If the actual amount of Annual Assessments collected in any one year exceeds the actual costs incurred for Common Expenses for such year, the excess shall be retained by the Neighborhood Association as a reserve for subsequent years' Common Expenses.

(c) The Common Expenses to be funded by the Annual Assessments may include, but shall not be limited to, the following:

(i) Salaries, fringe benefits and other compensation paid and out-of-pocket expenses reimbursed by the Neighborhood Association for its employees, agents, officers, members of the Board and any third party contractors;

(ii) Management fees and expenses of administration, including legal and accounting fees, incurred by or on behalf of the Neighborhood Association;

(iii) Utility charges for any utilities serving any of the Common Areas and charges for other common services for the Property, including, without limitation, street lighting, trash collection and security services;

(iv) The costs of any insurance policies purchased for the benefit of the Neighborhood Association as required or permitted by this Neighborhood Declaration, including, without limitation, fire, flood and other hazardous coverage, public liability coverage and such other insurance coverage as the Board determines to be in the best interest of the Neighborhood Association, including errors and omissions insurance, directors' and officers' liability insurance and any other liability insurance coverage for the benefit of the Neighborhood Association, the members of the Board, any officers, employees, agents or representatives of the Neighborhood Association (including members of the ACC);

(v) The expenses of maintaining, operating, repairing and replacing all portions of the Common Areas and any other amenities and facilities serving the Property which the Board, in its sole discretion, determines from time to time would be in the best interest of the Neighborhood Association to so maintain, operate, repair or replace;

(vi) Ad valorem real and personal property taxes assessed and levied upon any of the Common Areas;

(vii) The expenses of the ACC which are not paid in full by plan review charges;

(viii) The costs and expenses for conducting, promoting and advertising recreational, social, cultural or other related programs, as well as street fairs, festivals and other events for the benefit of the Owners and Occupants;

(ix) The costs and expenses of installing, maintaining, repairing, purchasing, replacing and operating seasonal and holiday decorations and lighting for any of the Property;

(xi) All other fees, costs and expenses incurred by the Neighborhood Association in accordance with the terms and provisions of this Neighborhood Declaration or which the Board, in its sole and absolute discretion, determines to be appropriate to be paid by the Neighborhood Association, including, without limitation, taxes and governmental charges not separately assessed against Lots or Dwellings; and

(xiii) The establishment and maintenance of a reasonable reserve fund or funds (1) for inspections, maintenance, repair and replacement of any portions of the Common Areas for which the Neighborhood Association is responsible to inspect, maintain, repair or replace on a periodic basis, (2) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds, (3) to cover unforeseen operating contingencies or deficiencies arising from unpaid Assessments as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board and (4) for the payment of future Common Expenses.

8.04 SPECIAL ASSESSMENTS. In addition to the Annual Assessments authorized in Section 8.03 above and the Special Assessments authorized in Sections 9.01(b) and 9.03(a)(i) below, the Board may levy in any year Special Assessments for Common Expenses or any extraordinary costs incurred by the Neighborhood Association, including, without limitation, costs which have been, or will be, incurred for capital improvements which are not paid for from Annual Assessments; provided, however, that any such Special Assessments (other than Special Assessments levied pursuant to Sections 9.01(b) and 9.03(a)(i) below) must be approved by a majority of the members of the Neighborhood Association (*i.e.*, Owners) who are "in good standing", as defined in the Bylaws, voting at a duly convened meeting of the Neighborhood Association or in a ballot vote by the members of the Neighborhood Association held in accordance with the provisions of the Bylaws. As used herein, the term "Special Assessment" shall mean those assessments made to all Owners pursuant to this Section 8.04 or Sections 9.01 (b) and 9.03 (a)(i) below. The Board may make such Special Assessments payable in one lump sum or in installments over a period of time which may, in the Board's discretion, extend beyond the then fiscal year in which said Special Assessments are levied and assessed. Special Assessments shall be levied against and payable by each Owner in accordance with the provisions of Section 8.02 above.

8.05 INDIVIDUAL ASSESSMENTS. The Neighborhood Association may, in its sole discretion, at any time and from time to time levy and assess as individual assessments (collectively, "Individual Assessments") against any Lot or Dwelling: (a) fines against an Owner and such Owner's Lot or Dwelling for the violation of and/or otherwise in accordance with the terms and provisions of this Neighborhood Declaration, (b) any costs or expenses, including, without limitation, collection costs, professional engineering and architectural fees and expenses, attorneys' fees and expenses, court costs and any administrative costs and expenses incurred by or on behalf of the ACC or the Neighborhood Association as a result of the failure of any Owner, Occupant or their respective family members, agents, guests, servants, employees, invitees and contractors, to at all times observe and perform their respective duties and obligations under this Neighborhood Declaration, including, without limitation, any such costs and expenses incurred by the ACC or the Neighborhood Association pursuant to Sections 5.12, 6.34, 7.02(b), 8.07, 11.01, 11.02 or 11.03 hereof, (c) any fees, charges and other costs incident to the use of any of the Common Areas for which a charge for the use thereof has been established by the Board, and (d) any costs, charges or other amounts payable by any Owner for any special services which the Neighborhood Association and such Owner may have contracted for which have been or will be provided to such Owner by the Neighborhood Association. The Individual Assessments provided for in this Section 8.05 shall be levied by the Board and the amount and due date of such Individual Assessment shall be specified by the Board in a notice to such Owner, which due date shall be no later than 30 days from the date of such notice or billing invoice for such Individual Assessment.

8.06 DATE OF COMMENCEMENT OF ASSESSMENTS.



(a) Subject to the provisions of Section 8.06(b) below, Assessments shall commence as to each Lot or Dwelling on the day on which such Lot or Dwelling is conveyed to a person other than Developer or any Affiliate thereof and shall be due and payable in such manner and on such schedule as may be established from time to time by the Board, subject to proration for the remainder of the then calendar year in which such Lot or Dwelling was conveyed to a person other than Developer or any Affiliate thereof. Assessments for Lots and Dwellings within any portion of the Additional Property hereafter submitted to the terms of this Neighborhood Declaration shall commence with respect to each such Lot or Dwelling on the day on which such Lot or Dwelling is conveyed to a person other than Developer or any Affiliate thereof, subject to proration and adjustment according to the number of days then remaining in the calendar year in which such Additional Property was added to the terms of this Neighborhood Declaration. Notwithstanding anything provided herein to the contrary, Developer or any Affiliate thereof shall have no liability for assessments. However, Developer may, in its sole discretion, fund the actual cash deficits which may exist between the total amount of Annual Assessments assessed to all other Owners and the actual costs incurred by the Neighborhood Association for Common Expenses (exclusive of funding of reserves) in any particular year; provided, however, that Developer shall have no obligations to fund any reserves established from time to time by the Association or the Board. To the extent Developer elects to fund the actual cash deficits, then such funding may occur at any time during a calendar year (which may be at the end of any calendar year), as determined by Developer, in its sole and absolute discretion.

(b) Notwithstanding anything provided in Section 8.06(a) above to the contrary, neither Annual Assessments nor Special Assessments shall be levied or assessed prior to May 1, 2007. Developer shall be solely responsible for the payment of all Common Expenses incurred prior to that date.

#### 8.07 EFFECT OF NON-PAYMENT; REMEDIES OF THE NEIGHBORHOOD ASSOCIATION.

(a) Each Owner of a Lot or Dwelling is and shall be deemed to covenant and agree to pay to the Neighborhood Association all Neighborhood Assessments provided for herein. The Neighborhood Association shall provide written notice or a billing invoice to each Owner setting forth the amount of the Neighborhood Assessments due and payable by such Owner and the due date for payment of such Neighborhood Assessments (which due date shall, with respect to Annual Assessments and Special Assessments only, be at least 30 days from the date of such notice or billing invoice). Any Individual Assessments levied or assessed against any Owner shall be separately assessed by a written notice or billing invoice sent directly by the Neighborhood Association to such Owner and such Individual Assessment shall be due and payable no later than 30 days from the date of such notice or billing invoice. In the event any Neighborhood Assessments or any portions thereof are not paid in full by the due date for such Neighborhood Assessments, then (i) the Owner of such Lot or Dwelling shall be deemed in default hereunder and (ii) a late fee in the amount of \$25.00 (which amount shall be subject to increase from time to time and at any time, as determined by the Board, in its sole discretion) shall automatically be levied and assessed against such Owner and such Owner's Lot or Dwelling. In addition, if any Neighborhood Assessments or any portion thereof (including late fees) are not paid in full within 30 days following the due date for the payment of such Neighborhood Assessments, then the unpaid portion of the Assessment (including the late fee) shall accrue simple interest at the lesser of eighteen percent (18%) per annum or the highest rate which may be charged to said Owner by law (the "Applicable Rate") from and after the 30th day following the due date of such Neighborhood Assessments until the same has been paid in full. In the event the Neighborhood Association employs an attorney or otherwise takes any legal action in attempting to collect any amounts due from any Owner, such Owner agrees to pay all attorneys' fees and expenses, court costs and all other expenses paid or incurred by the Neighborhood Association. The lien and equitable charge upon each Lot or Dwelling for Neighborhood Assessments shall also include all late fee charges, interest at the Applicable Rate and all attorneys' fees, court costs and all other expenses paid or incurred by the Neighborhood Association in attempting to collect any unpaid Neighborhood Assessments.

(b) In the event any Neighborhood Assessments are not paid by any Owner within 30 days following the due date for the payment of such Neighborhood Assessments, then, in addition to all other rights and remedies provided at law or in equity, the Neighborhood Association, acting through its Board or through any of its officers or authorized representatives, may at any time thereafter undertake any or all of the following remedies:

(i) The Neighborhood Association may commence and maintain a suit at law against an Owner to enforce such charges and obligations for Neighborhood Assessments and any such judgment rendered in any such action shall include the then applicable late fee charge and interest at the Applicable Rate, together with

attorneys' fees and expenses, court costs and all other expenses paid and incurred by the Neighborhood Association in collecting such unpaid Neighborhood Assessments; and/or

(ii) The Neighborhood Association may enforce the lien created pursuant to Sections 8.01 and 8.07(c) hereof in the manner hereinafter provided.

(c) There is hereby created a continuing lien on each Lot and Dwelling, with power of sale, in favor of the Neighborhood Association, which secures the payment to the Neighborhood Association of any and all Neighborhood Assessments levied against or upon such Lot or Dwelling, all late fees or charges, interest at the Applicable Rate and all attorneys fees and expenses, court costs and all other expenses paid or incurred by the Neighborhood Association in collecting any Neighborhood Assessments. If any portion of any Neighborhood Assessments remains unpaid for more than 30 days following the due date for the payment of such Neighborhood Assessments, then, at any time thereafter, the Neighborhood Association, through the Board of any officer or authorized representative thereof, may, but shall not be obligated to, make written demand on such defaulting Owner, which demand shall state the date and amount of delinquency. Each default shall constitute a separate basis for a demand and claim of lien, but any number of defaults may be included in a single demand. If such delinquency is not paid in full within ten (10) days after the giving of such demand or, even without giving demand, the Neighborhood Association may file a claim of lien and perfect its lien against the Lot or Dwelling of such delinquent Owner, which claim shall be executed by any member of the Board or any officer of the Neighborhood Association, contain the following information and be recorded in the Probate Office:

(i) The name of the delinquent Owner;

(ii) The legal description and street address, if any, of the Lot or Dwelling upon which the lien claim is made;

(iii) The total amount claimed to be due including late charges, interest at the Applicable Rate, collection costs and attorneys' fees and expenses incurred to date and a statement, if applicable, that such charges and costs shall continue to accrue and be charged until full payment has been received; and

(iv) A statement that the claim of lien is made by the Neighborhood Association pursuant to this Neighborhood Declaration and is claimed against such Lot or Dwelling in an amount equal to that stated therein. The lien provided for herein shall be in favor of the Neighborhood Association and may be foreclosed in the same manner as a foreclosure of a mortgage on real property containing a power of sale under the laws of the State of Alabama, as the same may be modified or amended from time to time. The Neighborhood Association shall have the right and power to bid at any such foreclosure sale and to purchase, acquire, hold, lease, mortgage, convey and sell any such Lot or Dwelling. Each Owner, by acceptance of a deed to any Lot or Dwelling, shall be deemed to (1) grant to and vest in the Neighborhood Association and its agents, the right and power to exercise the power of sale granted herein and foreclose the lien created herein, (2) grant to and vest in the Neighborhood Association and its agents the right and power to bring all actions against such Owner personally for the collection of all amounts due from such Owner, (3) expressly waive any objection to the enforcement and foreclosure of the lien created herein and (4) expressly waive the defense of the statute of limitations which may be applicable to the commencement of any such suit or action for foreclosure.

(d) In addition to the other rights and remedies provided herein, in the event any Owner fails to pay any Neighborhood Assessments within 30 days from the statement billing date for such Neighborhood Assessments, then the Neighborhood Association shall have the right to suspend the privileges of such Owner, his or her Occupants, family members, guests and invitees from using any of the Recreational Facilities, if any.

**8.08 SUBORDINATION OF LIEN.** Notwithstanding anything provided herein to the contrary, the lien for Neighborhood Assessments and other charges authorized herein with respect to any Lot or Dwelling is and shall be subordinate to the lien of any Mortgage held by any Mortgagee, but only to the extent that the Mortgage held by any such Mortgagee is recorded in the Probate Office prior to the filing of a claim of lien by the Neighborhood Association pursuant to Section 8.07(c) above. When a Mortgagee exercises its foreclosure rights provided in its Mortgage and acquires title to or sells to a third party its interest in any Lot or Dwelling, then such Mortgagee or its purchaser or transferee at such foreclosure sale shall not be liable for the then unpaid portion of any Neighborhood

Assessments or other charges incurred prior to the date of transfer or acquisition of title by foreclosure so long as the Mortgage held by such Mortgagee was recorded in the Probate Office prior to the filing of a claim of lien by the Neighborhood Association pursuant to Section 8.07(c) above, but shall be liable for all Neighborhood Assessments and other charges levied, assessed or incurred with respect to such Lot or Dwelling from and after the date of such foreclosure sale. The foregoing shall not relieve any Owner whose Lot or Dwelling has been foreclosed from the personal obligation to pay all Neighborhood Assessments and other charges levied, assessed or incurred by the Neighborhood Association and the Neighborhood Association shall have the right to pursue all rights and remedies against a defaulting Owner notwithstanding the foreclosure of a Mortgage by Mortgagee on such Owner's Lot or Dwelling. If the Owner redeems the foreclosed Lot or Dwelling, the lien for Neighborhood Assessment and other charges authorized with respect to such Lot or Dwelling shall be reinstated. The amount of the lien shall include all interest and other charges that would have accrued had the mortgage not been foreclosed.

8.09 CERTIFICATES. The Neighborhood Association (or any officer or authorized representative thereof) shall, upon request and at such reasonable charges as may from time to time be adopted by the Board, furnish to any Owner a certificate in writing setting forth whether the Neighborhood Assessments for which such Owner is responsible have been paid and, if not paid, the outstanding amount due and other costs and expenses due from such Owner. With respect to third parties, such certificate shall be conclusive evidence of payment of any Neighborhood Assessments stated therein.

8.10 TRANSFER FEES.

(a) Subject to the remaining terms and provisions of this Section 8.10, at the closing of the transfer of title of each Lot or Dwelling to the first Owner of such Lot or Dwelling other than Developer or any Affiliates of Developer, the initial purchaser of such Lot or Dwelling shall contribute and pay to the Neighborhood Association a transfer fee equal to two (2) months of the Annual Assessments then payable by the owner of such Lot or Dwelling for the then current calendar year. Such contribution shall be paid directly to the Neighborhood Association and may be utilized by the Neighborhood Association for the payment of any costs and expenses and shall not be considered to be a prepayment of any Annual Assessments.

(b) Subject to the remaining terms and provisions of this Section 8.10, at the closing of each subsequent conveyance of any Lot or Dwelling by any Owner (other than Developer or any Affiliates of Developer) to a third party purchaser (other than Developer or any Affiliates of Developer), each such third party purchaser of any Lot or Dwelling shall also be required to contribute and pay to the Neighborhood Association an amount equal to two (2) months of the Annual Assessment then payable by the owner of such Lot or Dwelling for the then current calendar year, which contribution may be utilized by the Neighborhood Association for the payment of any costs and expenses of the Neighborhood Association and shall not be considered a prepayment of any Annual Assessments.

(c) Notwithstanding anything provided in this Neighborhood Declaration to the contrary, the transfer fees specified in Sections 8.10(a) and 8.10 (b) above shall not be applicable to (i) the Neighborhood Association, to the extent the Neighborhood Association purchases a Lot or Dwelling in any foreclosure proceeding pursuant to the provisions of Section 8.07 above or (ii) the transfer and conveyance of any Lots or Dwellings to Developer or any Affiliates of Developer.

8.11 EXEMPTIONS FROM ASSESSMENTS FOR CERTAIN LOTS OR DWELLINGS. Notwithstanding anything to the contrary in this Neighborhood Declaration, Developer may, for any period of time specified, designate any Lot or Dwelling as being exempt from the payment of Annual Assessments, Special Assessments, and/or Transfer Fees (as set forth in Section 8.10) or may by deed, contract or other written instrument, for any period of time specified, reduce the amount of Annual Assessments or Special Assessments which may be payable by any Lot or Dwelling within the Property.

8.12 EXEMPTIONS FROM ASSESSMENTS FOR DEVELOPERS. The Developer or any Affiliate thereof, and/or any Lot of Dwelling owned by Developer or any Affiliate thereof, shall be exempt, from the payment of Annual Assessments, Special Assessments, and Individual Assessments.

ARTICLE IX

CASUALTY, CONDEMNATION AND INSURANCE

9.01 DAMAGE OR DESTRUCTION TO COMMON AREAS.

(a) After the neighborhood Turnover Date, in the event of any damage or destruction to any of the Common Areas by fire or other casualty, then, subject to the terms and provisions of this Article IX, the Neighborhood Association shall promptly repair, replace and restore the damaged portions of the Common Areas to the condition to which they existed immediately prior to such fire or other casualty.

(b) In such event, where the amount of insurance proceeds, if any, recovered as a result of such damage or destruction is insufficient to fully repair, replace and restore the damaged portions of the Common Areas, and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board may levy a Special Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same, which such Special Assessments shall be (i) in an amount sufficient to provide funds to pay the remaining costs necessary to repair, replace or restore the Common Areas to the condition as existed immediately prior to such fire or other casualty and (ii) levied against each Owner equally as provided in Section 8.02 above. Any and all insurance proceeds received by the Neighborhood Association on account of any damage to or destruction of any of the Common Areas or any sums paid to the Neighborhood Association under or by virtue of such Special Assessments shall be held by and for the benefit of the Neighborhood Association and shall be disbursed by the Neighborhood Association in payment for the costs of such repair or restoration in such manner as may be determined by the Board. In no event shall the Owner or Mortgagee of any Lot or Dwelling be entitled to any portion of the proceeds of insurance payable as a result of the damage to or destruction of any portion of the Common Areas.

9.02 DAMAGE OR DESTRUCTION TO LOTS OR DWELLINGS. In the event of any fire or other casualty which damages or destroys any portion of any Lot or Dwelling, then the Owner of such damaged Lot or Dwelling shall promptly repair and otherwise restore such Lot or Dwelling to the condition to which the same existed immediately prior to such fire or other casualty; provided, however, that any such restoration or repair shall be subject to compliance with all of the terms and provisions set forth in Articles V and VI above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. Any such restoration or repair shall be commenced within one hundred eighty (180) days following the occurrence of such fire or other casualty and shall be diligently prosecuted to completion without further delay in accordance with all of the terms and provisions of this Neighborhood Declaration.

9.03 CONDEMNATION OF COMMON AREAS.

(a) In the event of the taking of all or any portion of any of the Common Areas as a result of, in lieu of, or in anticipation of, the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then the award from such taking or sale in lieu thereof shall be paid to the Neighborhood Association and shall be disbursed or held as follows:

(i) To the extent the Common Areas subject to such taking can either be restored or replaced, then, to the extent practicable, the Board is hereby empowered, authorized and directed to take such action, including the purchase of any remaining lands within the Property or the utilization of any other Common Areas within the Property, to restore, rebuild or replace, as the case may be, those portions of the Common Areas subject to such taking. If the award is insufficient to fully defray the cost of such repair or replacement and such deficiency cannot be appropriated from a reserve fund as may have been established for such purpose, then the Board may levy a Special Assessment against all Owners, without the necessity of a vote of the Owners approving or disapproving the same, which such Special Assessments shall be (1) in an amount sufficient to provide funds to pay the remaining costs of repair, restoration or reconstruction and (2) levied against each Owner equally as provided in Section 8.02 above; and

(ii) To the extent the Common Areas subject to such taking cannot be restored or replaced or additional lands within the Property cannot be purchased by the Neighborhood Association in order to repair,

replace or restore the Common Areas so taken or if the Board shall determine that the portions of the Common Areas so taken should not be replaced or restored, then in any such event, the net award from such taking shall be retained by and for the benefit of the Neighborhood Association.

(b) If any portion of the award from any taking remains after restoration or replacement of any of the Common Areas, the remainder of such award shall be retained by and for the benefit of the Neighborhood Association, without any claim thereto by any Owner. Except as specifically provided in Section 9.03(c) below, no Owner or Mortgagee of any Lot or Dwelling shall be entitled to any portion of the award made to the Neighborhood Association as a result of the taking of any portion of the Common Areas.

(c) If any such taking or sale in lieu thereof includes all or any part of a Lot or Dwelling and also includes any part of the Common Areas, then the award from such taking shall be equitably apportioned in accordance with the decision of a court of competent jurisdiction and such award shall be disbursed separately to the Neighborhood Association and to the Owners so affected by such taking; provided, however, that the Owners of any Lot or Dwelling which is subject to any such taking and the Board may mutually agree on the amount of such apportionment, which mutual agreement shall be binding on all Owners.

9.04 CONDEMNATION OF LOTS OR DWELLINGS. In the event that all or any portion of a Lot or Dwelling is taken as a result of, in lieu of or in anticipation of the exercise of the right of eminent domain, condemnation or by private purchase in lieu thereof, then, to the extent practicable, the Owner of such Lot or Dwelling shall promptly repair, reconstruct, rebuild and otherwise restore the remaining portions of the Lot or Dwelling as nearly as practicable to the condition to which the same existed immediately prior to such taking; provided, however, that any such restoration shall be subject to all of the terms and conditions set forth in Articles V and VI above and all then applicable rules, regulations, statutes and ordinances of the Governmental Authorities. In the event the restoration of such Lot or Dwelling is impracticable or would otherwise violate any of the terms and provisions of this Neighborhood Declaration, then such Owner shall promptly clear away any remaining Improvements damaged or destroyed by such taking and shall leave such Lot or Dwelling and any remaining Improvements thereon in a clean, orderly, safe and sightly condition.

9.05 INSURANCE.

(a) The Board shall have the authority to obtain and maintain at all times any and all insurance coverages, in such form and with such insurance carriers as the Board may from time to time deem appropriate for the benefit of the Neighborhood Association including, without limitation, extended coverage, flood, vandalism, malicious mischief, public liability, workmen's compensation, employer's liability insurance, directors' and officers' liability insurance and any and all other types of insurance coverage as determined by the Board in its sole and absolute discretion.

(b) Each Owner shall be solely responsible for obtaining and maintaining public liability, property damage, title and all other types of insurance with respect to his or her Lot, Dwelling and all other Improvements situated thereon. Each Owner, by acceptance of a deed to or other conveyance of any interest in any Lot or Dwelling, does hereby waive and release the Neighborhood Association, the ACC, Developer and their respective agents, employees, representatives, partners, shareholders, members, officers and directors from any and all liabilities or responsibilities or any other claims by or through such Owner, by way of subrogation or otherwise, for any loss or damage covered by (or which should be covered by) broad form fire and extended coverage insurance (or homeowner's insurance coverage) and comprehensive public or general liability insurance coverage maintained or which should be maintained by any Owner as required herein, even if such loss or damage has been caused by the fault or negligence of the Neighborhood Association, the ACC, Developer or any of their respective agents, employees, representatives, partners, shareholders, members, officers or directors.

ARTICLE X

TERMS AND AMENDMENTS

10.01 TERM. The terms, covenants, conditions and restrictions set forth in this Neighborhood Declaration shall run with and bind all of the Property, shall inure to the benefit of all Owners and Mortgagees and

their respective heirs, executors, personal representatives, administrators, successors and assigns, and shall be and remain in effect for a period of ninety-nine (99) years from and after the date hereof, after which time this Neighborhood Declaration shall be automatically renewed and extended for successive and continuous periods of (10) years each, unless, at any time after ninety-nine (99) years from the date hereof, an agreement executed by at least seventy-five percent (75%) of those Owners "in good standing", as defined in the Bylaws, who are voting either in person or by proxy at either a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws, agreeing to terminate or modify this Neighborhood Declaration has been recorded in the Probate Office; provided, however, that the rights of way and easements established, granted and reserved in Article 3 hereof shall continue and remain in full force and effect for the time periods and duration specified therein.

**10.02 AMENDMENTS PRIOR TO NEIGHBORHOOD TURNOVER DATE.** Until the occurrence of the Neighborhood Turnover Date, Developer may, in its sole discretion, amend this Neighborhood Declaration by a written instrument filed and recorded in the Probate Office without obtaining the approval of any Owner or Mortgagee; provided, however, that in the event any amendment proposed by Developer materially and adversely alters or changes the rights of any Owner to the use of his or her Lot or Dwelling, as determined solely by Developer, in its reasonable discretion, then such amendment shall be valid only upon the written consent or ballot vote of both (a) Developer and (b) at least fifty-one percent (51 %) of those Owners (including Developer who shall have the voting rights attributable to any Lots or Dwellings owned by Developer) who are "in good standing" and are voting either in person or by proxy at either a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws. Notwithstanding anything provided to the contrary in this Section 10.02, each Owner, by acceptance of a deed to any Lot or Dwelling, and each Mortgagee, by acceptance of a Mortgage encumbering any Lot or Dwelling, acknowledges and agrees that (i) the addition of Additional Property to this Neighborhood Declaration pursuant to Section 2.02 above and the amendment of this Neighborhood Declaration to add Additional Property to the terms and provisions hereof, (ii) any amendments to this Neighborhood Declaration made by Developer pursuant to Article 2 above and (iii) any amendments to this Neighborhood Declaration to reflect the subdivision of any Lots or Dwellings pursuant to Section 6.28 above, shall not and do not constitute a material and adverse alteration or change in or to the rights of any Owner to the use of his or her Lot or Dwelling and shall not require the consent or approval of any Owner or Mortgagee. Any amendments to this Neighborhood Declaration made pursuant to this Section 10.02 shall be certified by Developer and shall be effective upon recording of the same in the Probate Office. Each Owner, by acceptance of a deed to a Lot or Dwelling, and each Mortgagee, by acceptance of a Mortgage on any Lot or Dwelling, agrees to be bound by all amendments permitted by this Section 10.02. Except as specifically provided in Section 10.04 below and in this Section 10.02 (with respect to any amendments proposed by Developer which materially and adversely alter or change the rights of an Owner to the use of his or her Lot or Dwelling), at all times prior to the Neighborhood Turnover Date, only Developer shall have the right to amend this Neighborhood Declaration.

**10.03 AMENDMENTS AFTER NEIGHBORHOOD TURNOVER DATE.** After the occurrence of the Neighborhood Turnover Date, amendments to this Neighborhood Declaration shall be proposed and adopted only by the affirmative vote of at least seventy-five percent (75%) of those Owners (including Developer who shall have the voting rights attributable to any Lots or Dwellings owned by Developer) who are "in good standing", as defined in the Bylaws, who are voting either in person or by proxy at either a duly constituted meeting of the Owners held in accordance with the terms and provisions of the Bylaws or in a ballot vote submitted to the Owners pursuant to the terms and provisions of the Bylaws. Any other attempt to amend this Neighborhood Declaration shall be deemed null and void. Any and all amendments which have been approved in accordance with the terms and provisions of this Section 10.03 shall be executed by all parties whose consent to the same is required; provided, however, that in the alternative, the sworn statement of the President of the Neighborhood Association or by the Chairman of the Board, if any, stating unequivocally that the agreement of the requisite number of Owners was lawfully obtained may be attached to and incorporated into such amendment without joinder of any of the Owners. Any such amendment shall be effective upon recording of the same in the Probate Office.

**10.04 RESTRICTIONS ON AMENDMENT.** Notwithstanding anything provided herein to the contrary, none of the terms and provisions of Articles II and III hereof may be amended or modified in any respect without the prior written consent and approval of Developer.

ARTICLE XI

DENIAL OF USE PRIVILEGES AND REPURCHASE OPTION

11.01 AUTHORITY AND ENFORCEMENT. In addition to the other rights and remedies provided elsewhere in this Neighborhood Declaration, in the event any Owner or Occupant or their respective agents, contractors or invitees, violates any of the provisions of this Neighborhood Declaration, the Architectural Standards, the Articles of Incorporation, the Bylaws or any other rules and regulations adopted by the Board from time to time, then the Board shall have the power and right, at its option, to (a) impose monetary fines which shall constitute an Individual Assessment, (b) suspend an Owner's right, if any, to vote in the Neighborhood Association and (c) suspend or terminate an Owner's or Occupant's privilege (and the privilege of such Owner's or Occupant's family members, guests and tenants) to use all or any of the Recreational Facilities, if any. Any action to be taken by the Board pursuant to this Section 11.01 shall be subject to the satisfaction of the terms and provisions of Section 11.02 below.

11.02 PROCEDURE.

(a) In the event any of the terms or provisions of this Neighborhood Declaration, the Architectural Standards, the Articles of Incorporation, the Bylaws or any rules and regulations of the Neighborhood Association are violated by any Owner or Occupant, or the respective agents, contractors or invitees of any Owner or Occupant, the Board shall not impose a fine, suspend voting rights or infringe upon or suspend or terminate any other rights pursuant to Section 11.01 above unless written demand to cease and desist from an alleged violation shall be served upon the Owner responsible for such violations setting forth the information required by Section 11.02(b) below and providing such Owner the opportunity to appear before and be heard by the Board.

(b) Any notices required by Section 11.02(a) above shall specify:

(i) The alleged violation;

(ii) The action required to abate such violation;

(iii) A time period of not less than ten (10) days during which the violation may be abated and corrected by such Owner without further sanction if such violation is a continuing one or, if the violation is not a continuing one, a statement that any further violation of the same provision of this Neighborhood Declaration, the Architectural Standards, the Articles of Incorporation, the Bylaws or any of the rules and regulations of the Neighborhood Association may result in the imposition of sanctions; and

(iv) The date, which shall be no earlier than ten (10) days from the date of such written notice, time and place at which such Owner may appear before the Board and be heard.

(c) The foregoing procedure shall only be applicable to the enforcement rights specified in Section 11.01 above and shall not apply to the exercise of any of the rights and remedies specified in any other section or provision of this Neighborhood Declaration.

11.03 REPURCHASE OPTION.

(a) In the event any Owner fails to commence construction or complete construction of a Dwelling on such Owner's Lot within the time periods set forth in Section 11.03(b) below then, in such event, Developer does hereby reserve the right, at its option (but without any obligation), to repurchase such Lot (the "Repurchase Option") in accordance with the terms and provision of Section 11.03(c) below.

(b) Unless otherwise agreed to in writing by the Developer, each Owner shall:

(i) Within four (4) months from the date on which such Owner purchases a Lot from Developer, submit to the ACC the plans and specifications required by the terms and provisions of Section 5.06 (b) above;

(ii) Within six (6) months from the date of the closing whereby such Owner purchases a Lot from Developer, commence construction of a Dwelling on such Lot in accordance with the plans and specifications therefore which have been approved by the ACC;

(iii) Following commencement of construction, each Owner agrees to diligently pursue such construction to completion; and

(iv) On or before twelve (12) months following the date on which the ACC has approved the plans and specifications for such Dwelling, substantially complete construction of such Dwelling, including all landscaping, in accordance with the plans and specifications for the same which have been approved by the ACC.

As used herein, the term "commence construction" shall mean the commencement by such Owner of construction of a Dwelling on such Lot by substantially clearing, grading and excavating such Lot and otherwise commencing to make other improvements to such Lot such as, but not limited to, pouring of footings and foundations (or a concrete slab) and commencement of framing work. If, at any time after an Owner has commenced construction, such Owner fails to make significant construction progress during any 90-day period, such failure shall be considered to be a failure to diligently pursue construction as required by the terms and provisions of Section 11.03(b) (iii) hereof. A Dwelling shall be deemed to have been substantially completed upon the occupancy of such Dwelling and the completion of all landscaping work for such Lot in accordance with landscaping plans approved by the ACC ("Substantial Completion"). Notwithstanding anything provided in this Section 11.03(b) to the contrary, all of the time periods specified in this Section 11.03(b) shall be extended for casualty, extreme material shortages, inclement weather conditions which are not normal or customary for the time of year during which construction of such Dwelling is being conducted and any other significant matters beyond the reasonable control of an Owner (or his or her builder); provided, however, that no extension shall be granted as a result of any inability to obtain financing or funding for the construction of such Dwelling.

(c) In the event any Owner fails to commence, diligently pursue or complete construction of a Dwelling on his or her Lot in accordance with the requirements of Section 11.03(b) above, then Developer shall have the right, at any time after the expiration of any of the time periods set forth in Section 11.03(b) above, to provide written notice to such Owner exercising the Repurchase Option in accordance with the remaining terms and provisions of this Section 11.03(c). The consummation of the Repurchase Option by Developer shall occur no later than thirty (30) days after Developer has given written notice to such Owner of Developer's election to exercise the Repurchase Option. At the closing of the purchase and sale of any Lot which is being repurchased by Developer by virtue of the terms and provisions of this Section 11.03, the Owner of such Lot subject to such Repurchase Option shall transfer and convey the Lot subject to such Repurchase Option to Developer by statutory warranty deed, free and clear of liens, encumbrances and any other matters of title other than those matters of record in existence as of the date on which such Lot was originally conveyed by Developer to the first Owner of such Lot. Such Owner shall, at his or her sole cost and expense, be obligated to pay all sums and otherwise take all action necessary or required to remove any and all liens, encumbrances and other title matters and exceptions encumbering such Owner's Lot other than any such liens, encumbrances, and other title matters and exceptions in existence as of the date on which Developer conveyed such Lot to the first Owner of such Lot. Contemporaneously with the delivery of the deed by such Owner to Developer, Developer shall pay to such Owner 100% of the Original Purchase Price, as defined in Section 11.03 (d) below, paid by such Owner to Developer (or if such Owner has acquired his or her Lot from a previous Owner other than Developer, then Developer shall pay to such current Owner the Original Purchase Price paid to Developer by the first or original Owner of such Lot), in each case, without interest thereon. The Owner of such Lot subject to the Repurchase Option shall pay, prior to delivery of the deed to the Developer, any and all outstanding assessments and any other charges due and owing under this Neighborhood Declaration. Real estate ad valorem taxes and any prepaid Neighborhood Assessments shall be prorated as of the date of delivery of such deed.

(1) "Original Purchase Price" means the gross amount originally paid to Developer by the first Owner of such Lot (increased by the costs or fair market value, whichever is less, of any Improvements made



by the then current Owner to such Lot in accordance with plans approved by the ACC) but without deduction for any costs of sale, proration or other adjustments to the original purchase Price paid to Developer by the first Owner of such Lot.

(e) The Repurchase Option retained and reserved by the Developer under the provisions of Sections 11.03(a) and 11.03(c) above shall be and are subject and subordinate to the rights of any Mortgagee under any Mortgage which was duly recorded in the Probate Office prior to the exercise of the Repurchase Option by Developer.

(f) The Repurchase Option of Developer set forth herein shall be binding on the first Owner of each Lot and all of the heirs, executors, successors and assigns of such Owner and may be enforced by Developer by an action for specific performance. In the event any Owner fails to timely and promptly perform all of such Owner's obligations set forth in this Section 11.03 with respect to the exercise by Developer of the Repurchase Option, such Owner shall also pay to Developer any and all costs and expenses incurred by Developer in enforcing the terms and provisions of this Section 11.03 including, without limitation, reasonable attorneys' fees and expenses and court costs. The Repurchase Option shall be and is a covenant running with the land which shall be binding on the Owner of each Lot and such Owner's heirs, executors, successors and assigns.

11.04 NON-EXCLUSIVE REMEDIES. Notwithstanding anything provided to the contrary in this Neighborhood Declaration, rights and remedies granted to Developer, the ACC and the Neighborhood Association pursuant to the terms and provisions of this Neighborhood Declaration upon the Occurrence of any default by any Owner or the failure of any Owner to timely and completely perform all obligations required to be performed hereunder by any Owner are in addition to, and shall not be deemed to limit, the other rights and remedies set forth in this Neighborhood Declaration or which Developer, the ACC or the Neighborhood Association would have the right to exercise at law or in equity.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

12.01 CONTROL BY DEVELOPER, NOTWITHSTANDING ANYTHING PROVIDED TO THE CONTRARY IN THIS NEIGHBORHOOD DECLARATION, THE ARTICLES OF INCORPORATION, THE BYLAWS OR IN ANY OTHER DOCUMENT OR INSTRUMENT RELATING TO THE PROPERTY, EACH OWNER, BY ACCEPTANCE OF A DEED TO ANY LOT OR DWELLING, AGREES THAT UNTIL THE NEIGHBORHOOD TURNOVER DATE, DEVELOPER SHALL HAVE THE SOLE AND EXCLUSIVE RIGHT AND AUTHORITY TO (a) APPOINT AND REMOVE ALL OF THE MEMBERS OF THE BOARD AND (b) EXERCISE ALL VOTING RIGHTS IN THE NEIGHBORHOOD ASSOCIATION (EXCEPT TO THE EXTENT OTHERWISE PROVIDED TO THE CONTRARY IN SECTION 10.02 ABOVE).

12.02 LEGAL EXPENSES. In addition to all of the other rights and remedies set forth in this Neighborhood Declaration, in the event either Developer, the Board, the Neighborhood Association, the ACC or any of their respective agents and representatives, undertake any legal or equitable action which any of them deem necessary to abate, enjoin, remove or extinguish any violation or breach of this Neighborhood Declaration, then all costs and expenses incurred by any of them, including, without limitation, attorneys' fees and court costs, in enforcing any of the terms, provisions, covenants or conditions in this Neighborhood Declaration shall be paid for by the Owner against whom such action was initiated. The Neighborhood Association and its agents and representatives, including the ACC, and the Board are each hereby authorized to take any and all legal or equitable action as may be necessary under the circumstances to restrain or enjoin any violation or breach of this Neighborhood Declaration or to otherwise seek monetary damages as a result of any expenses incurred by the Neighborhood Association to cure any such violation or breach by any Owner.

12.03 SEVERABILITY. If any provision of this Neighborhood Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Neighborhood Declaration or the application of such provision to persons or circumstances other than those as to which it is held

invalid or unenforceable shall not be affected thereby and each provision hereof shall be valid and enforceable to the fullest extent permitted by law.

12.04 CAPTIONS AND HEADINGS. The captions and headings contained in this Neighborhood Declaration are for convenience of reference only and shall not be used in the construction or interpretation of any provisions of this Neighborhood Declaration. The table of contents, cover page and any index to this Neighborhood Declaration are for convenience of reference only and shall not define or limit any of the terms and provisions hereof.

12.05 PRONOUNS AND PLURALS. All personal pronouns used in this Neighborhood Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders. The use of the singular tense shall include the plural and the use of the plural shall include the singular.

12.06 BINDING EFFECT. The terms and provisions of this Neighborhood Declaration shall be binding upon each Owner, Occupant and Mortgagee and their respective heirs, executors, administrators, personal representatives, successors and assigns and shall inure to the benefit of Developer, the Neighborhood Association, the ACC, all of the Owners and their respective Mortgagees and their respective heirs, executors, administrators, personal representatives, successors and assigns.

12.07 CONFLICT OR AMBIGUITY. In the event of any conflict or ambiguity in the terms and provisions of this Neighborhood Declaration, the general rules of construction against one party as a result of that party having drafted this Neighborhood Declaration are hereby waived by each Owner and, to the fullest extent allowed by law, no conflicts or ambiguities shall be resolved in favor of to the advantage of one party as opposed to another in interpreting any ambiguity or conflict contained herein. In the event of any conflict, ambiguity or inconsistency between the *Code of Alabama*, any laws, regulations or ordinances of an applicable Governmental Authority, this Neighborhood Declaration, the Articles of Incorporation, the Bylaws or any rules and regulations adopted from time to time by the Neighborhood Association, then the provisions of the *Code of Alabama*, any laws, regulations or ordinances of an applicable Governmental Authority, this Neighborhood Declaration, the Articles of Incorporation, the Bylaws and any rules and regulations adopted by the Neighborhood Association, in that order, shall prevail and each Owner, by acceptance of a deed or other conveyance to a Lot or Dwelling, covenants and agrees to vote in favor of and execute any amendments as may be necessary to remove or alleviate any such conflict, ambiguity or inconsistency.

12.08 NO REVERTER. No restriction or provision hereof is intended to be or shall be construed as a condition subsequent or a possibility of reverter in favor of Developer nor shall any provision be deemed to vest any reversionary interest in Developer; provided, however, that nothing herein shall be deemed to alter or affect the Repurchase Option and the rights of Developer created in Section 11.03 above.

12.09 INTERPRETATION. In all cases, the provisions set forth and provided for in this Neighborhood Declaration shall be construed together and given that interpretation or construction which in the opinion of Developer or the Board, will best affect the intent of the general plan of development for the Property. The provisions hereof shall be liberally interpreted and, if necessary they shall be so extended or enlarged by implication so as to make them fully effective. The provisions of this Neighborhood Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Neighborhood Declaration shall be the date hereof. This Neighborhood Declaration shall be construed under and in accordance with the laws of the State of Alabama.

12.10 RIGHTS OF THIRD PARTIES. This Neighborhood Declaration shall be recorded for the benefit of Developer, the Neighborhood Association, the Owners and their respective Mortgagees and by such recording, no other adjoining property owner or third party shall have any right, title or interest whatsoever in the Property or its operation and continuation, in the enforcement of any of the provisions of this Neighborhood Declaration or the right to consent to or approve any amendment or modification to this Neighborhood Declaration.

12.11 **NO TRESPASS.** Whenever the Neighborhood Association, Developer, the ACC and their respective agents, employees, representatives, successors and assigns are permitted by this Neighborhood Declaration to enter upon or correct, repair, clean, maintain or preserve or do any other action within any portion of a Lot or Dwelling, the entering thereon and the taking of such action shall not be deemed a trespass.

12.12 **NO PARTITION.** Each Owner hereby waives any right to seek or obtain judicial partition of any portion of the Property.

12.13 **STANDARDS FOR REVIEW.** Whenever in this Neighborhood Declaration the ACC or the Neighborhood Association has the right to approve, consent to, or require any action be taken pursuant to the terms hereof, such approval, consent of required action shall, except as otherwise specifically provided herein to the contrary, be given or withheld in the sole and absolute discretion of the ACC or the Neighborhood Association, as the case may be.

12.14 **ORAL STATEMENTS.** Oral statements or representations by Developer, the Neighborhood Association, the ACC, or any of their respective employees, agents, representatives, successors or assigns, shall not be binding on Developer, the Neighborhood Association or the ACC.

12.15 **NOTICES.** Each Owner shall be obligated to furnish to the Neighborhood Association, in writing, the address, if other than the Lot or Dwelling of such Owner, to which any notice to such Owner under this Neighborhood Declaration is to be given and, if no address other than such Lot or Dwelling shall have been designated in writing, then all notices and demands shall be mailed or delivered to the Lot or Dwelling of such Owner or to the address indicated in the Office of the Revenue Commissioner of Limestone County, Alabama with respect to the collection of ad valorem taxation and the Lot or Dwelling. Any Owner may, for the purposes of notices hereunder, specify in writing to the Neighborhood Association that all notices be submitted to such Owner by facsimile transmission or through the Internet utilizing a specific electronic mailbox for that particular Owner. All notices required or permitted to be given to any Owner pursuant to the terms and provisions of this Neighborhood Declaration shall be deemed to have been sufficiently given or served upon any Owner when either (a) deposited in the United States mail for first-class delivery with postage prepaid and addressed to the last address furnished by such Owner to the Neighborhood Association (or if no address has been furnished, then to the Lot or Dwelling of such Owner or to the address indicated in the Office of the Revenue Commissioner of Limestone County, Alabama with respect to the collection of ad valorem taxation and the Lot or Dwelling), in which case notice shall be deemed given upon deposit of same in the United States mail, (b) delivered to the Dwelling, if any, situated on an Owner's Lot in which event notice shall be deemed given upon personal delivery of such notice to the mailbox or when attached to the front door of such Lot or Dwelling, (c) sent by facsimile transmission to a facsimile number provided in writing by such Owner to the Neighborhood Association, which notice shall be deemed to have been given upon transmission of such facsimile notice or (d) sent by Internet to an electronic mailbox address provided in writing by such Owner to the Neighborhood Association, which notice shall be deemed to have been given upon transmission of such electronic mail by the Neighborhood Association. All notices to the Neighborhood Association (or to the ACC) shall be delivered or sent to the following address:

Highland Village Homeowners Association, Inc.

13093 St. Andrew Drive

Athens, AL 35611

or to such other address as the Neighborhood Association (or the ACC) may from time to time specify in a notice to the Owners. All notices to Developer shall be sent or delivered to Developer at the above address or to such other address as Developer may notify the Neighborhood Association.

12.16 **ASSIGNMENT.** Developer shall have the right, in its sole and absolute discretion, to assign any and all of the rights, powers, reservations, easements and duties contained herein to any person or entity who shall thereupon have the same rights, powers, reservations, easements and duties as Developer hereunder. Notwithstanding anything provided herein to the contrary, no sale, transfer, conveyance, lease, pledge, encumbrance

or other hypothecation of any Lot or Dwelling by Developer to a third party shall constitute or be deemed to constitute a transfer of any of the rights reserved herein to Developer unless express reference is made in such instrument of conveyance to the specific rights created in this Neighborhood Declaration which Developer has transferred to any such third party.

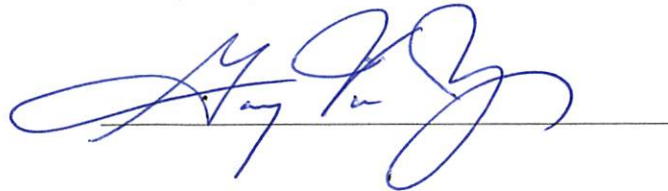
12.17 FURTHER ASSURANCES. Each Owner covenants and agrees to execute, sign and deliver, or cause to be executed, signed and delivered and to otherwise do or make, or cause to be done and made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, conformitory or otherwise, which may be reasonably requested by Developer, the Neighborhood Association or the ACC for the purpose of or in connection with clarifying, amending or otherwise consummating any of the transactions and matters herein.

12.18 NO WAIVER. All rights, remedies and privileges granted to Developer, the Neighborhood Association and the ACC pursuant to the terms and provisions of this Neighborhood Declaration shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies or privileges shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same, or any other party, from pursuing such other and/or additional rights, remedies or privileges as may be available to such party at law or in equity. The failure by Developer, the ACC, or the Neighborhood Association at any time to enforce any covenant or restriction set forth herein shall in no event be deemed a waiver of the right thereafter to enforce such covenant or restriction.

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

IN WITNESS WHEREOF, Developer has caused this Neighborhood Declaration to be duly executed as of the day and year first above written.

EGYPT BLUFF PROPERTIES, LLC, an Alabama limited Liability Company



STATE OF ALABAMA )

COUNTY OF LIMESTONE )

I, the undersigned, GARY VAN WAGNER Notary Public in and for said county, in said state, hereby certify that whose name as owner of Egypt Bluff Properties, LLC, an Alabama limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of such corporation in its capacity as manager of said limited liability company.

Given under my hand and official seal this the 5th day of January, 2024.

Lisa A. Greene  
Notary Public

**LISA A GREENE**  
NOTARY PUBLIC, ALABAMA STATE AT LARGE  
MY COMMISSION EXPIRES MAR. 09, 2025

My Commission Expires: March 09, 2025

Document 1

Document 2

Document 3

Document 4

Document 5

Document 6

Document 7

Document 8

MY COMMISSION EXPIRES MAR 09 2025  
LISA A GREENE  
NOTARY PUBLIC ALABAMA STATE AT LARGE

CONSENT OF NEIGHBORHOOD ASSOCIATION

The undersigned, Highland Village Homeowners Association, Inc., an Alabama nonprofit corporation has joined in the execution of this Neighborhood Declaration in order to consent to, and to agree to be bound by, all of the terms and provisions of this Neighborhood Declaration, including, without limitation, the provisions of Section 4.09 in the Neighborhood Declaration.

Dated as of the 5<sup>th</sup> day of January, 2024

HIGHLAND VILLAGE HOMEOWNERS ASSOCIATION, INC.

BY: [Signature]

Its: OWNER

STATE OF ALBAMA

COUNTY OF LIMESTONE

I, the undersigned, a notary public in and for said county in said state, hereby certify that GARY VAN WAGNER whose name as OWNER of Highland Village Homeowners Association, Inc. an Alabama nonprofit corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this 5<sup>th</sup> day of January 2024.

[Signature]  
NOTARY PUBLIC  
LISA A GREENE  
NOTARY PUBLIC, ALABAMA STATE AT LARGE  
MY COMMISSION EXPIRES MAR. 09, 2025  
my commission expires: March 09, 2025

NOTARY PUBLIC STATE OF ALABAMA

I, the undersigned, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the office of the Notary Public for the County of [ ] State of Alabama.

Notary Public for the County of [ ] State of Alabama

NOTARY PUBLIC STATE OF ALABAMA



NOTARY PUBLIC STATE OF ALABAMA

NOTARY PUBLIC STATE OF ALABAMA

I, the undersigned, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears in the records of the office of the Notary Public for the County of [ ] State of Alabama.

Notary Public for the County of [ ] State of Alabama

NOTARY PUBLIC STATE OF ALABAMA  
LISA A GREENE  
MY COMMISSION EXPIRES MAR 08 2025

