

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
FOR LAKE SOVEREIGN SUBDIVISION

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
LAKE SOVEREIGN SUBDIVISION

STATE OF GEORGIA
COUNTY OF CHEROKEE

THIS DECLARATION is made on the date hereinafter set forth by LAKE SOVEREIGN, LLC, a Tennessee limited liability company (hereinafter collectively referred to as “Declarant”).

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property located in Land Lots 422, 423, 442, 443 and 495 of the 15th District, 2nd Section, Cherokee County, Georgia, which property is more particularly described in Exhibit “A” attached hereto and made a part of this Declaration; and,

WHEREAS, the Declarant intends to develop on lands including the real property described above a development to be known as Lake Sovereign Subdivision (hereinafter referred to as the “Development”); and

WHEREAS, Declarant has caused the Association (as hereinafter defined) to be formed as a non-profit civic organization to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined);

NOW, THEREFORE, the Declarant hereby declares that all of the property described in Exhibit “A” shall be held, sold and conveyed subject to this Declaration of Covenants, Conditions and Restrictions, which is for the purpose of enhancing and protecting the desirability and attractiveness of, and which shall run with, the real property, and be binding on all parties having any right, title or interest in the described property or any part thereof, and shall, subject to all limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns and to the benefit of the Association.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration of Covenants, Conditions and Restrictions, shall have the following meanings:

1.01 Additional Property. “Additional Property” means the additional property which may be added to the Property and made subject to this Declaration pursuant to ARTICLE IX hereof.

1.02 Association. “Association” means Lake Sovereign Homeowners Association, Inc., a non-profit corporation organized under the Georgia Nonprofit Corporation Code, and its successors and assigns.

1.03 Board. “Board” means the Board of Directors of the Association.

1.04 By-Laws. “By-Laws” means the By-Laws of the Association.

1.05 Common Property. “Common Property” means all real property (together with any and all improvements now or hereafter located thereon) owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners.

1.06 Declarant. “Declarant” means Lake Sovereign, LLC, a Tennessee limited liability company, and its successors and assigns, including, but not limited to, any person, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof, which acquires all or substantially all of the Development then owned by Declarant (or subsequent successors in interest), together with its rights hereunder, by conveyance or assignment from Declarant, or judicial or non-judicial foreclosure, for the purpose of development and/or construction on the Property.

1.07 Lot. “Lot” means any numbered parcel of land (i) shown upon that certain Final Plat for Lake Sovereign Phase I prepared by Greenhorne & O’Mara, Inc. dated August 26, 1996 and recorded December 9, 1996 in Plat Book 52, Page 173, Cherokee County, Georgia records, (ii) that certain Final Plat for Lake Sovereign Phase I-B prepared by Greenhorne & O’Mara, Inc. dated December 13, 1996 and recorded February 18, 1997 in Plat Book 53, Page 47, Cherokee County, Georgia records and (iii) any numbered parcels of land similarly shown on supplemental surveys of such tracts or such additional tracts as may be added to the Property from time to time, as provided herein and recorded in the real estate records of Cherokee County, Georgia; provided however, that no portion of the Common Property shall ever be a lot except as provided for in Section 2.04.

1.08 Lake. “Lake” shall mean that portion of the Common Property shown as “Lake” on the Plat of the Property.

1.09 Member. “Member” means any member of the Association.

1.10 Owner. “Owner” means the record owner (including Declarant) whether one or more persons or entities, of a fee simple title to any Lot, provided, however, that where fee simple title has been transferred and is being held merely as security for repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.11 Property. “Property” means that certain real property (other than Common Property) hereinabove described.

1.12 Restrictions. “Restrictions” means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.13 Structure. “Structure” means any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot.

ARTICLE II

COMMON PROPERTY

2.01 Conveyance of Common Property.

(a) The Declarant may from time to time convey to the Association or grant easements to the Association, at no expense to the Association and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners (such real and personal property is hereinafter collectively referred to as “Common Property) and, to the extent set forth in this Declaration of Covenants, Conditions and Restrictions, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances of Common Property.

(b) It is contemplated by the Declarant that the Declarant will convey to the Association Common Property for scenic and natural area preservation and for general recreational use. The Declarant may, at Declarant’s sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.

(c) In addition to the property described in subsection (b) of this Section 2.01, the Declarant may convey to the Association in accordance with this Section 2.01 such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Property owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority.

2.02 Right of Enjoyment. Every Owner shall have a right and easement to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not Owners to use and enjoy any part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to suspension by the Association as provided in Section 3.06.

2.03 Declarant's Use of Common Property. The Declarant shall have the right to use the Common Property including the lake, community club house, community docks, and any and all community recreation areas for marketing, promotion and sales as long as the Declarant shall own a Lot. In addition, the Declarant shall be allowed to erect a sign for the purposes of marketing, promotion and sales on the Common Property for as long as Declarant owns a Lot.

2.04 Title to Association Property.

(a) The Declarant shall retain legal title to and exclusive control of the property owned by Declarant. The Declarant shall have the right at any time to sell, convey, transfer, assign, lease or mortgage the Declarant's Property or dedicate or transfer all or any part of the Declarant's Property to any public agency or authority for such purposes and subject to such conditions as may be determined by the Declarant. If, however, the Declarant conveys the Declarant's Property or any portion thereof to the Association, such property shall for all purposes of this Declaration from and after the date of such conveyance be, and be deemed to be, Common Property.

(b) Declarant shall have the right to construct permanent improvements upon, and to develop the Declarant's Property as the Declarant, in its sole discretion, may elect.

(c) Legal title in and to Common Property shall be vested in the Association for the benefit, use and enjoyment of its members.

2.05 Right of The Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right of the Association acting through the Board to:

(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) charge reasonable fees in connection with the admission to and use of facilities or services; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes;

(c) suspend, pursuant to Section 3.06, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;

(d) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(e) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof;

(f) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest, any or all of the Association's property, including Common Property and revenues from assessments, user fees and other sources; provided, however, that the Common Property may not be mortgaged or pledged except upon the affirmative vote of seventy-five percent (75%) of the Owners.

(g) dedicate or transfer all or any part of the Common Property or interests therein to any municipality or other governmental body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the association and such grantee, including a provision that such property or interest shall cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority;

(h) to sell, lease or otherwise convey all or any part of its properties and interest therein, provided that at least seventy-five percent (75%) of the Owners have, by affirmative vote, consented thereto.

2.06 Types of Common Property. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the

specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not, without a two-thirds (2/3) vote of each class of Member of the Association, be used for any different purpose or purposes without the prior written consent of the Declarant.

(a) It is contemplated that certain easements for the erection and maintenance of entrance monuments, subdivision signs, wall, fences and other structures intended to provide an attractive atmosphere or to provide privacy to Owners within the Development will be reserved by the Declarant and set forth on plats or survey of the Development recorded in the County records. Such easements shall be perpetual in duration and shall include the right to erect, maintain, repair, replace and re-erect any such structures within the easement areas, as well as the right to plant grass, plants, flowers, shrubs and trees, to tend and garden the same, and to generally landscape the area within said easements to keep them clean, attractive and uniform in appearance for the benefit of all Owners within the Development. Said easement areas shall be designated as such and all Owners taking title to any Lot upon which such easement lies will take title subject to the easement rights set forth herein, as well as such rights as may be set forth in the deed conveying such easements to the Association. Such easements shall be Common Property.

(b) It is contemplated that a portion of the Common Property will consist of the Lake, which, to the extent required by the Cherokee County Planning and Development Department will also serve as a storm water detention facility for the Property, to be maintained by the Association. In the event, the Declarant intends to reserve certain perpetual easements for access to, and use, enjoyment, inspection, maintenance and repair of the Lake and associated common areas, and to grant to the Association rights in such easements. Such easements shall be Common Property.

(c) The Declarant's successor in interest, the homeowners association to be formed hereunder, shall have the right to maintain the water level of the Lake for the purpose of operating, maintaining, repairing and replacing any and all equipment and/or facilities located within the Lake including lowering and/or draining the Lake for maintenance and repair. The cost of operating, repairing, maintaining and replacing any and all equipment and/or facilities located within the Lake area shall be borne by the Declarant until such time as the Property is turned over to the homeowners association which shall then be responsible for said cost.

(d) Encroachment Easements. If any buildings or other improvements initially constructed on any of the Lots, including without limitation any eaves, roof overhangs, balconies, siding, porches, or other structures which may be attached to the walls and roof of such buildings, and which may encroach onto or over or extend into the air space of any portion of the Common Property, or, conversely, if any such improvements initially constructed on the Common Property encroach onto or over portions of any Lot, a valid easement for the encroachment and for the maintenance, repair and replacement thereof, shall exist so long as the encroachment exists.

2.07 Delegation of Use. Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the By-Laws, his right to use and enjoy the Common Property.

ARTICLE III

THE HOMEOWNERS' ASSOCIATION

3.01 Purposes, Powers and Duties of The Association. The Association shall be formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the residents of the Development. The Association shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the residents of the Development. To the extent, and only to the extent, necessary to carry out such purpose, the Association (a) shall have all of the powers of a corporation organized under the Georgia Nonprofit Corporation Code and (b) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration.

3.02 Membership in the Association. Every Owner shall automatically be a member of the Association and such membership shall terminate only as provided in this Declaration of Covenants, Conditions and Restrictions.

3.03 Voting Rights. Subject to the following provisions of this Section 3.03, the Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. Every person who is an Owner, with the exception of the Declarant except as otherwise set forth herein, shall be a Class A member and shall be entitled to one vote for each Lot owned. When more than one person is a Class A member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. In the event of disagreement among such persons and an attempt by two or more of them to cast the vote of such Lot, such persons shall not be recognized and the vote of such Lot shall not be counted. The membership of Class A members shall automatically terminate upon the member's sale of his Lot.

However, no termination of Class A membership shall affect such member's obligation to pay assessments, as hereinafter provided for, due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

(b) Class B. The Declarant shall be the sole Class B member. Class B membership shall be a full voting membership and during its existence the Class B member shall be entitled to vote on all matters and in all events. The Class B member shall be entitled to ten (10) votes for each Lot owned by it. The Class B membership shall cease and shall be converted

to Class A membership at such time as the first of the following events occur: (a) the expiration of eight (8) years from the date of recording of this Declaration; (b) the date as of which seventy-five percent (75%) of the Lots which may be developed on the Property and on the Additional Property shall have been conveyed, by either the Declarant or by a builder who purchased the Lot from Declarant for the purpose of erecting a dwelling thereon, to an individual Owner or Owners for residential occupancy; or (c) the surrender by the Declarant of the authority to appoint and remove members of the Board of the Association by an express amendment to this Declaration executed and recorded by the Declarant; provided, however, that so long as any Mortgagee of Declarant holds a security interest in any portion of the Property, as security for a Development Loan to Declarant, the Class B membership shall not terminate without the prior written consent of such Mortgagee. If at the time of termination of the Class B membership, Declarant still owns any Lots, then as to each Lot owned by Declarant, Declarant shall be deemed to be a Class A member.

3.04 Board of Directors and Officers.

(a) Board. The affairs of the Association shall be managed by a Board of Directors. The number of directors and the method of election of directors shall be as set forth in this Declaration and in the By-Laws of the Association. Except to the extent otherwise expressly required or authorized by the Georgia Nonprofit Corporation Code or this Declaration, the Association's By-Laws or Articles of Incorporation, the powers inherent in or expressly granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further consent or action on the part of the Members.

(b) Officers. The number of officers and the method of election of officers shall be as set forth in this Declaration and the By-Laws of the Association. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the Association, officers of the Association shall be appointed by the Board until such time as Declarant no longer has the right to appoint members to the Board.

(c) Casting of Votes. The votes of the members shall be cast under such rules and procedures as may be prescribed on this Declaration or in the By-Laws of the Association, as amended from time to time, or by law.

3.05 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in this Declaration and the By-Laws of the Association.

3.06 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 7.02 by reason of having failed to take the reasonable steps to remedy a violation or breach of the

Restrictions within thirty (30) days after having received notice of the same pursuant to the provisions of Section 7.02 hereof;

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property;

(d) any suspension shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.06, the suspension may be for a period not to exceed 60 days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

(e) notwithstanding the foregoing, the Board may not suspend the voting rights of the Declarant as long as the Declarant is a Class B member.

3.07 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Georgia Nonprofit Corporation Code, the Articles of Incorporation of the Association, and the By-Laws of the Association, as each shall from time to time be in force and effect.

3.08 Control by Declarant and Appointment of the Board. Until such time as Declarant no longer has the right to appoint members to the Board, the Board of the Association shall consist of three (3) members. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the Association, the Declarant hereby retains the right to appoint two (2) members to the Board. The rights of Declarant to appoint members of the Board also includes the right to remove and replace its appointees until such time as its right to appoint members to the Board ceases. Declarant shall retain the right to appoint and remove its members of the Board until such time as the first of the following events shall occur: (i) the expiration of eight (8) years from the date of the recording of this Declaration; (ii) the date upon which seventy-five percent (75%) of the Lots which may be developed on the Property and on the Additional Property shall have been conveyed, by either Declarant or by a builder who purchased the Lot from Declarant for the purpose of erecting a dwelling thereon, to an individual Owner or Owners for residential occupancy; or (iii) the surrender by Declarant of the authority to appoint and replace directors by an express amendment to this Declaration executed and recorded by Declarant. Upon the expiration of the Declarant's right to appoint and remove directors of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant, if Declarant then owns one or more Lots. Upon the final expiration of all rights of Declarant to appoint and replace directors of the Association, a special meeting of the Association shall be called. At such special meeting,

the Owners shall elect a new Board of Directors which shall undertake the responsibilities of the Board, and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association, and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession. Each Owner by acceptance of a deed to or other conveyances of a Lot vests in Declarant such authority to appoint and replace directors and officers of the Association as provided in this Section. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law and any 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.

3.09 Distribution of Assets Upon Dissolution. In the event of the dissolution of the Association, the assets thereof shall be distributed to one or more public bodies, corporate or politic, or conveyed to one or more non-profit organizations having purposes similar to those of the Association.

ARTICLE IV

ASSESSMENTS AND MAINTENANCE CHARGES

4.01 Covenant for Assessments and Creation of Lien and Personal Obligations. The Declarant, to the extent that Declarant is an Owner, hereby covenants and agrees, and each Owner, jointly and severally, for himself, his heirs, distributees, legal representatives, successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to pay to the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(b) to pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Lots owned by him;

(c) that there is hereby created a continuing charge and lien upon all Lots owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon as provided in Section 4.07 hereof and costs of collection including reasonable attorney's fees;

(d) that such continuing charge and lien on such Lots binds such Lots in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from mortgage, deed to secure debt, or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures

which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures;

(e) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot or Lots from liability for any assessment thereafter assessed;

(f) that all annual and special assessments (together with interest thereon as provided in Section 4.07 of this Declaration and costs of collection including reasonable attorneys' fees) levied against any Lot or Lots owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot or Lots as provided in Section 4.01(c) of this Declaration) a personal obligation which will survive any sale or transfer of the Lot owned by him; provided, however, that such personal obligation for delinquent assessment shall not pass to an Owner's successor in title unless expressly assumed by such successor.

4.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the residents of the Development, including, but not limited to, and in addition to other purposes set forth in this Declaration, security, the acquisition, construction, improvement, maintenance and equipping of Common Property, enforcement of the Restrictions contained in this Declaration, the payment of operating costs and expenses of the Association and the payment of all principal and interest when due on all debts owed by the Association.

4.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.04 Annual Assessment or Maintenance Charge. Subject to the terms of this Article, each Lot in the Property is hereby subjected to an annual maintenance charge for the purpose of creating a fund to be known as the "maintenance fund" which maintenance charge and assessment will be paid by the Owner or Owners of each Lot within the Property (and any area annexed under the jurisdiction of the Association) in advance in monthly, quarterly or annual installments. The annual maintenance charge and assessment will commence as to each Lot on the first day of the month following the earliest to occur of the following events: (a) upon the occupancy of a permanent dwelling located on the Lot as a residence; or (b) upon the conveyance of the Lot by Declarant to an Owner or tenant for residential occupancy; or (c) upon the conveyance by a builder who has purchased the Lot from Declarant for the purpose of erecting a dwelling thereon to an Owner or tenant for residential occupancy. Neither the Declarant nor any builder who has purchased a lot from Declarant for the purpose of erecting a dwelling thereon shall be subject to the annual maintenance charge and assessment. Notwithstanding the preceding, the annual maintenance charge and assessment will commence as to each Lot owned by Declarant

or a builder upon the occupancy of a permanent dwelling located thereon as a residence. The Declarant is authorized, although not required, to advance funds to the Association necessary to further the purposes of the Association, and in the event such funds are advanced, the repayment of same shall be secured by a lien upon the property of the Association. Beginning on the date hereof, and from year to year thereafter, the annual maintenance charge and assessment shall be in such amount as the needs of the Association may, in the judgement of the Board of Directors require. Whether such assessment shall be payable monthly, quarterly or annually, and the due dates thereof, will be determined by the Board of Directors. The Association shall use the proceeds of said maintenance fund in providing for normal, recurring maintenance charges for the Common Property for the use and benefit of all residents of said Property. Such uses and benefits to be provided by said Association may include, by way of clarification, and not limitation, any and all of the following: normal, recurring maintenance of the Common Property (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking and otherwise caring for existing landscaping and maintaining and repairing recreational facilities, as well as the maintaining and repairing [including, when necessary, the repaving] of the shared use roadways and driveways constituting a portion of the Common Property) and the acquisition and installation of capital improvements to such Common Property, such as sprinkler systems, providing that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Property; payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the Property to which the maintenance fund applies; payment of all reasonable and necessary expenses in connection with the collection and administration of the maintenance charge and assessment; employment of security guards or watchmen, if determined necessary; caring for vacant lots; and doing any other thing or things necessary or desirable in the opinion of the Board or membership of the Association to keep the property neat and in good order, or which is considered of general benefit to the Owners or occupants of the Property, it being understood that the judgment of the majority of the Members of the Association in the expenditure of said funds and the determination of which constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith. The Association shall, in addition, establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Property. The fund shall be established and maintained out of regular annual assessments.

4.05 Special Assessments for Working Capital Fund, Nonrecurring Maintenance, and Capital Improvements. In addition to the annual assessment authorized by this Article IV, the Association may levy:

(a) upon the first sale to an Owner who will individually or through tenants or assigns occupy a Lot, such sale to be made by Declarant or by a builder who has purchased the Lot from Declarant for the purpose of erecting a dwelling thereon, a special assessment equal to two (2) months' estimated regular assessments, which shall be collected at the closing of such sale for the benefit of the Association. The aggregate fund established by such special assessment shall be maintained in a segregated account, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board; and

(b) in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of nonrecurring maintenance, or the acquisition, construction, reconstruction, repair or replacement of a capital improvement upon any Common Property, including fixtures and personal property related thereto, provided that any such assessment shall have been approved by a two-thirds (2/3) vote of each class of Members of the Association who are present in person or by proxy at a meeting duly called for such purpose.

4.06 Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under Sections 4.04 or 4.05 shall be sent to all Members, or delivered to their residence, not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

4.07 Effect of Nonpayment of Assessments. Any Assessment which is not paid within thirty (30) days after the Due Date shall bear interest from the Due Date at the rate of twelve percent (12%) per annum or at such rate as the Board may from time to time establish, provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. In the event of default in the payment of any one or more installments of an assessment, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of any assessment on or before the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorneys' fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot enforceable in accordance with the provisions of this Declaration.

4.08 Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid, setting the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

ARTICLE V

GENERAL COVENANTS AND RESTRICTIONS

5.01 Application. The covenants and restrictions contained in this Article V shall pertain and apply to all Lots and to all Structures erected or placed thereon.

5.02 Residential Use. All Lots shall be used for single-family residential purposes exclusively.

5.03 Architectural Review Committee. In order to provide a high quality environment for all Owners and to control the type, quality and aesthetics of the Community, the Association shall establish and maintain an Architectural Review Committee ("ARC") which shall have the exclusive jurisdiction over original construction on the Lots and over modifications, additions or alterations made on or to any dwelling as well as the open spaces of all Lots. The ARC shall promulgate architectural and environmental standards and applicable procedures which it shall make available to all Owners, builders and developers who seek to construct or modify any dwellings within the Community. Such standards and procedures may be modified by the ARC without the consent of any Owner. No construction of any building or structure, or modification of the exterior of any buildings or structures (including without limitation changes in paint color, roof replacement with a different color) and no changes to the open spaces of any Lot (including without limitation changes in landscaping, lot grade, yard ornaments, exterior structures or equipment of any kind or description) shall be permitted without the express written consent of the ARC which may be withheld or delayed in its sole discretion. All original construction and all modifications shall be performed in strict accordance with the final ARC approval. The decision of the ARC shall be final and conclusive. Neither the Declarant, the ARC nor its members shall be liable to any person under any theory or circumstance in connection with the approval or disapproval of any submission to the ARC, including, without limitation, any liability based on the soundness of construction, the adequacy of the plans and specifications, or otherwise. In the event construction does not commence on a project for which the ARC has given its approval within on (1) year of the date of such approval, such approval shall lapse and it shall be necessary for the Owner to resubmit to the ARC for renewal of its approval. All approved landscaping must be completed within thirty (30) days of completion of the construction of a dwelling.

5.04 Signs. No sign of any kind shall be erected by an Owner or occupant of a Lot within the Development. Notwithstanding the foregoing, residents shall have the right to erect reasonable and appropriate "For Sale" and "For Rent" signs. Declarant may erect entry signs and sales and information signs.

5.05 Vehicles. The term "vehicles", as used herein, shall include, without limitation, motorcycles, minibikes, scooters, go-carts, trucks, vans, and automobiles. All vehicles shall be parked within garages, driveways or other paved parking areas located on a Lot. Parking in yards or on streets within the Development is prohibited. Lot Owner's visitors may temporarily park on the street.

(a) No mobile home, living trailer, modular home, re-located home or prefabricated home shall be permitted on any of the lots of said Subdivision.

(b) No lot owners shall allow junk card, abandoned cars and motor homes to be or remain on the property. Boats, trailers, campers and trucks other than pick-up trucks shall be stored or parked in a garage. Each owner shall keep his or her lot and the structure thereon in good order and repair including but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery, and the painting (or such appropriate external care) of the structure all in a manner and with such frequency as is consistent with good property management.

(c) No trucks other than pick-up trucks or commercial vehicles shall be stored or parked on any lot except while engaged in transporting to or from a residence in the Subdivision.

5.06 Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Lot, with the exception of dogs, cats, or other usual and common household pets in reasonable number. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside be on a leash or within an allowable fence.

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

Any recreational vehicle or motor home stored in the Development for periods longer than twenty-four (24) hours shall be considered a nuisance and may be removed from the Development.

5.08 Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken in any part of the Development.

No shed, tool storage area, workshop or outbuilding for storage of yard implements shall be placed upon the property unless concealed by hedges, lattice work or screening (which screening may be the residence itself) unless acceptable to the Declarant or his designated official.

5.09 Antennae. No exterior antennae of any kind shall be placed, allowed, or maintained upon any portion of the Development, including any Lot, if such antenna is visible from any public or private street providing access to or located within the Development. Notwithstanding the above, no satellite dishes shall be placed, allowed, or maintained upon any portion of the Development, including any Lot. An owner may place a satellite system no larger than 18 inches in diameter. Each Owner and occupant of a Lot acknowledges that this provision benefits all Owners and occupants of Lots and each Owner and occupant of a Lot agrees to comply with the provision despite the fact that the erection of any outdoor antenna or similar device would be the most cost-effective way to transmit or receive the signals sought to be transmitted or received.

5.10 Tree Removal. No trees shall be removed except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees or for safety reasons; and (c) trees within ten (10) feet of the residence, driveway, walkways and septic field constructed or to be constructed on the Lot.

5.11 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment and other items shall be located or screened so as to be concealed from view of neighboring streets and property.

5.12 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except by the Declarant.

5.13 Guns. The discharge of firearms in the Development is prohibited. The term "firearms" includes "B-B" guns, pellet guns and small firearms of all types.

5.14 Fences. Fences shall be limited to wood materials, wood colors and white color and shall be located in back or side yards only and shall be maintained in a good state of repair. All chain link type fences are prohibited, except in connection with community recreational facilities.

5.15 Lake. Any lake which is depicted on the Plat and which is part of the Common Property shall be maintained only as a lake (and as a storm water detention facility, to the extent required by the Cherokee County Department of Development and Planning), and, to this end, the Association shall not cause or permit to be caused any act or acts to the contrary.

5.16 (a) Boat Docks. Lake front Owners may not erect or construct a boat dock on any portion of the Lake or their property.

(b) Community Boat Docks. The Declarant shall be entitled to erect and construct community boat docks on any portion of the lake and at the community center for the use of all lot owners. These community docks shall be common property and be conveyed by the Declarant to the association which shall properly maintain such boat docks and make reasonable rules and regulations for the use by the lot owners. The boat docks shall only be used during the day from dawn to dusk and there shall be no overnight parking of boats at the docks.

(c) Boat Usage. Boaters shall have full use of the lake, however, there shall be only non-fossil fueled motors allowed on any boat on the lake and no boat shall be over sixteen (16) feet in length. Notwithstanding the foregoing, the Declarant shall be allowed to use a fossil fueled motor in a boat larger than sixteen (16) feet for the purpose of lot sales and promotion and for other reasonable purposes as needed.

(d) Delegation of Use. Any Owner may delegate, in accordance with these covenants, his or her right of enjoyment to the lake to the members of his or her family, tenants and social invitees.

(e) Lake Level. The level of said lake cannot be altered by any property owner without consent of two-thirds of the property owners whose property fronts on said lake.

(f) Safe Dams Act of 1978. The dam shall be maintained in a manner acceptable with the standards set by the State of Georgia.

5.17 Miscellaneous.

(a) All statue, statuary concrete and/or cement figures and bird baths of any type shall not be visible from a street or streets.

(b) Motorcycles and/or motorized all terrain vehicles are prohibited from use on the Property.

(c) No above-ground swimming pools shall be constructed, erected or maintained upon any Lot.

(d) No exterior clotheslines shall be permitted on any Lot.

(e) All mailboxes and stands shall be maintained in a good state of repair.

(f) Any detached garage shall be of similar architectural design as the house on the Lot and roofing, siding and facing shall be of the same or similar material and color as the house on the Lot.

(g) No window air conditioning units may be installed that are visible from the streets or neighboring Lots.

ARTICLE VI

EASEMENTS, ZONING AND OTHER RESTRICTIONS

6.01 Easements.

(a) Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments in connection with the transmission of electricity, telephone, cable television and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and to prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;

(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature;

(v) the erection, installation, construction and maintenance of fences, walls, monuments, signs, etc. along streets in, around and along and at entrances to the Development, and the right to landscape such areas, plant, re-plant and prune hedges, shrubbery, bushes, trees, flowers, grass and plants of any nature; and

(vi) lake maintenance, access and recreational use for portions of the Property abutting the lake, which easement may be for the benefit of the Declarant and Owners.

(b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Property unless such easement has been assigned by the Declarant to the Association.

6.02 Easement Area. The words “Easement Area” as used herein shall mean those areas on any Lot with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto.

6.03 Entry. The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Article. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions of Section 6.01.

6.04 Zoning and Private Restrictions. None of the covenants, restrictions or easements creating or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by this Declaration, the most restrictive provision shall govern and control.

ARTICLE VII ENFORCEMENT

7.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association and (iii) each Owner, his legal representatives, heirs, successors and assigns.

7.02 Right of Abatement.

(a) Except where different notice provisions are provided elsewhere in these Restrictions, in the event of a violation or breach of any Restriction contained in this Declaration, the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of such written notice, then the Association shall have the Right of Abatement.

(b) The Right of Abatement, as used in these Restrictions, means the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry

and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the cost thereof, including the costs of collection and reasonable attorney's fees, together with interest thereon at the lower of the highest rate permitted by law or 10% to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 7.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.01 hereof and (iii) all deed to secure debt given to secure a loan the proceeds of which are used (1) to purchase a lot or lots (together with any and all Structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures.

7.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration; and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

7.04 Collection of Assessments and Enforcement of Lien.

(a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessment, cost or charge, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Lot or Lots subject to lien at auction, at the usual place for conducting sales at the Courthouse in Cherokee County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for Cherokee County, Georgia are published, all other notice being hereby waived by each Owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and assigns, the agent

and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and that the conveyance to be made by the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost or other charge due, together with all costs and expenses of sale and fifteen percent of the aggregate amount due for attorneys' fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) WAIVER. EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, WAIVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR THE LAWS OF THE STATE OF GEORGIA OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION AND OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUNDS (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

7.05 No Waiver. The failure of the Declarant, the Association, or the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE VIII

DURATION AND AMENDMENT

8.01 Duration and Perpetuities.

(a) The provisions of these covenants shall run with and bind the land and shall be and remain in effect perpetually to the extent permitted by law. Provided, however, so long as Georgia law limits to twenty (20) years, the period during which covenants restricting lands to certain uses may run, any provision of these covenants affected thereby shall run with and bind the land for a period of twenty (20) years from the date these covenants are filed for record in the Office of the Clerk of the Superior Court of Cherokee County, Georgia, after which time such provision shall be automatically extended, if permitted by law, for successive periods of ten (10) years, unless an instrument, signed by at least seventy-five (75%) percent of the then Owners of record and the holders of first mortgages on their Lots has been recorded in the Office of the Clerk of said Court, agreeing to terminate or change such provisions in whole or in part. Every purchaser or grantee of any interest in any portion of the Property, by acceptance of a deed or other conveyance thereof, thereby agrees that the provisions of these Covenants may be extended and renewed as provided in this section.

(b) If any of the covenants, conditions, restrictions, easements or other provisions of these Covenants shall be unlawful, void or voidable for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the now living descendants of Her Majesty Queen Elizabeth II, the Queen of England.

8.02 Amendment. These Covenants may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to these Covenants, (iii) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to these Covenants, or (iv) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable private mortgage insurance company to insure mortgage loans on the Lots subject to these Covenants; provided any such amendment shall not adversely affect the title to any Owner's Lot, unless any such Owner so affected thereby shall consent thereto in writing. These Covenants may be amended at any time and from time to time by an agreement signed by at least seventy-five (75%) percent of the Owners; provided, however, such amendment by the Owners shall not be effective unless also signed by the Declarant, if the Declarant is the owner of any real property subject to these Covenants; and provided further, however, no amendment affecting the Declarant's right to add additional property shall be effective unless also signed by Declarant. No amendment to the provisions of these Covenants shall alter, modify, change or rescind any right,

title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed for record in the Office of the Clerk of the Superior Court of Cherokee County, Georgia. The written consent thereto of any mortgage holder affected thereby shall also be filed with such amendment. Every purchaser or grantee of any interest in any real property now or hereafter subject to these Covenants, by acceptance of a deed or other conveyance therefor, thereby agrees that these Covenants may be amended as provided in this Section.

ARTICLE IX

ANNEXATION

9.01 Submission of Additional Property. Declarant shall have the option and right from time to time, without the necessity of consent by the Association, the Board or the Owners, but subject to Section 9.02 of this Article, to submit all or portions of any Additional Property to this Declaration and thereby to cause any Additional Property, or such portions thereof, to become part of the Property. This option may be exercised by the Declarant in accordance with the conditions and limitations set out in Section 9.02 of this Article, which are the only conditions and limitations on such right.

9.02 Conditions of Annexation. Any Annexation as permitted in Section 9.01 of this Article shall be in accordance with the following terms and conditions:

(a) The option to submit portions of Additional Property may be exercised at any time and from time to time until eight (8) years from the date this Declaration is recorded; provided, however, that the Owners of Lots to which two-thirds of the Class A votes in the Association appertain, exclusive of any vote or votes appurtenant to lots then owned by Declarant, may consent to the extension of such option by vote taken not more than one (1) year prior to the date upon which such option will expire.

(b) Portions of the Property may be added at different times, and there are no limitations fixing the boundaries of those portions or regulating the order in which any such portions may become part of the Property.

(c) All Lots created on portions of the Additional Property which are added to the Property will be restricted exclusively to residential use, in accordance with this Declaration.

(d) The option reserved by Section 9.01 of this Article may be exercised by the Declarant alone (without the consent of the Association or any Owner) by the execution by the Declarant of an amendment to this Declaration which shall be filed for record in the Office of the Clerk of the Superior Court of Cherokee County, Georgia, together with a plat of that portion of Additional Property which is to become part of the Property by reason of such amendment.

Such plat shall indicate the boundaries of that portion of the Additional Property which is to become part of the Property, the boundaries of all Lots to be located therein, and an identifying number for each such lot. Any such amendment shall expressly submit that portion of the Additional Property which is to become part of the Property from time to time, and upon the exercise, if any, of such option, the provisions of this Declaration shall be understood and construed as embracing all of the Property, including the initial phase and such portions of the Additional Property as have become part of the Property by annexation. Following recording of the plat, Declarant shall convey the Common Property shown thereon to the Association by limited warranty deed, subject to matters of record.

(e) From and after the date of annexation of any portion of Additional Property, each Lot so added to the Property and the Owners thereof, shall have the same vote, shall share the same obligations and responsibilities, and shall have the same rights and privileges accorded every other Lot previously comprising part of the Property. Upon annexation of each portion of the Property, as herein provided, the Association shall be deemed to have assumed, automatically, and without the necessity of consent by the Association, the Board or any individual Owners, the covenants to maintain the Common Property and the other obligations imposed by this Declaration, as amended from time to time, with respect to that portion of the Additional Property which is then the subject of annexation.

(f) It is understood that if the Development is approved for funding of individual Lot loans by the Federal Housing Administration and/or the Veterans Administration, any variance from the plan of Annexation initially approved by them may jeopardize future funding unless such variance is approved prior to implementation.

(e) Each Owner, by acceptance of a deed to a Lot in the Property, and the Association, shall be deemed to have approved annexation in the manner provided in this Article IX.

ARTICLE X

MISCELLANEOUS

10.01 Other Changes. Notwithstanding any other provisions herein which may be construed to the contrary, unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or owners (other than the Declarant) of the individual Lots in the Development have given their prior written approval, the Association shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Property owned, directly or indirectly, by such Association (the granting of easements for public utilities or for other public purposes consistent with the intended use of such common area or property by the Association shall not be deemed a transfer within the meaning of this clause);

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(c) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of dwellings on the Lots of the Development, the exterior maintenance of Lots and improvements thereon, the maintenance of the Common Property or party walks or common fences or common roadways and driveways, or the upkeep of lawns and plantings in the Development.

(d) fail to maintain fire and extended coverage on insurable Association Common Property, if any, on a current replacement cost basis in an amount not less than one hundred (100%) percent of the insurable value (based on current replacement cost);

(e) use hazard insurance proceeds for losses to any Association Common Property for other than the repair, replacement or reconstruction of such property.

10.02 Rights of First Mortgagees.

(a) First mortgagees of Lots in the Development may, jointly or singularly, pay taxes or other charges which are in default and which may or have become a charge against the Association's Common Property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy, for such Common Property and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Despite any other provision of this Declaration which may be interpreted otherwise, it is expressly intended that no Owner or any other party have priority over any rights of the first mortgagee of a Lot pursuant to its mortgage or security deed in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Association Common Property.

(b) In addition to the rights of mortgagees elsewhere provided, each first mortgagee of a Lot, upon request, shall (i) be entitled to attend and observe all meetings of Owners, but not meetings of the Board; (ii) be furnished copies of annual financial reports made to the Owners; and (iii) be entitled to inspect the financial books and records of the Association during reasonable business hours.

10.03 Professional Management. Any agreement for professional management of the Association, or any other contract providing for services of the Declarant, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days written notice.

10.04 Notice of Leases; Tenants and Guests. All tenants, lessees, guests and visitors are subject to the covenants contained in this Declaration, and they must abide by the rules and regulations set forth herein and as promulgated by the Association. It is the responsibility of the Owner to inform his tenants, lessees, guests and visitors of this requirement. It is also the

responsibility of the Owner to inform the Association of any lease of his dwelling, whether by written or oral agreement, and where the Owner will not be occupying his dwelling to provide the Association with a forwarding address where he may be contacted.

10.05 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

10.06 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

10.07 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

10.08 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

10.09 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, with sufficient postage, and sent to the following addresses:

Declarant:	Lake Sovereign, L.L.C. Suite 180 2022 Powers Ferry Road Atlanta, Georgia 30339
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Owner:	Each Owner's address as registered with the Association in accordance with the Bylaws
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Any written communication transmitted in accordance with this Section 10.09 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail.

10.10 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

10.11 Approval by HUD/VA. Notwithstanding any provision to the contrary contained in (i) this Declaration, (ii) the Articles of Incorporation of the Association, or (iii) the By-Laws of the Association, so long as there shall be a Class B Member, the Secretary of Veterans Affairs and the Secretary of Housing and Urban Development, or their respective designees, shall have the right of prior approval of (a) dedication of Common Property, (b) the amendment of this Declaration or Articles of Incorporation of the Association, (c) the merger, consolidation or dissolution of the Association, or (d) the conveyance or mortgaging of the Common Property.

ARTICLE XI

EXTERIOR MAINTENANCE

In the event an owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in a manner unsatisfactory to the Board of Directors, the Association, after approval by two-thirds ($\frac{2}{3}$) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed this 17th day of February, 1997.

LAKE SOVEREIGN, L.L.C.

Signed, sealed and delivered in the presence of:

By: _____
Its: Assistant Manager

Witness

Notary Public

My Commission Expires: _____

[NOTARY SEAL]