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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

RICE CREEK

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"A"	Land Initially Submitted	1	3436	
"B"	Land Subject to Annexation	5		
"C"	Initial Restrictions and Rules	2		
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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

RICE CREEK

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THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR RICE CREEK ("Declaration") is made as of the date set forth on the signature page hereof by MILLER PARK, LLC, a Georgia limited liability company ("Declarant"); and by LTM DEVELOPMENT, LLC, a Georgia limited liability company ("LTM"), RICE CREEK INVESTMENTS, LLC, a Georgia limited liability company ("RCI"), and BLS DEVELOPMENT, INC., a Georgia corporation ("BLS").

Article I Creation of the Community

1.1. Purpose and Intent.

Declarant, as the declarant hereunder, and LTM, RCI, and BLS, as the owners of the real property described in Exhibit "A," intend by Recording this Declaration to establish a general plan of development for the planned community known as Rice Creek. This Declaration provides a flexible and reasonable procedure for Rice Creek's future expansion as Declarant deems appropriate and provides for its overall development, administration, maintenance, and preservation. An integral part of the development plan is the creation of Rice Creek Homeowners Association of Port Wentworth, Inc., an association comprised of all owners of real property in Rice Creek, to own, operate, and/or maintain various common areas and community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration.

This document does not and is not intended to create a condominium under Georgia law.

1.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of Rice Creek in the future by Recording one or more Supplemental Declarations, shall be owned, conveyed, and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of Rice Creek, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, shall remain in effect and shall be enforceable by Declarant, the Association, any Owner, and their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the date this Declaration is Recorded. After such time, this Declaration shall be extended automatically for successive periods of 10 years each, unless an instrument signed by a majority of the then Owners has been Recorded within the year preceding any extension agreeing to terminate this Declaration, in which case it shall terminate as of the date specified in such instrument. Notwithstanding this, if any provision of this Declaration would be unlawful, void, or voidable by reason of any Georgia law restricting

the period of time that covenants on land may be enforced, such provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the easement holder.

1.3. Governing Documents.

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GOVERNING DOCUMENTS	
Articles of Incorporation (filed with Secretary of State of the State of Georgia)	establishes the Association as a non-profit corporation under Georgia law
By-Laws (the Board of Directors adopts)	governs the Association's internal affairs, such as voting rights, elections, meetings, officers, etc.
Declaration (Recorded)	creates obligations which are binding upon the Association and all present and future owners of property in Rice Creek
Supplemental Declaration (Recorded)	adds property to Rice Creek; <i>may</i> impose additional obligations or restrictions on such property
Architectural Guidelines (Declarant adopts)	establish architectural standards and guidelines for improvements and modifications to Units, including structures, landscaping, and other items on Units
Restrictions and Rules (initial set attached as Exhibit "C")	govern use of property, activities, and conduct within Rice Creek
Board Resolutions (Board adopts)	establish rules, policies, and procedures for internal governance and Association activities; regulate operation and use of Common Area

Diagram 1.1 - Governing Documents

Some Neighborhoods within Rice Creek may be subject to additional covenants, restrictions, and easements, which the Association or a Neighborhood Association may administer. In such case, if there is a conflict between or among the Governing Documents and any such additional covenants or restrictions, or the governing documents or policies of any such Neighborhood Association, the Governing Documents shall control.

The Governing Documents apply to all Owners and occupants of property within Rice Creek, as well as to their respective tenants, guests, and invitees. Any lease on a Unit shall provide that the tenant and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Governing Documents there are diagrams to illustrate the concepts discussed and to aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Governing Documents, the text shall control.

Article II Concepts and Definitions

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below.

"Architectural Guidelines": The architectural, design, and construction guidelines and review procedures adopted pursuant to Article IV, as they may be amended.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

"Articles of Incorporation" or "Articles": Rice Creek Homeowners Association of Port Wentworth, Inc.'s Articles of Incorporation, filed with the Secretary of State of the State of Georgia, as they may be amended.

"Association": Rice Creek Homeowners Association of Port Wentworth, Inc., a Georgia non-profit corporation, its successors or assigns.

"Base Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.1.

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"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Georgia corporate law.

"Builder": Any Person who purchases one or more Units for the purpose of constructing improvements for later sale to consumers, or who purchases one or more parcels of land within Rice Creek for further subdivision, development, and/or resale in the ordinary course of its business.

"By-Laws": The By-Laws of Rice Creek Homeowners Association of Port Wentworth, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."

"Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a majority of the members of the Board as provided in Section 3.3 of the By-Laws. The Class "B" Control Period shall terminate on the first to occur of the following:

- (a) when 75% of the total number of Units permitted by the Master Plan for the property described in Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Class "A" Members other than Builders;
- (b) December 31, 2028; or
- (c) when, in its discretion, the Class "B" Member so determines.

"Common Area": All real and personal property, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners. The term shall include the Limited Common Area, as defined below.

"Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless Voting Members representing a majority of the total Class "A" vote of the Association approve. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing at Rice Creek, or the minimum standards established pursuant to the Architectural Guidelines, Restrictions and Rules, and Board resolutions, whichever is the highest standard. Initially, Declarant shall establish such standard, which may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within Rice Creek change.

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"Declarant": Miller Park, LLC, a Georgia limited liability company, whose initial members are LTM, RCI, and BLS, the Owners of the Property, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as Declarant in a Recorded instrument the immediately preceding Declarant executes.

"Limited Common Area": A portion of the Common Area primarily benefiting one or more, but less than all, Neighborhoods or Owners, as more particularly described in Article XII.

"Master Plan": The land use plan for the development of Rice Creek approved by the City of Port Wentworth, Georgia, as it may be amended, which includes all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B." Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property described in Exhibit "B" from the Master Plan bar its later submission to this Declaration as provided in Article IX.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. The term "Mortgagee" shall refer to a beneficiary or holder of a Mortgage.

"Neighborhood": A group of Units designated as a separate Neighborhood for purposes of sharing Limited Common Areas, receiving other benefits or services from the Association which are not provided to all Units, and/or being subjected to different Restrictions and Rules. A Neighborhood may be comprised of more than one housing type and may include noncontiguous parcels of property. Neighborhood boundaries may be established and modified as provided in Section 6.4.

Where the context permits or requires, the term Neighborhood shall also refer to the Neighborhood Committee (established in accordance with the By-Laws) or Neighborhood Association, if any, having concurrent jurisdiction over the property within the Neighborhood.

"Neighborhood Assessments": Assessments levied against the Units in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Section 8.2.

"Neighborhood Association": A condominium association or other owners association, if any, having jurisdiction over any Neighborhood concurrent with (but subject to) the jurisdiction of the Association. Nothing in this Declaration shall require the creation of any Neighborhood Associations.

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"Neighborhood Expenses": The actual and estimated expenses which the Association incurs or expects to incur for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements and a reasonable administrative charge, as may be authorized pursuant to this Declaration or in the Supplemental Declaration(s) applicable to such Neighborhood(s).

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

"Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.

"Properties" or **"Rice Creek"**: The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.

"Record," "Recording," or "Recorded": The filing of a legal instrument in the Office of the Clerk of the Superior Court of Chatham County, Georgia, or such other place as may be designated as the official location for recording documents affecting title to real estate.

"Restrictions and Rules": The initial restrictions and rules set forth in Exhibit "C," as they may be supplemented, modified, and repealed pursuant to Article III.

"Special Assessment": Assessments levied in accordance with Section 8.4.

"Specific Assessment": Assessments levied in accordance with Section 8.5.

"Supplemental Declaration": An instrument Recorded pursuant to Article IX which subjects additional property to this Declaration, designates Neighborhoods, and/or imposes additional restrictions and obligations on the land described in such instrument.

"Tract Owner" or "Tract Owners": LTM, RCI and BLS, or any successor or assign who takes title to any portion of the property described in Exhibits "A" or "B" for the purpose of development and/or sale, provided that said party becomes a party to Declarant's operating agreement, and is designated as a Tract Owner in a Recorded instrument the immediately preceding Tract Owner executes.

"Unit": A portion of Rice Creek, whether improved or unimproved, which may be independently owned and is intended for development, use, and occupancy as an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the case of a structure containing multiple dwellings for independent ownership, each dwelling shall be deemed to be a separate Unit.

A parcel shall be deemed to be a single Unit until such time as a plat subdivides all or a portion of the parcel. Thereafter, the subdivided portion shall contain the number of Units shown on the plat. Any portion not subdivided shall continue to be a single Unit.

Article III Use and Conduct

3.1 Framework for Regulation.

The Governing Documents establish, as part of the general plan of development for Rice Creek, a framework of affirmative and negative covenants, easements, and restrictions which govern the Properties. Within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends, and technology. Therefore, this Article establishes procedures for modifying and expanding the initial Restrictions and Rules set forth in Exhibit "C."

3.2. Rule Making Authority.

(a) Subject to the terms of this Article and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules. The Board shall mail notice to all Owners concerning any proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Such action shall become effective, after compliance with subsection (c) below, unless Members representing more than 50% of the total Class "A" votes in the Association and the Class "B" Member, if any, disapprove. The Board shall have no obligation to call a meeting of the Members to consider disapproval except upon receipt of a petition as required for special meetings in the By-Laws. If the Board receives such petition prior to the effective date of any action under this Section 3.2(a), the proposed action shall not become effective until after such meeting is held, and then subject to the outcome of such meeting.

(b) Alternatively, Members representing more than 50% of the total Class "A" votes in the Association, at an Association meeting duly called for such purpose, may vote to modify, cancel, limit, create exceptions to, or expand the Restrictions and Rules then in effect. Such action shall require the approval of the Class "B" Member, if any.

(c) Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new rule or explanation of any changes to the Restrictions and Rules to each Owner. The effective date shall be not less than 30 days following distribution to Owners. The Association shall provide, without cost, one copy of the Restrictions and Rules then in effect to any requesting Member or Mortgagee.

(d) No action taken under this Article shall have the effect of modifying, repealing, or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Restrictions and Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Restrictions and Rules, the Architectural Guidelines shall control.

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(e) The procedures set forth in this Section 3.2 do not apply to the Board's enactment by resolution of rules and regulations governing use and operation of the Common Area; provided, the Board may choose, in its discretion, to submit to such procedures.

3.3. Owners' Acknowledgment and Notice to Purchasers.

All Owners are given notice that use of their Units and the Common Area is limited by the Restrictions and Rules as amended, expanded, and otherwise modified from time to time. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Restrictions and Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes and that such changes may not be reflected in a Recorded instrument. Copies of the current Restrictions and Rules may be obtained from the Association.

3.4. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment), the Architectural Guidelines (as may be amended), or in the initial Restrictions and Rules set forth in Exhibit "C," all Restrictions and Rules shall comply with the following provisions:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly; however, the Restrictions and Rules may vary by Neighborhood.

(b) Signs and Displays. The Board shall not interfere with Owners' rights to display religious and holiday signs, symbols, and decorations inside structures on their Units, except that it may adopt time, place, and manner restrictions with respect to displays visible from outside the dwelling.

Except as otherwise provided in this Declaration, signs (including "for sale" or "for rent" signs), banners, posters, placards, billboards, advertisements, bulletins, announcements, symbols, displays, or any other manifestation of a message, slogan, or symbol of any kind shall not be displayed upon or visible from the outside of a Unit or placed or displayed anywhere within the Community; provided those signs installed or authorized during the initial construction of the Community by Declarant and those signs required by Georgia law shall be permitted. In addition, one "builder identification" sign shall be permitted to be placed by the Builder on a Unit indicating the name of the building company constructing the residential dwelling on the Unit so long as such sign is placed in the area designated by the Board and the design, quality and size of the sign is approved in accordance with Article IV.

(c) Household Composition. The Board shall not interfere with the freedom of Owners to determine the composition of their households, except that it may require that all occupants be members of a single housekeeping unit and limit the total number of occupants permitted in each Unit on the basis of the size and facilities of the Unit and its fair use of the Common Area.

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(d) Activities Within Dwellings. The Board may not interfere with the activities carried on within the confines of dwellings, except that it may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of others, that generate excessive noise or traffic, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance.

(e) Allocation of Burdens and Benefits. The Board shall not alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's written objection. Nothing in this provision shall prevent the Board from changing the Common Area available, from adopting generally applicable rules for use of the Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(f) Alienation. The Board shall not prohibit leasing or transfer of any Unit, or require consent of the Association or Board for leasing or transfer of any Unit; provided, the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use Board-approved lease forms, but shall not impose any fee on the lease or transfer of any Unit greater than an amount reasonably based on the Association's administrative costs relating to that lease or transfer.

(g) Abridging Existing Rights. No rule shall require an Owner to dispose of personal property that was in or on a Unit prior to the adoption of such rule if such personal property was in compliance with all rules previously in force. This exemption shall apply only during the period of such Owner's ownership of the Unit, and shall not apply to subsequent Owners who take title to the Unit after adoption of the rule.

(h) Reasonable Rights to Develop. The Association shall not unreasonably impede Declarant's or any Owner's right to develop the Properties.

The limitations in subsections (a) through (h) of this Section 3.4 shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to this Declaration adopted in accordance with Article XIX.

Article IV Architecture and Landscaping

4.1. General.

No structure or thing shall be placed, erected, or installed upon any Unit and no improvements or other work (including staking, clearing, excavation, grading, and other site work; exterior alterations of existing improvements; or planting or removal of landscaping) shall take place within the Properties, except in compliance with this Article and the Architectural Guidelines.

No approval shall be required to repaint the exterior of a structure in accordance with its most recently approved color scheme or to rebuild in accordance with previously approved plans

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and specifications. Any Owner may remodel, paint, or redecorate the interior of his or her Unit without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Unit visible from outside the structure are subject to approval.

All dwellings shall be designed by and built in accordance with the plans and specifications of a licensed architect unless Declarant or its designee, in its sole discretion, otherwise approves.

This Article shall not apply to Declarant's activities, nor to activities of the Association during the Class "B" Control Period.

4.2. Architectural Review.

(a) By Declarant. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that Declarant has a substantial interest in ensuring that the improvements within the Properties enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell, or lease its property. Therefore, each Owner agrees that no activity within the scope of this Article shall be commenced on such Owner's Unit unless and until Declarant or its designee has given its prior written approval for such activity, which approval may be granted or withheld in Declarant's or its designee's sole discretion.

In reviewing and acting upon any request for approval, Declarant or its designee shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Declarant's rights reserved under this Article shall continue during the Class B Control Period, unless earlier terminated in a Recorded instrument executed by Declarant.

Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder.

Declarant may from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Article to (i) an architectural review committee appointed by the Board of Directors (the "ARC"), or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Members of the Association. Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Article, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to it.

(b) Architectural Review Committee. Upon delegation by Declarant or upon expiration or termination of Declarant's rights under this Article, the Association, acting through the ARC, shall assume jurisdiction over architectural matters. The ARC, when appointed, shall consist of at least three, but not more than seven, persons who shall serve and may be removed and replaced in the Board's discretion. The members of the ARC need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers, or similar professionals, who may be compensated in such manner and amount, if any, as the Board may establish.

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Unless and until such time as Declarant delegates all or a portion of its reserved rights to the ARC or Declarant's rights under this Article terminate, the Association shall have no jurisdiction over architectural matters.

(c) Reviewer. For purposes of this Article, the entity having jurisdiction in a particular case is referred to as the "Reviewer."

(d) Fees; Assistance. The Reviewer may establish and charge reasonable fees for review of applications and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget.

4.3. Guidelines and Procedures.

(a) Architectural Guidelines. Declarant may prepare the initial Architectural Guidelines, which may contain general provisions applicable to all of the Properties as well as specific provisions which vary from Neighborhood to Neighborhood. The Architectural Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the Reviewer in considering applications. The Architectural Guidelines are not the exclusive basis for the Reviewer's decisions and compliance with the Architectural Guidelines does not guarantee approval of any application.

Declarant shall have sole and full authority to amend the Architectural Guidelines as long as it owns any portion of or has a right to expand the Properties pursuant to Section 9.1, notwithstanding a delegation of reviewing authority to the ARC, unless Declarant also delegates the power to amend to the ARC. Upon termination or delegation of Declarant's right to amend, the ARC shall have the authority to amend the Architectural Guidelines with the consent of the Board.

Any amendments to the Architectural Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Architectural Guidelines, and such amendments may remove requirements previously imposed or otherwise make the Architectural Guidelines less restrictive.

The Reviewer shall make the Architectural Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties. In Declarant's discretion, such Architectural Guidelines may be Recorded, in which event the Recorded version, as it may be amended from time to time, shall control in the event of any dispute as to which version of the Architectural Guidelines was in effect at any particular time.

(b) Procedures. Except as otherwise specifically provided in the Architectural Guidelines, no activities shall commence on any portion of the Properties until an application for approval has been submitted to and approved by the Reviewer. Such application shall include plans and specifications showing site layout, structural design, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, irrigation, and other features of

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proposed construction, as applicable. The Architectural Guidelines and the Reviewer may require the submission of such additional information as may be reasonably necessary to consider any application.

Prior to review of any plans, the Reviewer may require that the Owner post with the Reviewer, in such forms and amounts as the Reviewer may reasonably determine:

(i) a conformance bond to insure that all work, including landscaping, is completed in accordance with the approved plans; and

(ii) a compliance bond to be drawn upon as necessary to cover costs incurred by the Reviewer or the Association in (A) repairing damage to or removing trash from any portion of the Properties necessitated by the activities of the Owner, its agents, contractors, or subcontractors; and (B) providing maintenance or exercising other self-help to cure noncompliance with the Governing Documents, construction rules, or breach of other obligations of the Owner, its contractors or subcontractors relating to such Owner's Unit.

In reviewing each submission, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and/or attractiveness of particular improvements. The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and such determinations shall not be subject to review so long as made in good faith and in accordance with the procedures set forth herein.

The Reviewer shall make a determination on each application within 30 days after receipt of all information it requires. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

Until expiration of Declarant's rights under this Article, the ARC shall notify Declarant in writing within three business days after the ARC has approved any application within the scope of matters delegated to the ARC by Declarant. The notice shall be accompanied by a copy of the application and any additional information which Declarant may require. Declarant shall have 10 days after receipt of such notice to veto any such action, in its sole discretion, by written notice to the ARC.

The Reviewer shall notify the applicant in writing of the final determination on any application within five days thereafter or, with respect to any determination by the ARC subject to Declarant's veto right, within five days after the earlier of: (i) receipt of notice of Declarant's veto or waiver thereof; or (ii) expiration of the 10-day period for exercise of Declarant's veto. In the case of disapproval, the Reviewer may, but shall not be obligated to, specify the reasons for any objections and/or offer suggestions for curing any objections.

In the event that the Reviewer fails to respond in a timely manner, the application shall be deemed approved, subject to Declarant's right to veto pursuant to this Section. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Architectural Guidelines unless a written variance has been granted pursuant to Section 4.5.

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Notice shall be deemed given at the time the envelope containing the response is deposited with the U. S. Postal Service. Personal delivery of such written notice shall, however, be sufficient and shall be deemed given at the time of delivery to the applicant.

If construction does not commence on a project for which plans have been approved within one year after the date of approval, such approval shall be deemed withdrawn and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. The Owner must complete all work within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer grants an extension in writing, which it shall not be obligated to do. Any approved work which is not completed within the required time shall be subject to enforcement action by the Association, Declarant, or any aggrieved Owner.

The Architectural Guidelines or the Reviewer, by resolution, may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of the Architectural Guidelines or such resolution.

4.4. No Waiver of Future Approvals.

Each Owner acknowledges that the persons reviewing applications under this Article will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Architectural Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features until work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans, or in connection with any other matter requiring approval, shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

4.5. Variances.

The Reviewer may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the Reviewer from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

4.6. Limitation of Liability.

The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties; they do not create any duty to any Person. Review and approval of any application pursuant to this Article may be based on aesthetic considerations only. The Reviewer shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all

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dwellings are of comparable quality, value, or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring Owners.

Declarant, the Association, the Board, any committee, or any member of the Board or any committee shall not be held liable for soil conditions, drainage, or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not Declarant has approved or featured such contractor as a builder; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in Section 7.6.

4.7. Certificate of Compliance.

Any Owner may request that the Reviewer issue a certificate of architectural compliance certifying that there are no known violations of this Article or the Architectural Guidelines. The Association shall either grant or deny such request within 30 days after receipt of a written request and may charge a reasonable administrative fee for issuing such certificates. Issuance of such a certificate shall estop the Association from taking enforcement action with respect to any condition as to which the Association had notice as of the date of such certificate.

Article V Maintenance and Repair

5.1. Maintenance of Units.

Each Owner shall maintain his or her Unit and all landscaping and improvements comprising the Unit in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood Association pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Unit.

Each Owner also is responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence, curb or lagoon located on the Common Area or public right-of-way within 10 feet of the Unit boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article IV.

5.2. Maintenance of Neighborhood Property.

Upon resolution of the Board, Owners within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining, and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way, and greenspace between the Neighborhood and adjacent public roads, private streets within the Neighborhood, and lakes or ponds within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same.

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Any Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighborhood Association also shall maintain and irrigate the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of its boundary; provided, there shall be no right to remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Article IV.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to that designated by any Supplemental Declaration, either by agreement with the Neighborhood Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of maintenance pursuant to this paragraph shall be assessed as a Neighborhood Assessment only against the Units within the Neighborhood to which the services are provided.

5.3. Responsibility for Repair and Replacement.

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary to maintain the property to a level consistent with the Community-Wide Standard.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible, unless either the Neighborhood Association (if any) for the Neighborhood in which the Unit is located or the Association carries such insurance (which they may, but are not obligated to do hereunder). If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Specific Assessment against the benefited Unit and the Owner.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IV. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds.

This Section shall apply to any Neighborhood Association responsible for common property within the Neighborhood in the same manner as if the Neighborhood Association were an Owner and the common property were a Unit. Additional Recorded covenants applicable to any Neighborhood may establish more stringent requirements for insurance and more stringent standards for rebuilding or reconstructing structures on the Units within such Neighborhood and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

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ARTICLE VI THE ASSOCIATION AND ITS MEMBERS

6.1. Function of Association.

The Association is the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association also is the primary entity responsible for enforcement of the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and Georgia law.

6.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3(c) and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2, except that there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 8.9. All Class "A" votes shall be cast as provided in Section 6.3(c) below.

(b) Class "B". The sole Class "B" Member shall be Declarant. The Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in the By-Laws. Additional rights of the Class "B" Member are specified in the relevant sections of the Governing Documents. After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove Board and committee actions as provided in the By-Laws.

The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, Declarant so determines and declares in a Recorded instrument.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

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In any situation where a Member is entitled personally to exercise the vote for his or her Unit, and there is more than one Owner of such Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

6.4. Neighborhoods.

(a) Neighborhoods. All Units shall be located in a Neighborhood. Until additional Neighborhoods are created, the Properties shall consist of a single Neighborhood. Exhibit "A" to this Declaration, and each Supplemental Declaration submitting additional property to this Declaration shall initially assign the submitted property to a specific Neighborhood (by name or other identifying designation), which Neighborhood may be then existing or newly created. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to create Neighborhoods or redesignate Neighborhood boundaries. However, two or more existing Neighborhoods shall not be combined without the consent of Owners of a majority of the Units in the affected Neighborhoods.

Any Neighborhood may request that the Association provide a higher level of service than the Association generally provides to all Neighborhoods or may request that the Association provide special services for the benefit of Units in such Neighborhood. Upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of the Units within the Neighborhood, the Association shall provide for the requested services.

The cost of such services, which may include a reasonable administrative charge in such amount as the Board deems appropriate (provided, any such administrative charge shall apply at a uniform rate per Unit to all Neighborhoods receiving the same service), shall be assessed against the Units within such Neighborhood as a Neighborhood Assessment.

ARTICLE VII ASSOCIATION POWERS AND RESPONSIBILITIES

7.1. Acceptance and Control of Association Property.

(a) The Association may acquire, hold, lease (as lessor or lessee), operate, and dispose of tangible and intangible personal property and real property. The Association may enter into leases, licenses, or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by others for the provision of goods or services for the general benefit or convenience of Owners, occupants, and residents of the Properties.

(b) Declarant or the Tract Owners as its designees may convey to the Association, and the Association shall accept, personal property and fee title, leasehold, or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." Upon Declarant's written request, the Association shall reconvey to Declarant or the Tract Owners any unimproved portions of the Common Area Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation, and control of the Common Area, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain, in accordance with the Community-Wide Standard, the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all portions of and structures situated on the Common Area;
- (b) landscaping within public rights-of-way within or abutting the Properties;
- (c) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any covenant to share costs, or any contract or agreement for maintenance thereof entered into by the Association;
- (d) all ponds, streams, and/or wetlands located within the Properties which serve as part of the stormwater drainage system for the Properties, including improvements and equipment installed therein or used in connection therewith; and
- (e) any property and facilities which Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced except with Declarant's prior written approval as long as Declarant owns any property described in Exhibits "A" or "B" of this Declaration.

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The costs associated with maintenance, repair, and replacement of the Area of Common Responsibility shall be a Common Expense; provided, the Association may seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, a covenant to share costs, other Recorded covenants, or agreements with the owner(s) thereof. Maintenance, repair, and replacement of Limited Common Areas shall be a Neighborhood Expense assessed to the Neighborhood(s) to which such Limited Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

7.3. Insurance.

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

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and within the Area of Common Responsibility to the extent that the Association has assumed responsibility in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes;

(ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least two million dollars (\$2,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(iii) Workers' compensation insurance and employers' liability insurance, if and to the extent required by law;

(iv) Directors' and officers' liability coverage;

(v) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board's business judgment but not less than an amount equal to one-quarter of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

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In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood which insurance shall comply with the requirements of Section 7.3(a)(i). Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Unit insured.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses, except that (i) premiums for property insurance on Units within a Neighborhood shall be a Neighborhood Expense; and (ii) premiums for insurance on Limited Common Areas may be included in the Neighborhood Expenses of the Neighborhood(s) to which such Limited Common Areas are assigned unless the Board reasonably determines that other treatment of the premiums is more appropriate.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Port Wentworth area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member insured.

The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

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

(ii) be written in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners within the Neighborhood and their Mortgagees, as their interests may appear;

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

(iv) contain an inflation guard endorsement;

(v) include an agreed amount endorsement, if the policy contains a co-insurance clause;

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(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member);

(vii) provide a waiver of subrogation under the policy against any Owner or household member of an Owner;

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(iv) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) a cross liability provision; and

(vi) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Common Area shall be repaired or reconstructed unless the Members representing at least 75% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 days after the loss not to repair or reconstruct. If

either the insurance proceeds or the estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

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

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 7.3(a).

7.4. Compliance and Enforcement.

(a) Every Owner and occupant of a Unit shall comply with the Governing Documents. The Board may impose sanctions for violation of the Governing Documents after notice and a hearing in accordance with the procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(i) imposing reasonable monetary fines which shall constitute a lien upon the violator's Unit. (In the event that any occupant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspending an Owner's right to vote;

(iii) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

(v) exercising self-help in a non-emergency situation;

(vi) requiring an Owner, at its own expense, to remove any structure or improvement on such Owner's Unit in violation of the Governing Documents and to restore the

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Unit to its previous condition and, upon failure of the Owner to do so, the Board or its designee shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass; and

(vii) without liability to any Person, precluding any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Article IV and the Architectural Guidelines from continuing or performing any further activities in the Properties.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the By-Laws:

(i) abating an immediate violation on the Common area and exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); or

(ii) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may Record a notice of violation or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner as a Specific Assessment. If a Neighborhood Association fails to perform its maintenance responsibilities, the Association may perform such maintenance and assess the costs as a Specific Assessment against all Units within such Neighborhood. Except in an emergency situation, the Association shall provide the Owner or Neighborhood Association reasonable notice and an opportunity to cure the problem prior to taking such enforcement action (which may be provided in lieu of the notice and hearing procedures set forth in the By-Laws).

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

(b) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action;

(ii) the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

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(iv) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction, or rule.

The Association, by contract or other agreement, may enforce applicable city and county ordinances, if applicable, for the benefit of the Association and its Members, and Chatham County or the City of Port Wentworth may enforce ordinances within the Properties.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. All rights and powers of the Association may be exercised by the Board without a vote of the membership except where applicable law or the Governing Documents specifically require a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, enforcement of the Governing Documents, or any other civil claim or action. However, the Governing Documents shall not create any independent legal duty to institute litigation on behalf of or in the name of the Association or the Members.

In exercising the Association's rights and powers, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Section 3.27 of the By-Laws.

7.6. Indemnification of Officers, Directors, and Others.

Subject to Georgia law, the Association shall indemnify every officer, director, and committee member against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and Georgia law. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of

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the Association (except to the extent that such officers or directors may also be Members of the Association).

7.7. Safety and Security.

Each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to enhance the level of safety or security which each person provides for himself or herself and his or her property. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of safety or security within Rice Creek, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and shall be responsible for informing its tenants and all occupants of its Unit that the Association, its Board and committees, and Declarant are not insurers or guarantors of security or safety and that each Person within the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

7.8. Powers of the Association Relating to Neighborhood Associations.

The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require that specific action be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefore.

A Neighborhood Association shall take appropriate action required by the Association in a written notice within the reasonable time frame set by the Association in the notice. If the Neighborhood Association fails to comply, the Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

7.9. Provision of Services.

The Association may provide, or provide for, services and facilities for the Owners and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. The Board may charge use or service fees for any such services and facilities provided at the option of an Owner, or may include the costs thereof in the Association's budget as a Common Expense and assess it as part

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of the Base Assessment if provided to all Units. By way of example, such services and facilities might include landscape maintenance, pest control service, cable television service, security, caretaker, transportation, fire protection, utilities, and similar services and facilities.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Governing Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.10. Relationships with Other Properties.

The Association may enter into contractual agreements or covenants to share costs with any neighboring property to contribute funds for, among other things, shared or mutually beneficial property or services and/or a higher level of Common Area maintenance.

7.11. Facilities and Services Open to the Public.

Certain facilities and areas within the Properties may be open for use and enjoyment of the public. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. Declarant may designate such facilities and areas as open to the public at the time Declarant makes such facilities and areas a part of the Area of Common Responsibility or the Board may so designate at any time thereafter.

7.12. Relationship with Tax-Exempt Organizations.

Declarant or the Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over portions of the Common Area to non-profit, tax-exempt organizations, the operation of which confers some benefit upon the Properties, the Association, the Members, or residents. Such organization(s) may perform a variety of services and functions, such as environmental, conservation, health, wellness, and cultural programs, benefiting the Properties and/or the surrounding community.

If established by Declarant or the Association for the benefit of the Properties, the Association shall be responsible to fund the minimum organization expenses of maintaining such entity and may contribute money, real or personal property, or services to such entity. Such expenses and any such contributions shall be a Common Expense. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

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Article VIII Association Finances

8.1. Maximum Annual Assessments. Beginning on the first day assessments are due for any Unit (the "Commencement Date") and continuing thereafter until January 1 of the year immediately following the Commencement Date, each Unit shall be subject to a maximum annual Base Assessment of \$450.00 per year, as may be adjusted after December 31, 2009, pursuant to Sections 8.1(b) and (c) below.

- (a) In the event that the Commencement Date falls on a day other than January 1, the annual assessment for such year shall be prorated so that each Owner pays an annual assessment proportional to the number of days remaining in the calendar year. The words "Assessment Year" as used herein shall mean the calendar year, and the "First Assessment Year" shall be the year 2009.
- (b) Commencing with the First Assessment Year and continuing thereafter, without a vote of the Membership, the Base Assessment may be increased at any time and from time to time during each Assessment Year by a maximum percentage which is equal to the greater of (i) five percent (5%) of the Base Assessment, or (ii) the percentage increase, if any, in the Consumer Price Index for all urban consumers (the "CPI") as published by the Bureau of Labor Statistics of the U. S. Department of Labor for the United States, All Items (1982 - 84 = 100) for the monthly period ending on the 31st day of the month of October one year earlier. If such Consumer Price Index should cease to be published, the Association shall use the most comparable governmental index published in lieu thereof.
- (c) Commencing with the First Assessment Year and continuing thereafter, the Base Assessment for each Assessment Year may, at any time and from time to time, be increased by more than the amount permitted in Section 8.1(b) if such increase is approved (i) by the Declarant, until the expiration of the Class B Control Period, or (ii) by a two-thirds (2/3) vote of the Members of the Association.

8.2. Budgeting and Allocating Common Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year, including any contributions to be made to a reserve fund pursuant to Section 8.4. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments and Special Assessments against the Units, as authorized in Section 8.5.

The Association is authorized to levy Base Assessments equally against all Units subject to assessment to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated to become subject to assessment during the fiscal year.

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Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 8.8(b)), which may be either a contribution, an advance against future assessments due from Declarant, or a loan with a fixed interest rate of ten percent (10%) per annum due upon demand, in Declarant's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Owner at least 30 days prior to the effective date of such budget. The budget shall automatically become effective unless disapproved at a meeting by Members representing at least 75% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the By-Laws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the right of the Members to disapprove the revised budget as set forth above.

8.3. Budgeting and Allocating Neighborhood Expenses.

At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. Each such budget shall include any costs for additional services or a higher level of services which the Owners in such Neighborhood have approved pursuant to Section 6.4(a) and any contribution to be made to a reserve fund pursuant to Section 8.4. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount required to be generated through the levy of Neighborhood and Special Assessments against the Units in such Neighborhood.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Units in the Neighborhood which are subject to assessment under Section 8.7 to fund Neighborhood Expenses; provided, if so specified in the applicable Supplemental Declaration or if so directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefited Units in proportion to the benefit received.

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The Board shall cause a copy of the Neighborhood budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner in the Neighborhood at least 30 days prior to the beginning of the fiscal year. Subject to the limitations in Section 8.1 hereof, such budget and assessment shall become effective unless disapproved at a meeting of the Neighborhood by Owners of a majority of the Units in the Neighborhood to which the Neighborhood Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such Neighborhood within 10 days following delivery of the Neighborhood budget and notice of Neighborhood Assessment. This right to disapprove shall only apply to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood and shall not apply to any item which the Governing Documents require to be assessed as a Neighborhood Assessment.

If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements and the right of the Owners of Units in the affected Neighborhood to disapprove the revised budget as set forth above.

All amounts collected by the Association as Neighborhood Assessments shall be held in trust for and expended solely for the benefit of the Neighborhood for which they were collected and shall be accounted for separately from the Association's general funds.

8.4. Budgeting for Reserves.

The Board shall prepare and review at least annually a reserve budget for the Area of Common Responsibility and for each Neighborhood for which the Association maintains capital items as a Neighborhood Expense. The budgets shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8.1 or the Neighborhood Expense budgets adopted pursuant to Section 8.2, as appropriate, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period.

8.5. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Except as otherwise specifically provided in this Declaration, any Special Assessment shall require the affirmative vote or written consent of Voting Members (if a Common Expense) or Owners (if a Neighborhood Expense) representing more than 50% of the total votes allocated to Units which will be subject to such Special Assessment, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such times as determined by the

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Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.6. Specific Assessments.

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

(a) to cover the costs, including overhead and administrative costs, of providing services to Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association (which might include the items identified in Section 7.9). Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests.

The Association may also levy a Specific Assessment against the Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the Board gives prior written notice to the Owners of Units in, or the Voting Member representing, the Neighborhood and an opportunity for such Owners or Voting Member to be heard before levying any such assessment.

8.7. Time of Payment.

The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the month in which the Unit is made subject to this Declaration, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

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8.8. Obligation for Assessments.

(a) Personal Obligation. Each Owner, by accepting a deed is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Georgia law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

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

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

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

(b) Declarant's Option to Fund Budget Deficits. During the Class "B" Control Period, Declarant may allow the Tract Owners to satisfy their obligations for assessments on Units which they own either by paying such assessments in the same manner as any other Owner or by allowing the Declarant to pay the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year. Unless Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

Regardless of Declarant's election, Declarant's or the Tract Owner's obligations hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

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8.9. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of Georgia law), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

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

Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.6, including such acquirer, its successors and assigns.

8.10. Exempt Property.

The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by Declarant or an Tract Owner as are included in the Area of Common Responsibility;
- (b) Any property dedicated to and accepted by any governmental authority or public utility; and
- (c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.
- (d) Property owned by any Tract Owner for resale or as a model home or sales office.

In addition, Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.11. Capitalization of Association.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant or a Builder, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual Base Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be deposited into the purchase and sales escrow and disbursed therefrom to the Association for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

Article IX Expansion of the Community

9.1. Expansion by Declarant.

Declarant may from time to time subject to the provisions of this Declaration all or any portion of the property described in Exhibit "B" by Recording a Supplemental Declaration describing the property being subjected. A Supplemental Declaration Recorded pursuant to this Section shall not require the consent of any Person except the owner of such property, if other than Declarant.

Declarant's right to expand the Properties pursuant to this Section shall expire when all property described in Exhibit "B" has been subjected to this Declaration or 20 years after this Declaration is Recorded, whichever is earlier. Until then, Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer shall be memorialized in a Recorded instrument executed by Declarant.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the property described in Exhibit "B" in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also subject property to the provisions of this Declaration by a Recorded Supplemental Declaration. Any such Supplemental Declaration shall require the affirmative vote of Voting Members representing more than 50% of the Class "A" votes of the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property, and by Declarant, if Declarant's consent is necessary.

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9.3. Additional Covenants and Easements.

Declarant may subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through Neighborhood Assessments. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon Recording unless otherwise specified. Any property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

Article X Additional Rights Reserved to Declarant

10.1. Withdrawal of Property.

Declarant reserves the right to amend this Declaration, so long as it has a right to annex property pursuant to Section 9.1, for the purpose of removing any portion of the Properties which has not yet been improved with structures from the coverage of this Declaration, provided such withdrawal does not reduce the total number of Units then subject to the Declaration by more than 10 percent. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Marketing and Sales Activities.

Declarant, and Tract Owners and Builders authorized by Declarant may construct and maintain upon portions of the Common Area and Units which they own such facilities and activities as, in Declarant's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, model units, and sales offices. Declarant and authorized Builders shall have easements for access to and use of such facilities at no charge.

10.3. Right to Develop.

Declarant, and Tract Owners authorized by Declarant, and their employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in the Properties acknowledges that the Properties is a master planned community, the development of which is likely to extend over many years, and agrees not to protest, challenge, or otherwise object to (a) changes in uses or density of property outside the Neighborhood in which such Person holds an interest, or (b) changes in the Master Plan as it relates to property outside the Neighborhood in which such Person holds an interest.

10.4. Right to Approve Additional Covenants.

No Person shall Record any declaration of covenants, conditions, and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any instrument Recorded without such consent shall be void and of no force and effect unless subsequently approved by Declarant in a Recorded consent.

10.5. Right to Approve Changes in the Properties' Standards.

No amendment to or modification of the Restrictions and Rules or the Architectural Guidelines shall be effective without prior notice to and the written approval of Declarant so long as Declarant or any Tract Owners own property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1.

10.6. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's or Tract Owner's (with Declarant's consent) special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a Recorded instrument signed by Declarant. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to Record an assignment unless necessary to evidence Declarant's consent to such exercise.

10.7. Exclusive Rights To Use Name of Development.

No Person shall use the name "Rice Creek" or any derivative of such name or in logo or depiction in any printed or promotional material without Declarant's prior written consent. However, Owners may use the name "Rice Creek" in printed or promotional matter where such term is used solely to specify that particular property is located within Rice Creek and the Association shall be entitled to use the words "Rice Creek" in its name.

10.8. Easement to Inspect and Right to Correct.

Declarant reserves for itself and others it may designate, and the Tract Owners grant to Declarant the right to inspect, monitor, test, redesign, and correct any structure, improvement, or

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condition which may exist on any portion of the Properties, including Units, and a perpetual nonexclusive easement of access throughout the Properties to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

10.9. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Properties in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant and any Builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the Owner of the property to discuss the Owner's concerns and conduct their own inspection.

10.10. Tract Owners.

To the extent that any rights, powers, duties or obligations of the Declarant hereunder require the consent of or a grant or conveyance from the Tract Owners of any of the Property, each Tract Owner hereby provides said consent and hereby grants to Declarant all rights and powers assigned to Declarant hereunder as if Declarant were the fee simple owner of said Property.

In addition to the foregoing, each Tract Owner acknowledges and agrees that all of the Property described on Exhibit "B", Land Subject to Annexation, and owned by each Tract Owner, respectively, will be subjected to this Declaration prior to the sale of said Property or any portion thereof to a third party that is not an Tract Owner, unless Declarant consents in writing.

10.11. Lien for Assessments.

The Declarant shall have a lien against any portion of the Property owned by a Tract Owner to secure payment of any budget deficits that the Declarant elects, in its sole discretion, to fund, as provided in Section 8.8(b) that are allocated to said Tract Owner by Declarant, as well as interest, late charges (subject to the limitations of Georgia law), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any Recorded first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

The Declarant may bid for said Property at the foreclosure sale and acquire, hold, lease, mortgage, and convey said Property. The Declarant may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

Sale or transfer of said Property shall not affect the assessment lien or relieve such Property from the lien for any subsequent assessments. However, the sale or transfer of any Property pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any

installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Property shall not be personally liable for assessments on such Property due prior to such acquisition of title.

10.12. Termination of Rights.

Except as otherwise specified, the rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded, or (b) Recording by Declarant of a statement that all sales activity has ceased.

Article XI Easements

11.1. Easements in Common Area.

Declarant and each Tract Owner grant to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The rights of certain Owners to the exclusive use of those portions of the Common Area designated "Limited Common Areas," as described in Article XII; and
- (d) The Board's right to:
 - (i) adopt rules regulating use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
 - (ii) suspend the right of an Owner to use recreational facilities within the Common Area (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to the By-Laws;
 - (iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
 - (iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;
 - (v) permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of use fees established by the Board and designate other areas and facilities within the Area of Common Responsibility as open for the use and enjoyment of the public; and

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(vi) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

11.2. Easements of Encroachment.

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

11.3. Easements for Utilities, Etc.

(a) Installation and Maintenance. Each Tract Owner with respect to its portion of the Property reserves for itself and grants to Declarant during the Class B Control Period, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout the Properties (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) installing utilities and infrastructure to serve the Properties, cable and other systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights, and signage on property which Declarant or any Tract Owner owns or within public rights-of-way or easements reserved for such purpose on Recorded plats;

(ii) inspecting, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 11.3(a)(i); and

(iii) access to read utility meters.

Notwithstanding the above, each Tract Owner gives the Declarant the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) Specific Easements. Each Tract Owner grants to Declarant and reserves for itself the non-exclusive right and power to grant and Record such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described in Exhibits "A" and "B." The Owner of any property to be burdened by any easement granted pursuant to this subsection (b) shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of

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the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

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11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and each Tract Owner subject to Declarant's consent, and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant and each Tract Owner agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5. Easements for Maintenance, Emergency, and Enforcement.

Declarant and each Tract Owner grant to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, and to inspect for the purpose of ensuring compliance with and enforcing the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

11.6. Easements for Lake and Pond Maintenance and Flood Water.

Each Tract Owner grants to Declarant and the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon bodies of water and wetlands located within the Area of Common Responsibility to (a) install, operate, maintain, and replace pumps to supply irrigation water to the Area of Common Responsibility; (b) construct, maintain, and repair structures and equipment used for retaining water; and

(c) maintain such areas in a manner consistent with the Community-Wide Standard. Declarant, each Tract Owner, the Association, and their successors, assigns, and designees shall have an access easement over and across any of the Properties abutting or containing bodies of water or wetlands to the extent reasonably necessary to exercise their rights under this Section.

Each Tract Owner grants to Declarant, the Association, and their successors, assigns, and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Units (but not the dwellings thereon) adjacent to or within 100 feet of bodies of water and wetlands within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) alter in any manner and generally maintain the bodies of water and wetlands within the Area of Common Responsibility; and (c) maintain and landscape the slopes and banks pertaining to such areas. All Persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences.

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Article XII Limited Common Areas

12.1. Purpose.

Certain portions of the Common Area may be designated as Limited Common Area and reserved for the exclusive use or primary benefit of Owners and occupants within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Limited Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of a Limited Common Area shall be a Neighborhood Expense allocated among the Owners in the Neighborhood(s) to which the Limited Common Areas are assigned.

12.2. Designation.

Initially, any Limited Common Area shall be designated as such in the Supplemental Declaration submitting the property to this Declaration, in the deed conveying such area to the Association, or on the subdivision plat relating to such Common Area; provided, however, any such assignment shall not preclude Declarant from later assigning use of the same Limited Common Area to additional Units and/or Neighborhoods, so long as Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1.

Thereafter, a portion of the Common Area may be assigned as Limited Common Area and Limited Common Area may be reassigned upon approval of the Board and the vote of Voting Members representing a majority of the total Class "A" votes in the Association, including a majority of the Class "A" votes within the Neighborhood(s) affected by the proposed assignment or reassignment. During the Class B Control Period, any such assignment or reassignment shall also require Declarant's written consent.

12.3. Use by Others.

Upon approval of a majority of the Owners of Units within the Neighborhood to which any Limited Common Area is assigned, the Association may permit Owners of Units in other Neighborhoods to use all or a portion of such Limited Common Area and may charge reasonable user fees for such use to offset the Neighborhood Expenses attributable to such Limited Common Area.

Article XIII Party Walls and Other Shared Structures

13.1. General Rules of Law to Apply.

Each wall, fence, driveway, or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Any dispute arising concerning a party structure shall be handled in accordance with the provisions of Article XIV.

13.2. Maintenance; Damage and Destruction.

The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners whose Units are served by the party structure.

If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner whose Unit is served by the structure may restore it, and all other Owners whose Units are served by the structure shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

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Article XIV Dispute Resolution and Limitation on Litigation

14.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Tract Owners, the Association and its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (each being a "Bound Party"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Properties without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in subsection (b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 14.2 in a good faith effort to resolve such Claim.

(b) As used in this Article, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to

(i) the interpretation, application, or enforcement of the Governing Documents;

(ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or

(iii) the design or construction of improvements within the Properties, other than matters of aesthetic judgment under Article IV, which shall not be subject to review;

except that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 14.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner;

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Part Two of this Declaration (relating to creation and maintenance of community standards);

(iii) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;

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- (iv) any suit in which any indispensable party is not a Bound Party; and
- (v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 14.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

14.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice to each Respondent and to the Board stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;
- (ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);
- (iii) the Claimant's proposed resolution or remedy; and
- (iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 14.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Chatham County area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

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Each party shall bear its own costs of the mediation, including attorneys' fees, and each party shall share equally all fees charged by the mediator.

(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

14.2. Initiation of Litigation by Association.

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Voting Members entitled to cast 75% of the total Class "A" votes in the Association, except that no such approval shall be required for actions or proceedings:

- (a) initiated during the Class "B" Control Period;
- (b) initiated to enforce the provisions of this Declaration, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge ad valorem taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

Article XV Mortgage Provisions

The following provisions are for the benefit of holders, insurers, and guarantors of first Mortgages on Units in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

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15.1. Notices of Action.

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

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Governing Documents relating to such Unit or the Owner or Occupant which is not cured within 60 days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

15.2. No Priority.

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

15.3. Notice to Association.

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

15.4. Failure of Mortgagee to Respond.

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

Article XVI Changes in Ownership of Units

Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the

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transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

Article XVII Changes in Common Area

17.1. Condemnation.

If any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Voting Members representing at least 67% of the total Class "A" votes in the Association and of Declarant, as long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1) by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, so long as Declarant owns any property subject to the Declaration or which may be made subject to the Declaration in accordance with Section 9.1, and Voting Members representing at least 75% of the total Class "A" vote of the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

17.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

17.3. Transfer or Dedication of Common Area.

The Association may dedicate portions of the Common Area to Chatham County, Georgia, the City of Port Wentworth, or to any other local, state, or federal governmental or quasi-governmental entity.

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Article XVII Amendment of Declaration

18.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until conveyance of the first Unit to a Person other than a Builder, Declarant may, without the consent of the Tract Owners, unilaterally amend this Declaration for any purpose. Thereafter, Declarant may, without the consent of the Tract Owners, unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; (d) to satisfy the requirements of any local, state, or federal governmental agency; or (e) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration. However, any such amendment shall not adversely affect the title to any Unit unless the Owner, other than the Tract Owners, shall consent in writing.

In addition, so long as Declarant owns property described in Exhibits "A" or "B" for development as part of the Properties, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 2% of the Owners.

18.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing 75% of the total Class "A" votes in the Association, including 75% of the Class "A" votes held by Members other than Declarant, and Declarant's consent, so long as Declarant owns any property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1. In addition, the approval requirements set forth in Article XVI shall be met, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

18.3. Validity and Effective Date.

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

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

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

18.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions of Article XIX. Exhibit "C" is incorporated by reference and may be amended in accordance with Article III or Article XIX. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

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IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration on this 1 day of June, 2008,

Signed, sealed, and delivered this 1 day of June, 2008, in the presence of:

[Signature]
WITNESS

[Signature]
NOTARY PUBLIC

My Commission Expires: 1-23-2012

NOTARY SEAL
[NOTARY SEAL]
Conale Ruy
NOTARY PUBLIC
Gwintham County, GEORGIA
My Comm. Exp. Jan. 23, 2012

Signed, sealed, and delivered this 17 day of July, 2008, in the presence of:

[Signature]
WITNESS

[Signature]
NOTARY PUBLIC

My Commission Expires
KASANDRA MCNALLY
Notary Public
Gwintham County, Georgia
My Commission Expires May 21, 2010

NOTARY SEAL

DECLARANT:

MILLER PARK, LLC, a Georgia limited liability company

By: [Signature]

Its: MANAGING MEMBER

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TRACT OWNERS:

LTM DEVELOPMENT, LLC, a Georgia limited liability company

By: [Signature]

Its: Manager

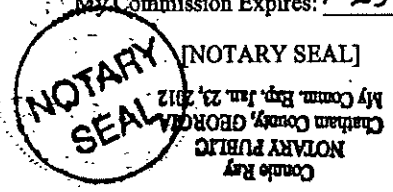
[SIGNATURES CONTINUED ON NEXT PAGE]

Signed, sealed, and delivered
this 1 day of JUNE, 2008,
in the presence of:

[Signature]
WITNESS

[Signature]
NOTARY PUBLIC

My Commission Expires: 1-23-2012

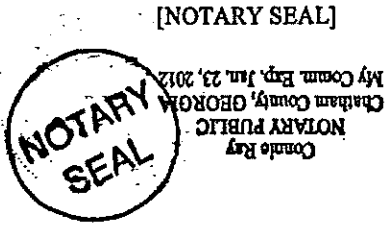


Signed, sealed, and delivered
this 1 day of JUNE, 2008,
in the presence of:

[Signature]
WITNESS

[Signature]
NOTARY PUBLIC

My Commission Expires: 1-23-2012



RICE CREEK INVESTMENTS, LLC,
a Georgia limited liability company

By: [Signature]

Its: MANAGING MEMBER

BLS DEVELOPMENT, INC.,
a Georgia corporation

By: [Signature]

Its: PRESIDENT

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EXHIBIT "A"

Land Initially Submitted

LTM Neighborhood

All those lots, tracts or parcels of land situate, lying, and being in Chatham County, Georgia, as shown on the plat entitled, "Rice Mill, Phase 1, A Major Subdivision Plat of a Portion of the Former Exley Tract, Being Tract A, Rice Creek Development, 8th G.M. District, Port Wentworth, Chatham County, Georgia, Prepared for: LTM, LLC", prepared by Michael A. Hussey, G.R.L.S. No. 2509, dated December 21, 2007, and recorded in Plat Book 39-S, page 85-A through 85-G, Chatham County, Georgia records.

Rice Creek Neighborhood

All those lots, tracts or parcels of land situate, lying, and being in Chatham County, Georgia, as shown on that plat entitled, "Rice Creek Tract B, Phase 1, A Major Subdivision Plat of a Portion of the Former Exley Tract, Being Tract, B Rice Creek Development, 8th G.M. District, Port Wentworth, Chatham County, Georgia, Prepared for: Rice Creek Investments, LLC", prepared by Michael A. Hussey, G.R.L.S. No. 2509, dated December 21, 2007, and recorded in Plat Book 39-S, page 86-A through 86-I, Chatham County, Georgia records.

The Neighborhoods specified on this Exhibit "A" shall be deemed "Neighborhoods" pursuant to Section 6.4 hereof.

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EXHIBIT "B"

Land Subject to Annexation

PROPERTY

All those certain lots, tracts, or parcels of land known as **TRACT "A"** (46.51 Acres), **TRACT "B"** (53.09 Acres), **TRACT "C"** (105.24 Acres), **EASEMENT "G"** (0.9 Acres) and **EASEMENT "H"** (0.42 Acres), lying and being in the 8th G.M. District, City of Port Wentworth, County of Chatham, State of Georgia, as shown upon that certain plat entitled "Boundary Survey 255.16 Acres, Portion of the Thomas L. Exley Property, Surveyed for Fred Williams Realty, 8TH G.M. District, Port Wentworth, Chatham County, Georgia," dated September 22, 2006, prepared by Michael J. Gardner, G.R.L.S. No. 2285, and recorded in Plat Book 34-P, Page 73, Chatham County, Georgia records, which plat is incorporated herein by specific reference and made a part hereof.

TRACT A

All those certain lots, tracts, or parcels of land known as **TRACT "A"** (46.51 Acres), **EASEMENT "G"** (0.9 Acres) and **EASEMENT "H"** (0.42 Acres), lying and being in the 8th G.M. District, City of Port Wentworth, County of Chatham, State of Georgia, as shown upon that certain plat entitled "Boundary Survey 255.16 Acres, Portion of the Thomas L. Exley Property, Surveyed for Fred Williams Realty, 8TH G.M. District, Port Wentworth, Chatham County, Georgia," dated September 22, 2006, prepared by Michael J. Gardner, G.R.L.S. No. 2285, and recorded in Plat Book 34-P, Page 73, Chatham County, Georgia records, which plat is incorporated herein by specific reference and made a part hereof.

TRACT B

All those certain lots, tracts, or parcels of land known as **TRACT "B"** (53.09 Acres), **EASEMENT "G"** (0.9 Acres) and **EASEMENT "H"** (0.42 Acres), lying and being in the 8th G.M. District, City of Port Wentworth, County of Chatham, State of Georgia, as shown upon that certain plat entitled "Boundary Survey 255.16 Acres, Portion of the Thomas L. Exley Property, Surveyed for Fred Williams Realty, 8TH G.M. District, Port Wentworth, Chatham County, Georgia," dated September 22, 2006, prepared by Michael J. Gardner, G.R.L.S. No. 2285, and recorded in Plat Book 34-P, Page 73, Chatham County, Georgia records, which plat is incorporated herein by specific reference and made a part hereof.

TRACT C

All those certain lots, tracts, or parcels of land known as **TRACT "C"** (105.24 Acres), **EASEMENT "G"** (0.9 Acres) and **EASEMENT "H"** (0.42 Acres), lying and being in the 8th G.M. District, City of Port Wentworth, County of Chatham, State of Georgia, as shown upon that certain plat entitled "Boundary Survey 255.16 Acres, Portion of the Thomas L. Exley Property, Surveyed for Fred Williams Realty, 8TH G.M.

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District, Port Wentworth, Chatham County, Georgia," dated September 22, 2006,
prepared by Michael J. Gardner, G.R.L.S. No. 2285, and recorded in Plat Book 34-P,
Page 73, Chatham County, Georgia records, which plat is incorporated herein by specific
reference and made a part hereof.

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EXHIBIT "C"

Initial Restrictions and Rules

The following restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed, or limited pursuant to Article III of the Declaration.

1. General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant or any Tract Owner to assist in the sale of property described in Exhibits "A" or "B," offices for any property manager retained by the Association, or business offices for Declarant, any Tract Owner or the Association) consistent with this Declaration and any Supplemental Declaration. Except as provided above, Units may be used for fee simple single family residences only and for no other purpose.

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

(a) Parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages; provided, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area;

(b) Raising, breeding, or keeping animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

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

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

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

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

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

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- (h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;
- (i) Use and discharge of firecrackers and other fireworks;
- (j) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Properties, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;
- (k) Accumulation of rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;
- (l) Obstruction or rechanneling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;
- (m) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;
- (n) Swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams, or other bodies of water within the Properties, except that fishing from the shore shall be permitted with appropriate licenses and Declarant, its successors and assigns, shall be permitted and shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and to draw water from lakes, ponds, and streams within the Properties for purposes of irrigation and such other purposes as Declarant shall deem desirable. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of rivers, lakes, ponds, streams, or other bodies of water within or adjacent to the Properties;
- (o) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns;
- (p) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(q) On-site storage of gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to Article IV;

(r) Any business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Properties; (iii) the business activity does not involve door-to-door solicitation of residents of the Properties; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Properties which is noticeably greater than that which is typical of Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of the Properties or its use of any Units which it owns within the Properties, including the operation of a timeshare or similar program;

(s) Capturing, trapping, or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties;

(t) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(u) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Article IV;

(v) Operation of motorized vehicles on pathways or trails maintained by the Association, except that golf carts may be operated on cart paths intended for such purposes; and

(w) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is

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improved or unimproved, except in strict compliance with the provisions of Article IV of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind.

3. Prohibited Conditions. The following shall be prohibited at the Properties:

(a) Plants, animals, devices, or other things 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 Properties;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair; and

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

(d) Satellite dishes, antennas, and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that Declarant and the Association shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Properties; and (i) satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (ii) satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (iii) antennas designed to receive television broadcast signals ((i), (ii), and (iii), collectively, "Permitted Devices") shall be permitted, *provided that* any such Permitted Device is placed in the least conspicuous location on the Unit (generally being the rear yard) at which an acceptable quality signal can be received and is not visible from the street, Common Area, or neighboring property or is screened from the view of adjacent Units and the street in a manner consistent with the Community-Wide Standard and the standards, unless such screening unreasonably interferes with the use of such Permitted Device.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. The Board may require a minimum lease term, which requirements may vary from Neighborhood to Neighborhood. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within seven days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules.

5. Neighborhood Specific Restrictions. Each of the following restrictions shall apply only to the Units in the specified Neighborhoods.

a. Rice Creek I Neighborhood

1. Units being utilized as a single family residence shall contain a minimum of 1,000 square feet of heated space, excluding garages and car ports. Declarant may waive said restriction for any individual Unit in its sole and absolute discretion.

b. LTM Neighborhood

1. Units being utilized as a single family residence shall contain a minimum of 800 square feet of heated space, excluding garages and car ports. Declarant may waive said restriction for any individual Unit in its sole and absolute discretion.

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