

[SPACE ABOVE RESERVED FOR RECORDING DATA]

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3500 Lenox Road  
Atlanta, Georgia 30326  
Attention: Margaret Hughes Vath

STATE OF GEORGIA  
COUNTY OF COBB

Reference: Deed Book: 10878

Page: 238

## AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR PACES CLUB

### IMPORTANT NOTICE

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A., SECTION 44-3-220. ET SEQ.

CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/CHARGES DUE ON LOTS AND ANY UNCURED ARCHITECTURAL VIOLATIONS OR UNAUTHORIZED IMPROVEMENTS ON LOTS, PURSUANT TO THE PROVISIONS HEREOF.

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PREPARED BY:

Weissman Nowack   
Curry & Wilco, P.C.  
CHANGING THE LANDSCAPE  
Margaret Hughes Vath, Esquire

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WHEREAS, a Declaration of Covenants and Restrictions for Paces Club Cobb County, Georgia was recorded on December 18, 1997, in Deed Book 10878, Page 238, *et seq.*, Cobb County, Georgia land records (hereinafter referred to as the "Original Declaration") as purportedly amended; and

WHEREAS, Article IX of the Original Declaration provides that the Original Declaration may be amended upon the approval of such amendment by those members of the Paces Club Homeowners Association, Inc. ("Association") who own in the aggregate, no fewer than sixty-seven percent (67%) of the Lots not owned by the Declarant, and

WHEREAS, the approval of any such amendment by the members of the Association shall be given by each such member either casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such member signing a written approval of such amendment after the date on which such meeting was held; and

WHEREAS, the Declarant no longer owns any Lot or any other portion of Paces Club Property; and

WHEREAS, Association members who own at least sixty-seven percent (67%) of the Lots desire to amend the Original Declaration and have approved this Amendment by casting a vote in favor of the amendment at a duly called Association meeting or by signing written approval of the amendment after the date of the duly called Association meeting;

WHEREAS, in accordance with Article VII of the Bylaws of Paces Club Homeowners Association, Inc. ("Original Bylaws"), the Original Bylaws may be amended upon resolution of the Association's Board of Directors and the approval of the proposed amendment by the Association members at a meeting of the members duly called and held for the purpose of considering such amendment if the amendment is approved by two-thirds (2/3) of the votes cast at such meeting; and

WHEREAS, the Board of Directors adopted a resolution proposing the adoption of the Amended and Restated Bylaws attached hereto as Exhibit "B" and recommending its adoption by the members and the members approved the Amended and Restated Bylaws attached hereto as Exhibit "B" by at least two-thirds of the votes cast at a duly called Association meeting; and

WHEREAS, Class B membership in the Association has terminated and neither the approval of the Declarant, HUD or the VA is necessary for the adoption of these amendments; moreover, these amendments do not alter, modify, change or rescind any right, title, interest or privilege held by any first mortgage holder on any Lot; provided, however, if a court of competent jurisdiction determines that these amendments do so without some required first mortgage holder's consent, then these amendments shall not be binding on the first mortgage holder so involved, unless it consents hereto; and if such consent is not forthcoming, then the provisions of the Original Declaration prior to these amendments shall control with respect to the affected first mortgage holder;

NOW, THEREFORE, the Original Declaration, the Original Bylaws, and all exhibits thereto, are hereby stricken in their entirety and this Declaration is simultaneously substituted therefor:

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# DECLARATION OF COVENANTS AND RESTRICTIONS FOR PACES CLUB

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## 1. NAME

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The name of the Community is Paces Club<sup>sm</sup>, which is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

## 2. DEFINITIONS

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Unless the context otherwise requires, capitalized terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall be defined as set forth in this Paragraph 2. Otherwise, the terms used in this Declaration, the Bylaws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code.

**A. Act** means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

**B. Architectural Advisory Committee or AAC** mean the committee established to exercise the architectural review powers set forth herein, which shall be the Board of Directors of the Association unless the Board appoints a separate Architectural Advisory Committee.

**C. Articles of Incorporation or Articles** means the Articles of Incorporation of Paces Club Homeowners Association, Inc., filed with the Secretary of State of the State of Georgia.

**D. Association** means Paces Club Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

**E. Association Legal Documents** means this Declaration and all exhibits hereto, the Bylaws, the Articles of Incorporation, the plats and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

**F. Board or Board of Directors** means the body responsible for management and operation of the Association.

**G. Bylaws** means the Bylaws of Paces Club Homeowners Association, Inc., attached to this Declaration as Exhibit "B" and incorporated herein by this reference-

**H. Common Area** means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners and originally referred to as "Association Property" in the Original Declaration.

**I. Common Expenses** means the expenses incurred or anticipated to be incurred for the general benefit of all Lots, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Area.

**J. Community** means that real estate which is submitted to the Act and the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference, also known as the "Paces Club Property." The Community is a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as may be amended.

**K. Community-Wide Standard** means the standard of conduct, maintenance, or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors and the Architectural Advisory Committee.

- L. Declaration** means this Declaration of Covenants and Restrictions for Paces Club.
- M. Director** means a member of the Association's Board of Directors.
- N. Domestic Partner** means any adult who cohabitates with an Owner, and who has been designated as the Owner's Domestic Partner in a written statement, signed by the Owner and filed with the Association's Secretary. A person shall no longer be a Domestic Partner upon the Secretary's receipt of a written termination notice, signed by either the Owner or the Domestic Partner.
- O. Effective Date** means the date that this Declaration is recorded in the Cobb County, Georgia land records.
- P. Eligible Mortgage Holder** means a holder of a first Mortgage secured by a Lot who has submitted a request in writing to the Association to be deemed an Eligible Mortgage Holder. Such notice must include the mortgage holder's name and address and the Lot number or address of the property in the Community secured by such mortgage.
- Q. Lot** means a portion of the Community intended for ownership and use as a single-family dwelling site subject to this Declaration, as shown may be on the Plats for the Community recorded in the Cobb County, Georgia land records.
- R. Mortgage** means any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.
- S. Mortgagee or Mortgage Holder** means the holder of any Mortgage.
- T. Occupant** means any person staying overnight in a dwelling on a Lot for a total of more than 30 days, either consecutive or nonconsecutive, in any calendar year.
- U. Officer** means an individual who is elected by the Board of Directors to serve as President, Vice President, Secretary, or Treasurer, or to hold such other office as may be established by the Board of Directors.
- V. Owner** means the record title holder of a Lot, but shall not include a Mortgage Holder. For purposes hereof, the holder of a tax deed on a Lot shall be deemed the Owner thereof, notwithstanding the fact that there may exist a right of redemption on such Lot.
- W. Person** means any individual, corporation, limited liability company, firm, association, partnership, trust, or other legal entity.
- X. Plats** mean those plats of the survey relating to the Community filed in Plat Book 175, Page 44 (Unit II, Phase 1); Plat Book 177, Page 33, 34 and 35 (Unit 1); Plat Book 179, Page 2 (Unit III); and Plat Book 191, Pages 12 and 13 (Unit II, Phase 2) of the Cobb County, Georgia land records. All of the Plats of survey are incorporated herein by this reference.
- Y. Violator** means any Owner who violates the Association Legal Documents and any Owner's family member, guest or Occupant who violates such provisions; provided, however, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Owner of the relevant Lot also shall be considered a Violator.

### **3. SUBMITTED PROPERTY AND ADDITIONAL PROPERTY**

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#### **A. Submitted Property**

The real property in the Community subject to this Declaration and the Act is located in Land Lots 24 and 53 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, and incorporated herein by this reference and as may be shown on the Plats.

#### **B. Additional Property**

Any property shown on any Plat, which property has not been submitted to the Declaration, may be submitted to the Declaration by recording a consent form executed by the owner of such property and by the Board of Directors. Other property not shown on any Plat may be submitted to this Declaration with the approval of Owners holding at least a majority of the eligible vote of the total Association membership and by recording a consent form executed by the owner of such property and by the Board of Directors.

### **4. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

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#### **A. Membership**

The Association shall have one class of membership. Each Lot Owner shall be a member of the Association. This does not include persons who hold an interest merely as security for the performance of an obligation. The giving of a security interest shall not terminate an Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot owned in the Community. An Owner's spouse or Domestic Partner may exercise all membership rights and privileges of the Owner

#### **B. Voting**

The Owner(s) of the Lot shall be entitled to one equally weighted vote for such Lot, which vote may be exercised and suspended as provided in this Declaration and the Bylaws.

### **5. ALLOCATION OF LIABILITY FOR COMMON EXPENSES**

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#### **A. General Allocations**

Except as provided below, or elsewhere in the Act or the Association Legal Documents, the amount of all Common Expenses shall be assessed against all the Lots equally.

#### **B. Specific Special Assessments**

Notwithstanding the above, the Board of Directors shall have the power to levy specific special assessments pursuant to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

### **6. ASSESSMENTS**

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#### **A. Purpose of Assessment**

The Association shall have the power to levy assessments as provided herein and in the Act. Assessments shall be used for any purpose the Board of Directors determines will benefit the Owners or the Community.

**B. Creation of the Lien and Personal Obligation For Assessments**

Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all assessments and other charges levied pursuant to this Declaration and the Bylaws.

All assessments and charges levied against a Lot and its Owner, together with interest, costs and reasonable attorneys' fees actually incurred (including post-judgment attorneys' fees, costs and expenses), and rents (if the Board of Directors so elects), in the maximum amounts permitted under the Act, shall be: (1) a charge and a continuing lien against such Lot; and (2) the personal obligation of the Person who is the Owner of the Lot on the due date of the assessment. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance of the Lot. The Association, in the Board's discretion, may record a notice of such lien in the Cobb County, Georgia land records evidencing the lien created under the Act and this Declaration. The lien provided for herein shall have priority as provided in the Act.

Assessments shall be paid in such manner and on such dates as determined by the Board of Directors.

No Owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever.

**C. Delinquent Assessments**

All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.

If any assessment or charge, or any part or installment thereof, is not paid in full within 10 days of the due date, or such later date as may be provided by the Board of Directors:

(1) a late charge equal to the greater of \$10.00 or 10% of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner;

(2) interest at the rate of 10% per annum, or such higher rate as may be authorized by the Act, shall accrue from the due date;

(3) the Board may accelerate and declare immediately due any unpaid installments of that Owner's assessments and charges. Upon acceleration, the Owner shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such privilege in writing. If the Association has pending legal action against an Owner for unpaid assessments or charges, then no notice shall be required to accelerate unpaid installments of any annual or special assessments that come due during any fiscal year after such legal action commences, until all amounts owed are paid in full or the Board otherwise reinstates such privilege in writing; and

(4) the Association may bring legal action to collect all sums owed under the Declaration and Georgia law.

If assessments or other charges, or any part thereof, remain unpaid more than 30 days after the due date, the Owner's right to vote and use the Common Area are suspended automatically until all amounts owed are paid in full or the Board of Directors otherwise reinstates such rights in writing; provided, however, the Board may not deny ingress or egress to or from a Lot.

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current

assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

**D. Computation of Operating Budget and Assessment**

To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Community, which may include a reserve contribution as provided below. The Board shall provide the budget to the Owners at least 21 days before the due date of such assessment, or the first installment thereof. Notwithstanding anything herein to the contrary, the Board shall provide the budget contemporaneously with or in advance of the annual meeting notice. The budget and the assessment shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove them at a duly called membership meeting.

If the membership disapproves the proposed budget or the Board of Directors fails for any reason to determine a new budget, the budget then in effect shall continue until a new budget is adopted as provided herein. The Board may adopt an adjusted budget at any time during the year following the procedure specified above.

The budget shall not operate as a limitation on expenditures by the Board of Directors. The budget is merely an estimate of Common Expenses on which the Board establishes the annual assessment.

**E. Special Assessments**

In addition to the all other assessments and charges provided for herein, the Board of Directors may levy a special assessment against all Owners for any purpose. Special assessments totaling more than an amount equal to half (1/2) of the annual assessment per Lot in any fiscal year must first be approved by at least a majority of those Owners either voting by written consent or ballot pursuant to the Bylaws, or at least a majority of those Owners present or represented by proxy at a duly called meeting of the members, notice of which shall specify the purpose of such meeting.

**F. Capital Budget and Contribution**

The Board of Directors may prepare an annual or multi-year capital reserve budget and may establish a capital reserve fund contribution based on such budget. Capital reserve budgets should take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

**G. Capital Contribution Assessment Upon Transfer of Lots**

In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Lot, other than to the spouse or heir of the Owner, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment"). The Capital Contribution Assessment shall be an amount equal to one-third (1/3) of the annual assessment per Lot.

**H. Foreclosure Administration Fee**

It is recognized that foreclosures of mortgages on Lots create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the Cobb County, Georgia land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Lot. Pursuant to this Declaration and Section 44-3-225(a) of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Lots. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any Person who acquires a Lot at a foreclose sale of the mortgage on such Lot, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of an amount equal to three (3) times the annual assessment

per Lot at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the Cobb County, Georgia records. The Foreclosure Administration Fee shall constitute a specific assessment as described in this Declaration.

**I. Statement of Account**

Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments and charges due and unpaid, including but not limited to any late charges, interest, fines, attorneys' fees or other charges against such Lot. The Association shall respond in writing within five business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein, if such statement is reasonably relied upon in connection with the issuance of any Mortgage on such Lot.

**J. Surplus Funds and Common Profits**

Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, be: (1) distributed to the Owners; (2) credited to the next assessment chargeable to the Owners; or (3) added to the Association's capital reserve account.

**7. MAINTENANCE RESPONSIBILITY**

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**A. Owner's Responsibility**

**(1) General Lot and Right-of-Way Maintenance**

Each Owner shall maintain and keep all portions of his or her Lot, including the dwelling on the Lot, and the portion of the right-of-way on which the Lot is located, which lies between the Lot and the pavement of the road within such right-of-way, in good repair and in a neat, sanitary and attractive condition and order which is satisfactory to the Board of Directors. This maintenance obligation shall include, but not be limited to, maintenance of the grass and other vegetation, trees, shrubs and other plants, and maintenance of the roofs, gutters, downspouts, exterior building surfaces, foundations and foundation walls, windows, doors, walks, walls and other improvements on the Owner's Lot. Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Each Owner shall perform his or her responsibility hereunder in such manner so as not to unreasonably disturb other Lot Owners.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Area by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Area) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

**(2) Replacement of Trees**

In addition to, and without limiting the generality of the general maintenance provisions of the preceding Paragraph 7(A)(1), in the event that an Owner of any Lot shall remove any tree which was located on such Lot as of the Effective Date of this Declaration (other than a tree that has died due to a cause not involving any action by the Owner of such Lot) such tree shall be replaced with a tree of comparable size and character as the tree which was so removed. Such replacement shall be completed within 30 days of the date on which such tree was removed. In the event that the Owner of any Lot shall fail to make such replacement within 30 days, the Board of Directors shall have the right, exercisable by it or through its agents or employees, and after giving the Owner of such Lot at least 10 days' notice and an opportunity to so replace such tree, to enter upon such Lot and make such replacement. The Owner of the Lot upon which such tree is so replaced by the Association (or its agents or employees) shall be personally

liable to the Association for all direct and indirect costs as may be incurred by the Association in connection with the making of such tree replacement, and the liability for such costs shall be secured by all the liens, and shall be subject to the same means of collection, as are the assessments and charges provided in Paragraph 6 of this Declaration. In addition, all such costs shall be paid to the Association by such Owner by whatever date and in such installments as the Board shall determine. The provisions of this paragraph shall not apply to the removal of any dead tree from any Lot, provided that such tree did not die on account of any action taken by the Owner of such Lot.

**B. Association's Responsibility**

The Association shall maintain, keep in good repair, replace and, in the Board of Directors' discretion, improve or alter the Common Area. This maintenance obligation shall include amenities and recreation facilities, paved access and parking areas, greenbelts, trees, shrubs, grass, walks, drives and other improvements located on the Common Area. The Association shall have the right, but not the obligation, to maintain public rights of way adjacent to the Community and other property not owned by the Association; if the Board of Directors in its sole discretion determines that such maintenance would benefit the Community. At any point thereafter, the Board can cease to maintain such property and such maintenance obligation will revert back to the party originally responsible therefore.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

If, during the course of performing its maintenance responsibilities hereunder, the Board discovers that maintenance, repair or replacement is required of an item which is the Owner's responsibility, and such maintenance, repair or replacement must be performed for the Association to properly complete its maintenance project, then the Association may perform such work on behalf of the Owner and at the Owner's sole expense, without prior notice to the Owner, such being deemed an emergency situation hereunder.

If the Board of Directors determines that the need for maintenance or repair on the Common Area is caused through the willful or negligent act of any Owner or Occupant or his or her family, guests, tenants, or invitees, then the Association may charge the cost of any such maintenance, repair, or replacement as a specific special assessment against the Owner's or Occupant's Lot and the Owner thereof.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Area or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder, unless such injury or damage results directly and solely from the negligence or gross negligence of the Association. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

**C. Failure to Maintain**

If the Board of Directors determines that any Owner has failed or refused to discharge properly his or her maintenance, repair or replacement obligations pursuant to this Paragraph, then the Association shall give the Owner written notice of: (1) the Owner's failure or refusal; (2) the Association's right to provide necessary maintenance, repair, or replacement at the Owner's sole cost and expense; and (3) the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists or a violation is re-occurring for which notice previously has been issued hereunder, the Owner shall have 14 days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence

replacement or repair within 14 days. If the Board determines that an emergency exists, a violation is re-occurring for which notice has been previously issued hereunder or an Owner has not complied with the demand given by the Association hereunder, the Association may provide any such maintenance, repair or replacement, the costs of which shall be a specific special assessment against the Owner and the Lot.

**D. Maintenance Standards and Interpretation**

The Board of Directors may establish, interpret and enforce maintenance standards for the Community. These standards may vary over time, however, the variances shall not constitute a waiver by the Board of the right to establish and enforce maintenance standards under this Paragraph. No Board decision or interpretation regarding maintenance standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

**8. ARCHITECTURAL CONTROLS**

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**A. Architectural Advisory Committee**

The Architectural Advisory Committee ("AAC") shall constitute a standing committee of the Association. The AAC shall consist of the Board of Directors unless the Board of Directors delegates to other Persons the authority to serve on the AAC.

**B. Limitation on Exterior Modifications**

Except as otherwise provided herein, no Owner, Occupant, or any other person may, without written approval of the Board or AAC:

- (1) construct any building, dwelling or other improvement on a Lot;
- (2) make any change or alteration that affects the exterior appearance of the Lot, including, but not limited to, any change in the type of roofing material or in the color of the paint, stain or varnish of a dwelling; or
- (3) erect, place or post any object or thing on the Lot that affects the exterior appearance of the Lot, including but not limited to any fence, wall, garage, patio, carport, playhouse, swimming pool, mail-box or other object, thing or structure.

Additionally, no modification shall encroach onto the Common Area unless expressly approved in writing by the Board.

**C. Standards and Interpretation**

The Board of Directors may establish, amend and publish written Community-Wide Standards for modifications that affect the exterior appearance of Lots. These standards may vary for different parts of the Community, based on street visibility and location of the proposed modification or Lot. Any standards established by the Board hereunder may be amended or vetoed by a majority of the total Association vote. No Board decision or interpretation regarding such standards shall constitute a binding precedent with respect to subsequent Board decisions or interpretations.

**D. Application Process and Review**

The Board of Directors may establish procedures, forms, conditions and requirements for the submission of applications for modifications to the exterior appearance of a Lot. Such applications shall be in writing and, unless otherwise provided by the Board, submitted to the AAC. The AAC shall review the application and make a recommendation to the Board. The Board will issue a decision on the application. If the application requests any variance from provisions of this Declaration or published Community-Wide Standards related to the exterior appearance of the Lot, the Owner must expressly identify such variance in the application. No approval issued hereunder shall authorize such a variance unless that variance is expressly identified in the application and specifically approved in writing by the Board.

The Board shall be the sole arbiter of such application. The AAC is an advisory committee only and does not issue decisions or approvals.

The standard for approval of such modifications shall include, but not be limited to: (1) aesthetic consideration; (2) materials to be used; (3) compliance with the Community-Wide Standards, this Declaration, or the design standards which may be established by the Board; (4) harmony with the external design of the existing dwellings, Lots and structures, and the location in relation to surrounding structures and topography; and (5) any other matter deemed to be relevant or appropriate by the Board or AAC. The Board shall approve any request that it determines, in its reasonable discretion, to be in substantial compliance with such standard for approval.

**E. Ruling on Application**

If the Board fails to approve or to disapprove such application within 45 days after the application and all required information have been submitted, the Owner submitting the application may issue written notice, via certified mail, to the Association President, informing the President of the Owner's intent to proceed with the modification as identified in the application. Unless the Association issues a written disapproval of the application within 10 days of receipt of the Owner's notice, the approval will not be required and this subparagraph will be deemed complied with as to the items specifically identified in the application. However, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any modification that is otherwise in violation of the Association Legal Documents, or of any applicable zoning or other laws. Except as provided in this subparagraph, no approval of a modification shall be valid unless issued in writing. Owners may not rely on any verbal approval or statements from any person as the approval required for a modification. Owners may not rely on any purported written approval from an AAC member; as the Board is the sole arbiter of such application.

**F. Request for Reconsideration**

An Owner may, in writing, request reconsideration of the Board's decision. The request for reconsideration must be sent to the Board by certified mail and received by the Board within 14 days from the date of the disapproval notice, or the decision of the Board shall become final and all rights to seek reconsideration shall terminate. Within 45 days of receipt of a timely appeal, the Board shall approve, disapprove, or conditionally approve the Owner's application, and such ruling shall be final and binding on the Owner.

**G. Commencement and Completion of Construction**

All modifications approved hereunder must be commenced within six months from the date of approval, or such approval shall be deemed revoked, unless the Board gives a written extension for commencing the work. All work approved hereunder shall be completed in its entirety within six months from the date of commencement, unless otherwise agreed in writing by the Board.

**H. Professional Consultants and Fees**

The Board of Directors shall be authorized to charge, as a specific special assessment, against any Owner and Lot: (1) a reasonable administrative fee for review of modifications on, or submitted plans for, such Lot; and (2) reasonable fees for any architect, engineer or other professional consultant engaged by the Board to assist with review of modifications on, or submitted plans for, such Lot. Any professional consultants fees shall constitute specific assessments as described in this Declaration.

**I. Limitation of Liability**

The Association, Board of Directors, AAC, and members thereof, are not responsible for ensuring, and shall not be held liable for any injury, damage or loss arising out of: (1) the quality, structural integrity or soundness of any modification on a Lot; or (2) any modification's compliance with building codes, zoning regulations or other governmental requirements.

## 9. USE RESTRICTIONS

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Each Owner shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of the Association Legal Documents. In addition to the following use restrictions, the Board of Directors may establish rules and regulations in accordance with the terms hereof and as specified in the Bylaws.

### A. Residential Use

Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any portion of the Community, except that the Owner or Occupant residing in a dwelling on a Lot may conduct ancillary business activities within the dwelling so long as:

- (1) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the dwelling;
- (2) the business activity does not involve visitation or deliveries to the Lot by employees, clients, customers, suppliers, couriers, mail carriers, or other business invitees in greater volume than would normally be expected for a Lot without business activity;
- (3) the business activity does not involve use of the Common Area, except for necessary access to and from the Lot by permitted business invitees;
- (4) the business activity is legal and conforms to all zoning requirements for the Community;
- (5) the business activity does not increase any insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; and
- (6) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other Owners or Occupants, as determined in Board of Director's discretion.

The Association has no liability for any business activity in the Community. The Association also has no liability for any action or omission by it, its Directors, Officers, agents, representatives and/or vendors, that may adversely impact an Owner's or Occupant's business activity. Each Owner and Occupant hereby releases and holds harmless the Association, its Directors, Officers, agents, representatives and/or vendors, for any interruption or suspension of, or any damages to, any business activities conducted on a Lot. Owners and Occupants shall obtain whatever supplemental insurance may be necessary to protect their business assets, business continuity and business interests on their Lots. The Association is not obligated to obtain any insurance coverage for any Owner's or Occupant's business activity.

The term "business," as used in this provision, shall include, without limitation, any occupation, work or activity that involves the provision of goods or services to persons other than the provider's family for 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 therefore

### B. Occupancy

(1) **Number of Occupants.** No more than two Occupants per bedroom are permitted in the dwelling, as such bedrooms are depicted on the plans for such dwelling approved by the applicable governmental agency. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a dwelling on the Effective Date hereof. Upon written application, the Board of Directors shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988.

(2) **Entity Ownership.** If an Owner is a corporation, limited liability company, partnership, trust or other legal entity not being a natural person, the Owner shall designate in writing to the Board the name(s) of the person(s) who will occupy the dwelling on the Lot. The designated person(s) to occupy the dwelling may not be changed more frequently than once every 12 months without the Board's written consent.

**C. Architectural Building Restrictions**

(1) No building shall be constructed on any Lot unless such building's finished floor elevation is at least one foot above the flood plane and at least one foot above the low point in the road.

(2) No building shall be constructed on any Lot unless such building contains a garage which will house at least two normal sized automobiles and which has a garage door which will totally conceal the opening to such garage.

(3) No building shall be constructed on any Lot unless such building contains at least 1800 square feet of interior, heated space.

(4) Only one building may be constructed on any Lot.

(5) No building containing more than two stories in addition to a basement which is located at least partially below ground level shall be constructed on any Lot.

(6) No structure other than a fence shall be constructed, placed or installed upon any Lot, in a location which encroaches beyond any front, side or rear building set-back line which is depicted on the Plats. No fence shall be constructed or erected upon any Lot in any location other than entirely in the rear of the building which is located on such Lot.

**D. Subdivision of Lots**

No Lot may be subdivided into a smaller Lot without the prior written approval of the Board of Directors.

**E. Combination of Lots**

The Owner of any two or more contiguous Lots shall have the right to cause such Lots to be combined together by furnishing the Board of Directors with a notice of his or her intent to do so. Upon the receipt by the Board of any such notice, the Lot created by such combination shall thereafter be deemed to be a single Lot for all purposes of this Declaration, except as hereinafter provided. Notwithstanding the foregoing, the amount of assessments for which such single Lot shall be thereafter liable pursuant to the provisions of Paragraph 6 of this Declaration shall be equal to the total assessments for which all of the Lots which were so combined would have been liable had such combination not taken place.

**F. Use of Common Area**

There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on or removed from any part of the Common Area without the express written consent of the Board of Directors. The Association may remove and either discard or store any unauthorized personal property left or kept on the Common Area and the Association shall have no obligation to return, replace or reimburse the owner for such property. The Association is not liable to any Person for any loss of, theft of, or damage to any personal property.

The Board may allow an Owner or Occupant to temporarily reserve portions of the Common Area. Such Owner or Occupant, on behalf of himself or herself and his or her guests and family, assumes all risks associated with such use of the Common Area and all liability for any damage or injury to any person or property as a result of such use. The Association shall not be liable for any damage or injury resulting from such use.

**G. Prohibition of Damage, Nuisance, Noise and Illegal Conduct**

Without prior written consent of the Board of Directors, nothing shall be done or kept in the Community which would increase the Common Expenses, damage the Common Area, or be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental

body. Noxious, destructive, offensive, hazardous, or unsanitary activity shall not be carried on in the Community, as such activity or conduct may be defined in the Association's rules and regulations.

Furthermore, noxious, destructive, offensive or unsanitary activity shall not be carried on in the Community. No Owner or Occupant may use or allow the use of a Lot or any portion of the Community at any time, in any way, which may endanger the health or property of other Occupants, unreasonably annoy, disturb or cause embarrassment or discomfort to other Owners or Occupants, or, in the Board's discretion, constitute a nuisance. The intention of this provision is to grant the Association and aggrieved Owners and Occupants a right of redress for actions, activities or conduct which unreasonably disturbs or impairs the peaceful and safe enjoyment of the Community. In this regard, specific unauthorized and unreasonable annoyances or disturbances shall include, but not be limited to, the following:

(i) Any fighting, screaming, shouting, excessively loud talking, whistling, or playing of music or television, raucous behavior or insobriety either outside of a dwelling at any time or within a dwelling if such conduct can be heard in the normal course of activities in any other Lot(s);

(ii) The use of any alarm, equipment, or device, mechanical or otherwise, which creates or produces excessively loud sounds or any vibrations either outside of a dwelling at any time or within a dwelling if such sounds can be heard or vibrations felt in the normal course of activities in any other Lot(s);

(iii) Any threatening or intimidating conduct towards any resident, guest or pet at the Community;

(iv) Any conduct which, in the Board's reasonable discretion, creates any danger or risk of injury to others or damage to property at the Community or which creates any threat to health or safety of any other resident or pet;

(v) Any excessively loud play or playground activities either outside of a dwelling at any time or within a dwelling if such conduct can be heard in the normal course of activities in any other Lot(s);

(vi) Any conduct which creates any noxious or offensive odor either outside of a dwelling at any time or within a dwelling if such odors can be detected in the normal course of activities in any other Lot(s);

(vii) Any incessant or excessive pet noises, including dog barking, if such conduct can be heard in the normal course of activities on any other Lot;

(viii) Any construction or similar activities on a Lot that can be heard on the other Lots between the hours of 10:00 p.m. and 7:30 a.m.; or

(ix) Any similar action or activity outside of a dwelling in the Community, or which occurs inside a dwelling but which interferes with the peaceful use and enjoyment of other Lots or the Common Area by any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

However, nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed individually against a violator hereof for relief from interference with his or her property or personal rights, and the Board may, in its discretion, require aggrieved individuals to seek redress personally for interference with their personal property rights before the Association intervenes and commences enforcement action hereunder. No claim for any loss, damage or otherwise shall exist by an aggrieved Owner or Occupant against the Association for failure to enforce the provisions hereof if the aggrieved Owner or Occupant has not personally pursued all available remedies against the violator for redress provided under Georgia law.

No Lot Owner or Occupant may use or allow the use of a Lot or the Common Area in any manner which creates noises between the hours of 10:00 p.m. and 7:30 a.m. which can be heard by persons in another Lot that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of any other Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

#### **H. Firearms**

The display or discharge of firearms on the Common Area is prohibited, except: (1) by law enforcement officers; and (2) to transport lawful firearms across the Common Area to or from a Lot. The term "firearms" includes, but is not limited to, any device which will or can be converted to expel a projectile by the action of an explosive or electrical charge or by the action of compressed air. Examples of "firearms" as described in this section include, but are not limited to, handguns, rifles, shotguns, stun guns, tasers, "B-B" guns, pellet guns and paintball guns. Additionally, cross-bows and arrows shall be considered a "firearm" pursuant to this Declaration

#### **I. Pets**

No Owner or Occupant may keep any animals other than a reasonable number of generally recognized household pets in the Community, as determined in the sole discretion of the Board of Directors. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose in the Community. Pets may not be left unattended outdoors. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors in areas that are not fully enclosed by a physical or invisible fence. Feces left by pets on the Common Area or on any Lot must be removed promptly by the owner of the pet or the person responsible for the pet.

No potbellied pigs are permitted in the Community. No animals that the Board determines to be dangerous may be brought onto or kept in the Community. No farm animals, including, but not limited to, sheep, goats, and chickens may be brought onto or kept in the Community. If the Board determines that an Owner's or Occupant's pet endangers any person or other pet or creates a nuisance or unreasonable disturbance in the Community, the Board may require that the pet be permanently removed from the Community upon seven days' written notice to such Owner or Occupant. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet and/or obtain a court order requiring the Owner or Occupant to do so. Notwithstanding the above, the Board may remove any pet without prior notice to the pet's owner if, in the Board's sole discretion, the pet presents an immediate danger to health, safety or property in the Community.

Any Owner or Occupant who keeps or maintains any pet in the Community agrees to indemnify and hereby holds harmless the Association, its Directors, Officers, and agents, from any loss, damage, claim or liability of any kind or character whatsoever related to such pet. The Board may establish additional rules regarding pets in the Community, which may include restrictions on the breeds, number and/or size of permitted pets.

#### **J. Parking**

No Owner or Occupant may keep or bring into the Community more than a reasonable number of vehicles per Lot, as determined in the sole discretion of the Board of Directors. Vehicles only may be parked in garages, driveways on Lots, designated parking spaces, or other areas authorized in writing by the Board. Vehicles may not be parked on any grass or landscaped areas on Lots.

Disabled and stored vehicles are prohibited from being parked in the Community, except in garages. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable. A vehicle shall be considered "stored" if it remains in the Community, other than in a garage, for 14 consecutive days or longer without prior written consent of the Board.

Boats, jet-skis, trailers, boat trailers, utility trailers, buses, taxis, hearses, limousines, recreational vehicles, motor homes, campers, panel trucks, trucks with a cargo-load capacity of one ton or more, full-size vans (excluding vans used by handicapped persons, mini-vans or sport utility vehicles used as passenger vehicles and receiving a "car" or "passenger vehicle" classification by the Georgia Department of Motor Vehicles), vehicles containing visible evidence of commercial use (such as tool boxes, tool racks, ladders, ladder racks or tow winches), and vehicles with commercial writings on their exteriors (except for law enforcement vehicles marked as such) are also prohibited from being parked in the Community, except: (1) when entirely confined within a garage located on a Lot and the door of such garage is kept in closed position or as otherwise approved by the Board; or (2), in the case of service vehicles, on a temporary basis during daytime business hours or during emergencies for the purpose of serving a Lot. The Board may

establish additional rules regarding vehicles and parking in the Community, which may include restrictions on the number of vehicles which may be parked in the Community.

If any vehicle is parked in the Community in violation of this Paragraph or the Association's rules, the Board or agent of the Association may tow or boot the vehicle after 24 hours written notice. Such notice shall: (1) be placed on the vehicle; (2) specify the nature of the violation; (3) warn of possible towing or booting; and (4) state the name and telephone number of a person to contact regarding the violation. If 24 hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the original notice and without further notice. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot or dwelling, is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed or booted immediately.

The Association has no liability for any towing or booting in accordance with this subparagraph. Each Owner and Occupant hereby releases and holds harmless the Association, its Directors, Officers, agents and representatives, for any claim or damage from any such towing or booting. The Association's right to tow or boot is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines.

**K. Signs**

Except as may be provided for herein or as may be required by legal proceedings or any governmental construction permitting process, no signs, advertising posters, political placards or billboards of any kind shall be erected, placed, or permitted to remain in the Community without the prior written consent of the Board of Directors other than: (1) two professional security signs not to exceed six inches by six inches each in size displayed on a Lot; (2) one professionally lettered "For Sale" sign not to exceed 24" by 30" in size displayed on a Lot being offered for sale; and (3) three professionally lettered political candidate endorsement placards not to exceed 24" by 30" in size displayed on a Lot from 30 days before an election to two weeks after such election.

The restriction on signs shall include the prohibition of "for rent" and "for lease" signs and the prohibition of placement of any sign within a building located on any Lot in a location from which such sign shall be visible from the outside and the placement of any sign in or upon any motor vehicle. The Board may establish rules permitting temporary signs on Lots announcing open houses, births, birthdays or other events for limited periods of time. The Board shall have the right to erect signs on the Common Area.

**L. Rubbish and Trash**

Owners and Occupants shall regularly remove all rubbish and trash from the Lot and no portion of any Lot shall be used as a dumping ground for rubbish, trash or garbage. No rubbish or trash shall be placed on the Common Area, except as provided herein. Rubbish and trash shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection which must be either buried or screened on each Lot so that they are not visible from the street or any part of any other Lot. The Board may establish additional rules regarding placement of trash cans for pick-up and/or storage, including requiring trash removal in the Community from a single vendor and establishing schedules for trash can placement and trash pickup.

**M. Unsightly or Unkempt Conditions**

Owners and Occupants are prohibited from engaging in activities which cause disorderly, unsightly or unkempt conditions on the Common Area or outside of a dwelling in the Community, such as the assembly and disassembly of motor vehicles and other mechanical devices. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, potted plants, patio furniture and grills may be kept outside the dwelling on any Lot. Owners and Occupants shall maintain such items in a neat and attractive condition, as determined in the Board's sole discretion.

**N. Drainage**

Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. Each Owner and Occupant shall ensure that any drainage grating and/or headwalls on the Owner's Lot are clear of obstruction and debris. Furthermore, no Owner or Occupant may obstruct or rechannel the drainage flows across the Owner's Lot.

**O. Erosion Control; Contamination**

No Owner or Occupant shall engage in any activity which creates erosion or siltation problems or causes contamination of or damage to any stream, water course or any other Lot in the Community. Each Owner and Occupant shall be liable for all damages and restoration costs resulting from such unauthorized activity.

**P. Impairment of Easements**

No Owner or Occupant shall impair any easement existing in the Community, or do any act or allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants.

**Q. Sight Distance at Intersections**

All property located at street intersections shall be landscaped and kept so as to permit safe sight across the street corners. No vehicle, fence, wall, hedge, shrub, tree or other landscaping shall be placed or permitted to remain where it would create a traffic or sight problem.

**R. Mailboxes**

Only one mailbox may be located on each Lot. The Owner shall replace or restore any destroyed or damaged mailbox on the Lot. The Board may establish mailbox standards and require reasonable modifications or upgrades to mailboxes and mailbox posts to meet revised community standards.

**S. Clotheslines**

No clotheslines shall be erected on any portion of any Lot.

**T. Window Air-Conditioners**

No air-conditioner shall be installed in any window of any building located on any Lot, nor shall any air-conditioner be installed on any building located on any Lot so that the same protrudes through any exterior wall of such building.

**U. Temporary Structures**

No structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other building, shall be permitted on any Lot at any time, whether temporarily or permanently, except with the prior written consent of the Board of Directors; provided, however, that temporary structures may be erected or placed upon a Lot for use in connection with the repair or construction of structures upon such Lot.

**V. Yard Sales**

No yard sale, garage sale, flea market or similar activity shall be conducted in the Community without the prior written consent of the Board of Directors and subject to all reasonable conditions that the Board may impose. However, Owners and Occupants may conduct estate sales or similar sales entirely within their dwellings not more than once in any 12 month period.

**W. Garages**

If garage space is available, Owners and Occupants should park their cars and other motor vehicles in the garage before parking in the driveway. Garage doors also should remain closed when not in use for ingress, egress or garage use, or when the Owner or Occupant is not outside on the Lot. Garage conversions are prohibited; provided, however, that all garage conversions in existence on the Effective Date, and made in compliance with all of the terms of the Original Declaration, shall not constitute a violation of this requirement. The Board may establish additional rules regarding garages.

**X. Window Treatments**

Unless otherwise approved in writing by the Board of Directors, all windows on a dwelling on a Lot which are exposed to a street or another dwelling shall have customary and appropriate window treatments. The Board may establish additional rules regarding window treatments, such as requirements for the location, type and exterior color of window treatments.

**Y. Antennas and Satellite Dishes**

Except as provided below or otherwise approved by the Board of Directors, no antenna or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic wave or radiation shall be erected, used or maintained outdoors in any portion of the Community. Direct broadcast satellite ("DBS") antennas and multi-channel multi-point distribution services ("MMDS") one meter or less in diameter and television broadcast service antennas may be installed in accordance with rules and regulations of the Federal Communication Commission ("FCC") and the Association. Any such devices shall be installed in the least conspicuous location available on the Lot that permits reception of an acceptable quality signal.

**Z. Environmentally Friendly Solutions**

Rain barrels, solar water heaters and power solar cells may be permitted by the Board in accordance with Paragraph 8 of the Declaration.

**10. LEASING AND OCCUPANCY**

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To preserve the character of the Community as predominantly owner-occupied, the Leasing of Lots is prohibited, except as provided herein. "Leasing" means the occupancy of a Lot by any person(s) other than: (1) the Owner or a parent, child or spouse of an Owner (collectively referred to as "Authorized Occupant"); (2) an Authorized Corporate Occupant (defined below); or (3) a roommate of an Authorized Occupant or Authorized Corporate Occupant, when the Authorized Occupant or Authorized Corporate Occupant also occupies the Lot as his or her primary residence. An Authorized Corporate Occupant shall be an officer, director, shareholder, member or employee of an Owner that is a corporation; a manager or member of an Owner that is a limited liability company; a partner of an Owner that is a partnership; or a trustee or beneficiary of an Owner that is a trust; provided the Owner receives no rent or other consideration for such occupancy. The name of each Authorized Corporate Occupant shall be designated in writing to the Board and may not be changed more frequently than once every 12 months without the Board's written consent. A person's designation as an Authorized Corporate Occupant shall terminate automatically upon the termination of such person's relationship with the entity holding record title to the Lot.

**A. Permitted Leasing**

Leasing of Lots is allowed only by: (1) a Grandfathered Owner; (2) a non-Grandfathered Owner who has received a Leasing Permit as provided below; (3) a non-Grandfathered Owner who has received a Hardship Permit as provided below; or (4) the Association. Leasing Permits and Hardship Permits shall be valid only as to a specific Owner and Lot and shall not be transferable between either Lots or Owners (including a subsequent Owner of a Lot where such permit was issued to the Owner's predecessor-in-title).

**(1) Leasing Permits.**

The Board of Directors shall approve an Owner's request for a Leasing Permit if the total number of current, outstanding Leasing Permits plus Grandfathered Lots is less than ten percent (10%); provided, however, a Leasing Permit shall not be issued to any Owner if the Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, if the Owner is in violation of the Association Legal Documents or if the Owner fails to submit an executed lawn service contract to the Board of Directors, as described below.

Owners who have been denied a Leasing Permit shall be placed on a waiting list to be issued such a permit, if they so desire, when the above conditions have been satisfied. The issuance of a Hardship Leasing Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit.

**(2) Hardship Permits.**

If the inability to lease will result in an undue hardship to the Owner, then the Owner may seek to lease on a hardship basis, for a term not to exceed one year, by applying to the Board of Directors for a Hardship Permit. The Board may approve or deny an Owner's request for a Hardship Permit in its discretion after considering the following factors: (1) the nature, degree, and likely duration of the hardship; (2) the harm, if any, which will result to the Community if such permit is issued; (3) the number of outstanding Hardship Permits; (4) the Owner's ability to cure the hardship; and (5) whether previous Hardship Permits have been issued to such Owner; provided, however, a Hardship Permit shall not be issued to any Owner if the Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, if the Owner is in violation of the Association Legal Documents or if the Owner fails to submit an executed lawn service contract to the Board of Directors, as described below.

A "hardship" as described herein shall include, but not be limited to, the following situations: (1) when the Board determines that an Owner must relocate his or her residence outside the greater Atlanta metropolitan area and cannot, within six months from the date that the Lot was placed on the market, sell the Lot, except at a price below the current appraised market value, after having made reasonable efforts to do so; (2) when the Board determines that an Owner must temporarily relocate out of the metropolitan-Atlanta area for employment purposes and intends to return to reside in the Lot within one year; or (3) an Owner dies and the Lot is being administered by his or her estate.

Unless otherwise determined by the Board, a Hardship Permit authorizes an Owner to lease the Lot once for a term not to exceed one year.

**(3) Expiration and Revocation of Permits.**

Leasing Permits and Hardship Permits are automatically revoked upon: (1) the sale or transfer of the Lot to a third party (excluding sales or transfers to an Owner's spouse); (2) the failure of an Owner to lease his or her Lot for 90 consecutive days at any time after the issuance of such permit; or (3) the occupancy of the Lot by the Owner. The Board also shall have the power to revoke any Leasing Permit or Hardship Permit issued to any Owner if the Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, if the Owner is in violation of the Association Legal Documents or if the lawn service contract, as described below expires.

A Hardship Permit shall be revoked automatically if, during the term of such permit, the Owner is approved for and receives a Leasing Permit. An Owner may apply for an additional Hardship Permit at the expiration or revocation of a previous one.

**B. General Leasing Provisions**

**(1) Notice and Approval.**

All leases shall be in writing and in a form approved by the Board of Directors prior to the effective date of the lease. At least seven days before entering into a lease, the Owner shall provide the Board with: (1) a copy of the proposed lease; (2) the names, phone numbers, work locations and work phone numbers of all of the proposed Occupants of the Lot; (3) the Owner's primary residence address and phone number, work location and work phone number; and (4) such other information required by the Board. If the form of a lease is disapproved, the Board shall notify the Owner what changes are required to bring the lease into compliance with the Association Legal Documents. Nothing herein gives the Board the right to approve or disapprove a proposed Occupant; the Board's approval or disapproval shall be limited to the form of the proposed Occupant. Within 10 days after executing a lease for a Lot, the Owner shall provide the Board with a copy of the executed lease.

**(2) Lease Terms.**

Lots may be leased only in their entirety; no rooms or fractions of Lots may be leased without prior written Board approval. There shall be no subleasing of Lots or assignment of leases

without prior written Board approval. All leases must be for an initial term of not less than one year, except with written Board approval.

**(3) Lawn Service.**

To ensure appropriate maintenance of the Lot in accordance with the Declaration, and for the benefit of the Association, the Owner or Occupant is required to maintain a professional lawn service during the entire term of the lease or occupancy relationship, unless such requirement is waived by the Board of Directors in writing. The professional lawn service company shall provide all mowing, edging, fertilizing and weeding of lawns and all pruning, repair and maintenance of bushes, shrubs, trees and other landscaping on the Lot, as is necessary to keep such lawn and landscaping maintained in a condition which meets the standards for the community established by the Association's Board of Directors. The executed lawn service contract must accompany an Owner's leasing request.

**(4) Lease Administration Fee.**

In addition to annual assessments, special assessments, Capital Contribution Assessments and other charges provided for under this Declaration, an Owner who is issued a Leasing Permit or Hardship Permit shall be required to pay to the Association a Leasing Administration Fee of \$250.00 at the time a lease is executed or an occupancy relationship is created hereunder. The Lease Administration Fee shall constitute a specific assessment as described in this Declaration.

**(5) Liability for Assessments; Compliance.**

The Owner must provide the Occupant copies of the Association Legal Documents. The following provisions are incorporated into each lease of any Lot, whether or not expressly stated therein, and into the terms of any tenancy or occupancy even if no written lease or agreement exists between the Owner and the Occupant:

**(a) Compliance with Association Legal Documents.**

All terms defined in the Declaration of Protective Covenants and Easements for Paces Club are incorporated herein by this reference. The Owner and each Occupant shall comply with all provisions of the Association Legal Documents. The Owner and Occupants are responsible for violations by any guests of the Lot and may be sanctioned for any such violation.

If a Lot is leased or occupied in violation of the Association Legal Documents, or if the Owner, Occupant or guest violates the Association Legal Documents, the Association's Board of Directors shall be authorized to take all enforcement actions against the Owner and/or Occupant authorized under the Association Legal Documents.

**(b) Use of Recreational Facilities.**

The Owner transfers and assigns to the Occupant, for the term of the lease, all rights and privileges the Owner has to use any recreational facilities on the Common Area.

**(c) Liability for Assessments.**

When an Owner who is leasing his or her Lot fails to pay an assessment or any other charge to the Association when due, the delinquent Owner hereby consents to the assignment of any rent received from the Occupant during the period of the delinquency. In such case, upon request by the Board, the Occupant shall pay to the Association all unpaid assessments and other charges payable during and prior to the term of the lease and any other period of occupancy. However, the Occupant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by the Occupant shall reduce, by the same amount, the Occupant's obligation to make monthly rental payments to the Owner. If the Occupant fails to comply with the Board's request to pay assessments or other charges, such failure shall be deemed a

violation of the Declaration and, in addition to all other enforcement rights, the Occupant shall pay to the Association all amounts authorized under the Declaration as if the Occupant were the Owner of the Lot. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

**C. Enforcement**

If a Lot is leased or occupied in violation of the Association Legal Documents, or if the Owner, Occupant or guest violates the Association Legal Documents, such violation is deemed to be a default under the terms of any lease or occupancy and the Association may require the Owner to evict the Occupants. In addition to all other remedies permitted by this Declaration, such default authorizes the Owner and/or the Association, as the Owner's delegate and attorney-in-fact, to terminate the lease and/or occupancy and to evict all Occupants, without liability, in accordance with Georgia law. In any such eviction action by the Association, the Association may terminate the Occupancy rights upon thirty (30) days notice, notwithstanding any notice requirement in the lease or occupancy terms. Once the Association invokes its right to terminate the lease or occupancy and evict the Occupant(s), the Owner no longer has the right to extend or revive the terminated occupancy in any way.

**D. Grandfathering Definitions**

**(1) Grandfathered Owner**

"Grandfathered Owner" means an Owner who is lawfully leasing his or her Lot on the Effective Date. To qualify as a Grandfathered Owner, the Owner must, within 30 days of the Effective Date, provide the Board with a copy of the lease in effect on the Effective Date. Grandfathering shall apply only to the Lot owned by such Grandfathered Owner on the Effective Date. Grandfathering shall automatically expire and any lease of the Lot shall automatically terminate on the earlier of: (1) the date the Grandfathered Owner conveys title to the Grandfathered Lot to any Person (other than the Owner's spouse).

**(2) Grandfathered Lot**

"Grandfathered Lot" means the Lot owned by a Grandfathered Owner on the Effective Date hereof.

**11. SALE OF LOTS**

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An Owner intending to transfer or sell a Lot or any interest in a Lot shall give the Board of Directors written notice of such intention within seven days after executing the transfer or sales documents. As part of the notice, the current Owner shall furnish the Board the name and address of the intended grantee and such other information required by the Board. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven days after receiving title to a Lot, the purchaser or grantee of the Lot shall give the Board written notice of his or her ownership of the Lot. As part of the notice, the new Owner shall furnish the Owner's name, mailing address and such other information required by the Board.

**12. INSURANCE**

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**A. Hazard Insurance on Common Area**

The Board of Directors shall obtain hazard insurance for all insurable improvements on the Common Area. This insurance shall include, at a minimum, coverage for fire, wind, storm, hail, vandalism, malicious mischief and civil commotion and shall be in an amount sufficient to cover the full replacement cost of such insurable improvements. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

**B. Association Liability Insurance**

The Board shall obtain a public liability policy applicable to the Common Area covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, in their capacities as such, with a combined single limit of at least \$1,000,000.00.

**C. Directors' and Officers' Liability Insurance**

The Board shall obtain a Directors' and Officers' liability insurance policy with a limit of at least \$1,000,000.00.

**D. Fidelity Insurance**

The Board shall obtain a fidelity bond or dishonesty insurance on Directors, Officers, employees, and other persons handling or responsible for the Association's funds, regardless of whether they are compensated by the Association. If reasonably available, the fidelity bond or dishonesty insurance shall cover at least one-quarter of the annual assessments from all members plus the reserve funds in the custody of the Association at any time during the term of the bond or policy. The bond or policy must provide that it may not be canceled, substantially modified or subject to non-renewal without at least 30-days prior written notice to the Association.

**E. Additional Association Insurance**

The Board may obtain such additional insurance as it deems appropriate.

**F. Premiums and Deductibles on Association Policies**

Premiums for all Association insurance shall be a Common Expense. The policies may contain reasonable deductibles. Deductibles shall not be subtracted from the face amount of the policies in determining whether the insurance equals the full replacement cost of the insurable improvements.

**G. General Insurance Provisions**

In addition to any other terms the Board deems appropriate, all Association insurance shall be governed by the following provisions:

- (1) All policies shall be written with a company licensed to do business in Georgia;
- (2) All policies on the Common Area shall be in the name of the Association for the benefit of itself and its members;
- (3) The Board shall have exclusive authority to adjust losses under all Association insurance policies;
- (4) The insurance carried by the Association shall be primary and shall not be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees;
- (5) All hazard insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if reasonably available; and
- (6) A qualified person who is in the real estate industry and familiar with construction in the county where the Community is located shall review the Association's hazard insurance policy at least bi-annually to evaluate the sufficiency of such coverage.

**H. Individual Lot Owner Insurance**

Each Owner shall carry hazard insurance on the Owner's Lot and the structures thereon meeting the same requirements as set forth in subparagraphs (A), (F), (G)(1) and (G)(5) of this Paragraph for insurance on the Common Area.

**13. REPAIR AND RECONSTRUCTION AFTER CASUALTY DAMAGE**

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**A. Common Area**

In the event of damage to or destruction of any structure on the Common Area, the Board of Directors shall arrange for and supervise the prompt repair or reconstruction of such structure, with such improvements or modifications it deems appropriate, unless 80% of the Owners vote not to do so.

- (1) **Construction Fund.**

Any insurance proceeds collected on a claim against any Association hazard policy and any special assessments collected pursuant to subparagraph (2) below shall constitute a construction fund to be used by the Board for repair or restoration pursuant to this Paragraph.

**(2) Proceeds.**

If the proceeds of insurance are not sufficient to defray the Board's estimated or actual costs of repair or reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the repair or reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

**B. Lots**

In the event of damage to or destruction of any structure on a Lot, the Owner shall either: (1) within 180 days, repair or reconstruct such structure in accordance with plans and specifications approved by the Board; or (2) within 60 days, clear the Lot of all debris and sod or landscape all portions of the Lot as approved by the Board.

**14. EMINENT DOMAIN**

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Whenever any Common Area is taken by, or conveyed in lieu of condemnation to, any authority having condemnation or eminent domain power, the Board of Directors shall give notice thereof to each Owner. If any structure on the Common Area is so taken or conveyed, the Board shall arrange for and supervise the prompt reconstruction of such structure, to the extent sufficient Common Area is available, with such improvements or modifications it deems appropriate, unless 80% of the Owners vote not to do so.

If proceeds from the condemning authority are not sufficient to defray the Board's estimated or actual costs of reconstruction, including, but not limited to, any professional fees and premiums for construction bonds the Board deems necessary, the Board may levy a special assessment against all Owners without the necessity of a membership vote or compliance with any other requirements for approval of special assessments in this Declaration. Any surplus funds remaining after the reconstruction is completed shall be common funds of the Association to be used as determined by the Board.

**15. EASEMENTS**

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**A. Easements for Use and Enjoyment**

Every Owner shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the Association's right to:

- (1) charge reasonable admission and other fees for the use of any portion of the Common Area;
- (2) limit the number of Owners' guests who may use the Common Area;
- (3) provide for the exclusive use and enjoyment of specific portions of the Common Area at certain designated times by an Owner;
- (4) suspend Owners' rights to use the Common Area as set forth in this Declaration;
- (5) borrow money as provided in the Bylaws, subject to the rights, interests, easements and privileges of the Owners set forth in this Declaration;
- (6) grant permits, licenses or easements across the Common Area; and
- (7) dedicate or transfer all or any portion of the Common Area as provided in the Bylaws.

The Owners' rights and easements granted in this Paragraph are subject to: (1) all other rights of the Association and other Owners set forth in this Declaration, the Bylaws or the Articles of Incorporation; and (2) all encumbrances and other matters of public record affecting title to the Common Area.

**B. Easements on Plats**

Each Lot shall be subject to all easements which are shown and depicted on the Plats as affecting and burdening such Lot.

**C. Easements for Slope Control**

Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.

**D. Easements for Utilities**

There is hereby reserved to the Association, or its designee, blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repair, replacement, and maintenance of: (a) gas, water, sanitary sewer and electricity services and all other utilities serving any portion of the Community; (b) any water runoff and storm drainage systems; and (c) any other services such as, but not limited to, any telephone and telecommunication systems, master television antenna system, cable television system or security system serving the Community. The Board of Directors has the right to grant a specific license or easement by separate recordable document to any party furnishing such utilities or services.

**E. Easement for Entry.**

There is hereby reserved to the Association and its designee, an easement and right, but not the obligation, to enter onto any Lot for emergency, life-safety, security and safety. The right may be exercised by the Association's Board of Directors, Officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board. No one exercising the easement and rights granted in this Paragraph shall be liable for trespass, damages, or in any other manner by virtue of exercising such rights. The failure to exercise the rights herein or to exercise said rights in a timely manner shall not create liability to any of the above-referenced parties, it being agreed that no duty to enter a Lot shall exist.

**F. Easement for Association Maintenance.**

There is hereby reserved to the Association and its designee, an easement and right across all portions of the Community, to allow the Association to fulfill the maintenance obligations described in this Declaration. This easement shall be exercised with a minimum of interference to the quiet enjoyment of the Owner's property, reasonable steps shall be taken to protect the Owner's property, and any Person causing damage to the Owner's property shall repair the damage at its sole expense.

**G. Easements for Owners' Maintenance and Repair.**

There is hereby created reciprocal appurtenant easements over and upon adjacent Lots for the purpose of maintaining or repairing the improvements and landscaping on each Lot. This easement shall extend into each Lot not more than five feet from any point on the common boundary line between the Lots. Owners may exercise this easement only for the reasonable period of time necessary to complete the needed maintenance or repair. The Owner exercising this easement right shall be liable for the prompt repair of any damage such Owner caused to the Lot over which this easement is exercised. The damaged portions of such Lot shall be restored to substantially the same condition that existed prior to the damage.

**H. Easement for Street Signs.**

There is hereby reserved to the Association and its designee, an easement and right across all portions of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of street signs for the Community. This easement right shall include, but not be limited to, the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all street signs.

**I. Easement for Entry Features.**

Those portions of Lots 1 and 76 in Unit I which are shown and depicted on the Plats for Unit 1 as being within the "20' Sign Easement" shall be subject to a perpetual easement in favor of the Association for the maintenance, repair and landscaping of the entrance monuments that are located on said Lots and the repair and replacement of the water pipes and electrical lines which are a part thereof. There is also hereby reserved to the Association and its designee, an easement and right over and upon each Lot which is bounded by the right-of-way providing primary access to the Community and every other Lot located at the corner of a street intersection in the Community for ingress to, egress from, installation, construction, landscaping and maintenance of other entry features and similar streetscapes for the Community. This easement right shall include, but not be limited to, the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around the entry features and the right to grade the land under and around the entry features. Owners shall not alter, remove or add improvements to any entry features on any Lot, or any part of any easement area associated therewith without the prior written consent of the Board of Directors.

**J. Public in General.**

The easements and rights created in this Paragraph do not, are not intended to, and shall not be construed to create any easements or rights in or for the benefit of the general public; provided, however, nothing set forth herein shall in any way limit or restrict any easements or rights already granted to the public as such easements or rights are previously recorded in the Cobb County, Georgia land records. The Board of Directors hereby reserves the right to close temporarily, all or any portion of the Community that, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication of such property, or the accrual of any rights to such property, to the general public or to any Person other than the Persons for which such easements are expressly created in this Declaration.

**16. AUTHORITY AND ENFORCEMENT**

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**A. Compliance with Association Legal Documents**

All Owners, Occupants and their guests shall comply with the Association Legal Documents. The Association, and in an appropriate case, one or more aggrieved Owners, may take action to enforce the terms of the Association Legal Documents directly against all Violators. However, if an Owner's family member, guest or Occupant violates the Association Legal Documents, the Association, in its sole discretion, is permitted to enforce the terms of the Association Legal Documents against: (1) only the Owner; (2) only the violating family member, guest or Occupant; or (3) both the Owner and the violating family member, guest or Occupant. Notwithstanding anything herein to the contrary, the Owner of the Lot is always ultimately responsible for his or her own actions and the actions of all family members, Occupants and guests of such Lot.

Nothing herein shall be construed to affect the rights of an aggrieved Owner or Occupant to proceed independently for relief from interference with his or her personal or property rights against a Person violating the Association Legal Documents. The Board of Directors may, in its discretion, require the aggrieved Owner or Occupant to independently pursue all available remedies under Georgia law against the Violator before the Association intervenes and commences enforcement action against such Violator.

**B. Types of Enforcement Actions**

In the event of a violation of the Association Legal Documents, the Association shall have the power to take any or all of the following actions separately or simultaneously; provided, however, all suspensions and fines shall comply with the procedures described below and nothing herein shall authorize the Association or the Board to deny ingress and egress to or from a Lot:

- (1) Suspend all Violators' rights to use the Common Area;

(2) Impose reasonable fines against all Violators, which shall constitute a lien on the violating Owner's Lot;

(3) Use self-help to remedy the violation;

(4) Bring an action for permanent injunction, temporary injunction and/or specific performance to compel the Violator to cease and/or correct the violation; and

(5) Record in the Cobb County land records a notice of violation identifying any uncured violation of the Association Legal Documents regarding the Lot.

**C. Suspension and Fining Procedure**

Except as provided below, before imposing fines or suspending right to use the Common Area or the right to vote, the Association shall give a written violation notice to the Violator as provided below.

**(1) Violation Notice**

The written violation notice to the Violator shall:

(a) Identify the violation, suspension(s) and/or fine(s) being imposed; and

(b) Advise the Violator of the right to request a violation hearing before the Board of Directors to contest the violation or request reconsideration suspension(s) or the fine(s).

Notwithstanding the Violator's right to request a violation hearing, suspension(s) and/or fine(s) shall commence on the date of the written violation notice, unless a later date is specified in such notice.

**(2) Violation Hearing**

If the Violator submits a written request for a violation hearing within 10 days of the date of the violation notice described above, then the Board of Directors shall schedule and hold, in executive session, a violation hearing. If a Violator fails to timely request a violation hearing, such Violator loses the right to contest the violation and request reconsideration of the suspension(s) and/or the fine(s). If a Violator timely requests a violation hearing, the Violator shall have a reasonable opportunity to address the Board regarding the violation; provided, however, the Board may establish rules of conduct for the violation hearing, including but not limited to, limits on the amount of time one person can speak and limits on the number of participants who may be present at one time. The minutes of the violation hearing shall contain a written statement of the results of such hearing.

**(3) No Violation Notice and Hearing Required**

No violation notice or violation hearing shall be required to:

- (a) impose late charges on delinquent assessments;
- (b) suspend a Violator's right to use the Common Area if the Violator's Lot is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, in which case suspension of the Violator's right to use the Common Area shall be automatic (which shall allow the Association to tow and/or boot a Violator's vehicle located on the Common Area without complying with the Suspension and Fining Procedures described above);
- (c) Engage in self-help in an emergency;
- (d) Impose fines for each day of a continuing violation, in which case, each day the violation continues or occurs again constitutes a separate violation and fine(s) may be imposed on a per diem basis without any further notice to the Violator; or
- (e) impose fines if the same violation occurs again on the same Lot, in which case fine(s) may be imposed on a per diem basis without any further notice to the Violator.

**D. Self-Help**

In addition to all other enforcement rights granted herein, the Board of Directors may elect to enforce any provision of the Association Legal Documents by self-help without the necessity for compliance with the Suspension and Fining Procedures described above.

By way of example and not limitation, the Association or its duly authorized agent shall have the authority to tow vehicles that are in violation of parking regulations and enter a Lot or any portion of the Common Area to abate or remove any structure, thing or condition that violates the Association Legal Documents. Unless an emergency exists, before exercising self-help, the Association shall give the Violator at least two days' prior written notice. Such notice shall request that the Violator remove and abate the violation and restore the Lot to substantially the same condition that existed prior to the structure, thing or condition being placed on the Lot and causing the violation. Such removal, abatement and restoration shall be accomplished at the Violator's sole cost and expense. If the same violation occurs again on the same Lot, the Association may exercise self-help without any further notice to the Violator.

**E. Injunctions and Other Suits at Law or in Equity**

All Owners agree and acknowledge that there may not be adequate remedies at law to enforce the Association Legal Documents. Therefore, in addition to all other enforcement rights granted herein, the Association is hereby entitled to bring an action for permanent injunction, temporary injunction and/or specific performance to compel a Violator to cease and desist and/or correct any violation.

**F. Costs and Attorney's Fees for Enforcement Actions**

In any action taken by the Association to enforce the Association Legal Documents, the Association shall be entitled to recover from the Violator, any and all costs incurred by the Association, including but not limited to attorneys' fees actually incurred, all of which shall constitute a lien against the violating Owner's Lot.

**G. Failure to Enforce**

The Board of Directors has the sole discretion to decide which, if any, enforcement action to pursue against each Violator. The failure of the Board to enforce any provision of the Association Legal Documents shall not be deemed a waiver of the right of the Board to do so thereafter. No right of action shall exist against the Association for failure to enforce if the Board of Directors determines that:

- (1) the Association's position is not strong enough to justify taking enforcement action;
- (2) a particular violation is not of such a material nature as to be objectionable to a reasonable person;
- (3) a particular violation is not of such a material nature to justify the expense and resources to pursue or continue to pursue enforcement action;
- (4) the aggrieved Owner or Occupant asserting a failure of enforcement has not independently pursued all available individual remedies under Georgia law; or

(5) the Association enforces only against an Owner for the violation of the Owner's family member, guest or Occupant or the Association does not enforce against the Owner and enforces only against the violating family member, guest or Occupant.

## **17. AMENDMENTS**

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### **A. Member Approval Procedure**

Except where a higher vote is required for action under any other provisions of this Declaration, the Bylaws or by the Act, this Declaration may be amended with the approval of Owners holding 2/3 of the total Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Cobb County, Georgia land records.

### **B. Default Approval Procedure After Owner Non-Response**

It is recognized that, when Owners fail to participate in an amendment vote because of apathy or other reasons which are not based on any disagreement with a proposed amendment, important amendments to the Declaration or Bylaws may have no chance of approval, with the supermajority voting requirements established under the Act. It also is recognized that supermajority voting requirements are important for Owner actions which are as significant as amending this Declaration or the Bylaws. To balance these competing concerns, this subparagraph establishes a mechanism which provides every eligible Owner an opportunity to issue a vote of approval, disapproval or abstention on proposed amendments to the Declaration or Bylaws, but also a realistic mechanism for approving important amendments, without the damaging consequences of Owner non-response.

The Board shall issue notice of all proposed amendments to each Owner. With each such notice, the Board shall include a copy of the proposed amendment, along with a consent form or ballot, which complies with the requirements of the Bylaws. Each such consent form or ballot shall give Owners an opportunity to vote for, vote against or abstain from voting on the proposed amendment.

If the amendment is not approved or defeated by sufficient vote within 60 days of the amendment notice described above, then the Board may seek to obtain default approval from Owners under this subparagraph. In such case, the Board shall send default approval notice, by certified mail and to the address consistent with the notice provision of the Bylaws, to all Owners who have not returned consents or ballots on a proposed amendment within that 60-day period. This default approval notice also shall include a consent form or ballot, as provided above, along with a statement that the Owner's failure to return an executed consent form or ballot, marked with a vote for, a vote against, or an abstention from voting on the amendment, within 30 days of the date of such default approval notice, will be deemed consent to such amendment. If the Board does not receive such consent or ballot within that 30-day period, the Owner shall be deemed to have consented to and approved the amendment.

### **C. Amendments to Comply with Law or Conform Documents**

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the Owners, may amend this Declaration and the Bylaws to comply with any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA"), or to resolve conflicts between this Declaration, the Bylaws, the Articles, and applicable laws.

### **D. Validity of Amendments**

No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the Bylaws more than one year after the recording thereof in the Cobb County, Georgia land records.

## **18. GENERAL PROVISIONS**

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### **A. Security**

The Association may, but shall not be required to, provide measures or take actions which directly or indirectly improve security in the Community. Each Owner, for himself or herself and his or her Occupants, tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security. The Association has no duty to provide security in the Community. Furthermore, the Association does not guarantee that Owners, Occupants and other people will not commit criminal acts in the Community or that unauthorized people will not gain access to the Community. It shall be the responsibility of each Owner to protect his or her person and property, and all responsibility to provide such security shall lie solely with each Owner. The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of measures undertaken.

### **B. Dispute Resolution**

Before filing any lawsuit or administrative proceeding against the Association, the Board of Directors, any Officer or Director, or the Association's property manager, an Owner or Occupant shall request in writing and attend a meeting with the Board to discuss an amicable resolution of any dispute. The Owner or Occupant shall, in such request and at the meeting, make a good faith effort to explain the grievance and resolve the dispute. Upon receiving a request for a meeting, the Board shall give notice of the date, time and place of the meeting to the person requesting the meeting. The Board shall schedule this meeting for a date not less than seven or more than 30 days from the date of receipt of the meeting request, except with the approval of the Owner or Occupant. After the meeting, the Board shall have a reasonable opportunity to address the Owner's or Occupant's grievance before a suit is filed.

### **C. No Discrimination**

No action shall be taken by the Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

### **D. Implied Rights**

In addition to express rights, the Association may exercise any right or privilege implied from the existence of any express right or privilege or reasonably necessary to effectuate any such right or privilege.

### **E. Electronic Records, Notices and Signatures**

Notwithstanding any other portion of this Declaration, records, signatures and notices shall not be denied validity or effectiveness hereunder solely on the grounds that they are transmitted, stored, made or presented electronically. The relevant provisions of the Bylaws shall govern the giving of all notices required by this Declaration.

### **F. Use of Words "Paces Club"**

"Paces Club" is a service mark of the Association. No person shall use the term "Paces Club" or any derivative in any printed or promotional material without the Association's prior written consent. However, Owners may use the terms "Paces Club"<sup>sm</sup> in printed or promotional matter where such term is used solely to specify that particular property is located within the Community. Any use of the name "Paces Club"<sup>sm</sup> shall be in a manner in which proprietary rights to such name are protected.

### **G. Preamble**

The preambles and recitals of this Declaration are by reference made a part of this document as if fully stated herein in their entirety.

### **H. Duration**

The covenants and restrictions of this Declaration shall run with and bind the real property in the Community perpetually to the extent provided in the Act.

**I. Severability**

Invalidation of any one of these covenants or restrictions, by judgment, court order, or otherwise, shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

**19. PREPARER**

This Declaration was prepared by Margaret Hughes Vath, Weissman, Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

IN WITNESS WHEREOF, the undersigned Officers of Paces Club Homeowners Association, Inc., hereby certify that the above amendment to the Original Declaration and the following amendment to the Original Bylaws were duly adopted by the required majority of the Association and its membership, with any required notices duly given.

This \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

**SWORN TO AND SUBSCRIBED BEFORE**

**PACES CLUB HOMEOWNERS  
ASSOCIATION, INC.**

**ME** this \_\_\_\_\_ day of \_\_\_\_\_,  
200\_\_\_\_\_.

By: \_\_\_\_\_ (Seal)  
President

\_\_\_\_\_  
Witness

Attest: \_\_\_\_\_ (Seal)  
Secretary

\_\_\_\_\_  
Notary Public

[CORPORATE SEAL]

[NOTARY SEAL]

## EXHIBIT "A"

### SUBMITTED PROPERTY

#### UNIT I

Lots 1 through 10, inclusive, 12 through 81, inclusive, 85, 86, 101 through 143, inclusive, and Lot 150, as shown and depicted on that certain Final Plat for Paces Club Unit I (formerly known as Hickory Station Unit I), prepared by Mansur Engineering, Inc., dated November 9, 1998 and recorded on November 18, 1998, in Plat Book 177, Pages 33, 34 and 35 Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.

Lots 11, 82, 83, 84, 87 and 100, inclusive, and Lots 144 through 149, inclusive, as shown and depicted on that certain Final Plat for Paces Club Unit I (formerly known as Hickory Station Unit I), prepared by Mansur Engineering, Inc., dated November 9, 1998 and recorded on November 18, 1998, in Plat Book 177, Pages 33, 34 and 35 Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.

#### UNIT II, Phases 1 & 2

Phase 1: All that property and the Lots as shown and depicted on that certain Final Plat for Paces Club Unit II, Phase 1, prepared by Mansur Engineering, Inc., dated July 27, 1998 and recorded on August 28, 1998, in Plat Book 175, Page 44 Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.

Phase 2: All that property and the Lots as shown and depicted on that certain Final Plat for Paces Club Unit II, Phase 2, prepared by Mansur Engineering, Inc., dated August 4, 2000 and recorded on August 15, 2000, in Plat Book 191, Pages 12 and 13, Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.

#### UNIT III

Lots 314 through 357, inclusive, as shown on that certain Final Plat for Paces Club Unit III, prepared by Mansur Engineering, Inc., dated November 9, 1998 and recorded on November 18, 1998 in Plat Book 179, Page 2, Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.

## COMMON AREA

### Open Area, Unit I

All that tract or parcel of land, lying and being in Land Lot 53 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia and being more particularly described as follows:

BEGINNING at the intersection of the south right-of-way of Hickory Grove Road (44' centerline to R/W) and the west line of Land Lot 24 and running thence along the line common to Land Lots 25 & 24 and 52 & 53 S 02 degrees 07 minutes 31 seconds W a distance of 954.35 feet to a point running thence along line common to Land Lots 52 & 53 S 03 degrees 34 minutes 38 seconds W a distance of 207.12 feet to a point and the TRUE POINT OF BEGINNING;

running thence S 33 degrees 28 minutes 59 seconds E a distance of 126.69 feet to a point; running thence N 55 degrees 23 minutes 24 seconds E a distance of 121.86 feet to a point; running thence along a curve to the left along the right-of-way of Sugar Maple Drive (50' R/W) a distance of 35.57 feet to a point; running thence S 39 degrees 52 minutes 29 seconds E a distance of 43.73 feet to a point; running thence S 50 degrees 07 minutes 31 seconds W a distance of 96.34 feet to a point; running thence S 21 degrees 19 minutes 54 seconds W a distance of 117.19 feet to a point; running thence S 30 degrees 36 minutes 51 seconds W a distance of 261.46 feet to a point on the line common to Land Lots 52 & 53; running thence along said line common to Land Lots 52 & 53 N 03 degrees 34 minutes 38 seconds E a distance of 495.89 feet to a point and the TRUE POINT OF BEGINNING.

Said tract or parcel of land contains 1.10 acres and is shown more fully on a Final Plat of Paces Club Unit I, prepared by Mansur Engineering, Inc., dated November 9, 1998 and recorded on November 18, 1998, in Plat Book 177, Pages 33, 34 and 35 Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.

### Recreation Area, Unit 1

All that tract or parcel of land, lying and being in Land Lots 24 & 53 of the 20<sup>th</sup> District, 2<sup>nd</sup> Section of Cobb County, Georgia and being more particularly described as follows:

BEGINNING at the intersection of the south right-of-way of Glenaire Way (50' R/W) at the southwest end of the chamfer and the east side of the right-of-way of Sugar Maple Drive (50' R/W) and running thence N 48 degrees 14 minutes 51 seconds E a distance of 13.86 feet to a point; running thence S 85 degrees 37 minutes 49 seconds E a distance of 120.09 feet to a point and the TRUE POINT OF BEGINNING; running thence S 85 degrees 37 minutes 49 seconds E a distance of 295.86 feet along right-of-way of Glenaire Way (50' R/W) to a point; running thence along a curve to the right a distance of 86.13 feet along right-of-way of Glenaire Way (50' R/W) to a point; thence leaving said right-of-way running thence S 27 degrees 52 minutes 12 seconds W a distance of 114.84 feet to a point; running thence S 58 degrees 09 minutes 10 seconds E a distance of 34.16 feet to a point; running thence S 32 degrees 02 minutes 36 seconds E a distance of 35.70 feet to a point; running thence S 19 degrees 11 minutes 42 seconds E a distance of 189.56 feet to a point; running thence S 63 degrees 05 minutes 04 seconds W a distance of 98.31 feet to a point; running thence S 75 degrees 12 minutes 11 seconds W a distance of 125.14 feet to a point; running thence S 42 degrees 19 minutes 36 seconds W a distance of 116.30 feet to a point;

running thence S 00 degrees 23 minutes 32 seconds E a distance of 114.88 feet to a point; running thence S 37 degrees 12 minutes 21 seconds E a distance of 116.06 feet to a point; running thence S 60 degrees 55 minutes 48 seconds W a distance of 191.32 feet to a point; running thence S 50 degrees 07 minutes 31 seconds E a distance of 137.15 feet to a point on the east right-of-way of Sugar Maple Drive (50' R/W); running thence along said right-of-way N 39 degrees 52 minutes 29 seconds W a distance of 96.73 feet to a point; running thence along a curve along said right-of-way 128.28 feet to a point; running thence along said right-of-way N 02 degrees 07 minutes 31 seconds E a distance of 47.97 feet to a point; running thence leaving said right-of-way N 74 degrees 15 minutes 28 seconds E a distance of 136.59 feet to a point; running thence N 02 degrees 07 minutes 31 seconds E a distance of 648.69 feet to a point and the TRUE POINT OF BEGINNING.

Said tract or parcel of land contains 6.13 acres and is shown more fully on a Final Plat of Paces Club Unit I, prepared by Mansur Engineering, Inc., dated November 9, 1998 and recorded on November 18, 1998, in Plat Book 177, Pages 33, 34 and 35 Cobb County, Georgia records, which plat is incorporated herein by referenced hereto.