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**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR
BURNT MOUNTAIN ESTATES
DAWSON COUNTY, GEORGIA**

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EXHIBITS

DEFINITIONS "A"

PROPERTY SUBMITTED "B"

DESCRIPTION OF NEIGHBORHOODS "C"

BYLAWS OF BURNT MOUNTAIN ESTATES ASSOCIATION, INC. "D"

ROTATION OF PRESIDENT AND VICE PRESIDENT "E"

-----[SPACE ABOVE RESERVED FOR RECORDING DATA]-----

Return to: Weissman, Nowack, Curry & Wilco, P.C.
1349 West Peachtree Street, 15th Floor
Atlanta, Georgia 30309
Attention: George E. Nowack, Jr., Esquire

STATE OF GEORGIA
COUNTY OF DAWSON

**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
BURNT MOUNTAIN ESTATES**

WHEREAS, Burnt Mountain Estates, Inc., a Georgia corporation, recorded a Declaration of Covenants, Conditions, Restrictions and Easements for Burnt Mountain Estates on August 22, 1983, in Deed Book 67, Page 549-580, et seq., Dawson County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, the Original Declaration has been previously amended by amendments recorded in the Dawson County, Georgia records as follows:

<u>Recording Date</u>	<u>Deed Book/Page</u>
August 22, 1983	Book 64, Page 549
October 18, 1983	Book 68, Page 593
October 18, 1983	Book 68, Page 594
October 24, 1983	Book 68, Page 699
October 24, 1983	Book 68, Page 700
December 13, 1983	Book 69, Page 511
July 19, 1984	Book 74, Page 186
October 5, 1984	Book 75, Page 439; and
March 31, 1989	Book 119, Page 24

THIS AMENDMENT SUBMITS THE PROPERTY TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, OCGA § 44-3-220, ET. SEQ.

WHEREAS, plats for Burnt Mountain Estates were filed in the Dawson County, Georgia plat books; and

WHEREAS, Article XI, Section 4 of the Original Declaration provides for amendment of the Original Declaration by at least two-thirds (2/3) of the Owners of Lots subject to the Declaration; and

WHEREAS, at least two-thirds (2/3) of the Owners of Lots subject to the Declaration desire to amend the Original Declaration and have approved this amendment;

WHEREAS, in accordance with Article XIV of the Bylaws of Burnt Mountain Estates Association, Inc. ("Original By-Laws"), the Original By-Laws may be amended by a majority of members at any meeting of the members duly called for such purpose, such amendment having been proposed by the Association's Board of Directors; and

WHEREAS, at least a majority of members of record have approved this amendment to the Original By-Laws at a meeting of the Association duly called for such purpose; and

WHEREAS, these Amendments do not alter, modify, change or rescind any right, title, interest, or privilege held by any first Mortgage Holder; provided, however, in the event a court of competent jurisdiction determines that these Amendments do alter, modify, change, or rescind any right, title, interest, or privilege held by any first Mortgage Holder without such first Mortgage Holder's consent in writing to these Amendments, then these Amendments shall not be binding on the first Mortgage Holder so involved, unless such first Mortgage Holder consents to these Amendments; and if such consent is not forthcoming, then the provisions of the Original Declaration and Original By-Laws effective prior to these Amendments shall control with respect to the affected first Mortgage Holder;

NOW, THEREFORE, the Original By-Laws and the Original Declaration and all exhibits thereto are hereby stricken in their entirety and the following is simultaneously substituted therefore:

**AMENDED AND RESTATED DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS, AND EASEMENTS
FOR BURNT MOUNTAIN ESTATES**

**Article I
Definitions**

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A", attached and made a part of this Declaration.

**Article II
Property Subject To This Declaration**

Section 1. Property Hereby Subjected to This Declaration. The real property described in Exhibit "B" attached hereto and by reference made a part hereof is, by the recording of this Declaration, subject to the covenants and restrictions hereinafter set forth and any and all easements, restrictions and/or requirements as set forth on the Survey and, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to this Declaration and is hereby submitted to the Georgia Property Owners Association Act, OCGA § 44-3-220 et. Seq. (Michie 1982) as may be amended.

**Article III
Neighborhoods and Exclusive Common Area**

Section 1. Creation of Neighborhoods. Adoption of this Declaration authorizes the Association to establish Neighborhoods within the Community. Exhibit "C" to this Declaration assigns the property submitted to this Declaration to a specific Neighborhood. All Lots located within a particular Neighborhood shall be deemed a part of such Neighborhood. The Lots within a particular Neighborhood may be subject to additional covenants.

Section 2. Powers of the Association Relating to Neighborhoods. The Association shall have the power to veto any action taken or contemplated to be taken by any Neighborhood which the Board reasonably determines to be adverse to the interests of the Association or its members or inconsistent with the Community-Wide Standard. The Association also shall have the power to require specific action to be taken by any Neighborhood in connection with its obligations and responsibilities hereunder or under any other covenants affecting the Community. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood and (b) require that a proposed Neighborhood budget include certain items and that expenditures be made therefore.

Any action required by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood shall be taken within the reasonable time frame set by the Association in such written notice. If the Neighborhood fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood. To cover the Association's administrative expenses in

connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Lots in such Neighborhood for their pro-rata share of any expenses incurred by the Association in taking such action in the manner provided in Article V, Section 6. Such assessments may be collected as a specific assessment hereunder and shall be subject to all lien rights provided for herein.

Article IV
Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee interest in any Lot that is subject to this Declaration shall automatically be a member of the Association upon taking title to a Lot and shall remain a member for the entire period of ownership. Membership shall not include Persons who hold a security interest only and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one (1) or more Persons, shall have more than one (1) membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall go along with and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor more than one (1) office held for each Lot owned.

Section 2. Voting. Members shall be entitled to one (1) vote for each Lot owned. The Owners of contiguous Lots paying a single assessment shall be entitled to one (1) vote for each assessment paid. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be cast as those Owners decide and instruct the Secretary prior to any meeting. If the Secretary is not instructed, the Lot's vote shall be suspended in the event more than one (1) Owner of a Lot attempts to cast it.

Article V
Assessments

Section 1. Purpose of Assessment. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed to the Lot, whether or not stated in the deed, covenants and agrees to pay to the Association: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments to fund Neighborhood Expenses benefiting only Lots within a particular Neighborhood or Neighborhoods; (c) special assessments, such assessments to be established and collected as hereinafter provided; and (d) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest (not to exceed the maximum rate permitted by law per annum on the principal amount due), costs, including, without limitation, reasonable attorney's fees actually incurred, shall be (a) a charge on

the land and a continuing lien upon the Lot against which each assessment is made from the time the sums become due and payable; and (b) the personal obligation of every Person who is an Owner of the Lot at the time the assessment becomes due. The grantee of each Owner shall be jointly and severally liable for the portion of an assessment as is due and payable at the time of transfer of the Lot. However, the liability of a grantee for the unpaid assessments of an Owner shall not apply to any first Mortgage holder taking title through foreclosure proceedings or by deed in lieu of foreclosure; provided, however, any first mortgage holder who takes title through foreclosure proceedings or by deed in lieu of foreclosure shall be liable for all assessments due after the date of foreclosure.

No owner may exempt himself or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever, including, but not limited to, nonuse of the Common Property, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

The lien provided for herein shall have priority as provided in the Act.

Unless otherwise specified herein, Base Assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as are fixed by the Board of Directors. Unless the Board provides otherwise by resolution, Base Assessments shall be paid in a lump sum.

The Owners of contiguous Lots on which there is no dwelling or no more than one primary residence (Guest houses owned by the same owner(s) are permitted if approved by the ACC) located thereon, may combine the Lots in accordance with the following procedure; after which time, the Owner shall be assessed for one (1) Lot and have one vote.

An Owner of contiguous Lots shall cause to be prepared and recorded in the Land Records of the county a plat of survey prepared and certified to be by a registered land surveyor showing the combined Lots. The plat shall include the following notice: "The property shown on the plat cannot be subdivided without the prior expressed written permission of the Board of Directors of the Burnt Mountain Estates Association, Inc." The designation of the combined lot (i.e., Lot A-01 and or XXX Burnt Mtn Ridge Rd) shall be specified and approved by the board of directors of the association or their designee, such as the ACC or the Secretary/Treasurer.

From the date the recorded survey is presented to the Board, the Owner shall be assessed for one (1) Lot. After the effective date of this Declaration, if an Owner subsequently either subdivides a Lot in accordance with Article VI, Section 25 or un-combines a previously combined Lot, the Owner shall be responsible for the payment of assessments on the Lot created by the subdivision from the date the Owner acquired title to the Lot and in the case of a previously combined Lot, from the effective date of the combination. [Example: Owner acquires title to Lot on 1/1/00 and subdivides the Lot effective 1/1/03 – the newly created Lot will owe the assessments that accrued for 1/1/00 to 1/1/03; Owners combines Lot on 1/1/00 and un-combines Lot effective 1/1/03 – the uncombined Lot owes the assessments that accrued from 1/1/00 to 1/1/03] This would include any "special" assessments for the property in question. A penalty equal to the late charge specified for late payment of assessments will also be applied.

Section 3. Computation of Base Assessment. It shall be the duty of the Board to prepare a budget covering the estimated common expenses of the Association during the coming fiscal year. The budget may include a capital contribution establishing a reserve fund in accordance with a budget separately prepared.

The Base Assessment to be levied against each Lot for the coming year shall be set at a level which is reasonably expected to produce total revenue to the Association equal to the total budgeted common expenses, including reserves. In determining the level of Base Assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

The Board shall deliver or mail a copy of the common expense budget and notice of the amount of the Base Assessment for each Lot to the Owners thereof at least thirty (30) days prior to the beginning of the fiscal year. The budget and assessment shall become effective unless disapproved at the annual meeting by a majority of the Total Association Vote provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting.

Notwithstanding the above, in the event the proposed budget is disapproved or the Board fails to prepare and distribute the budget for any year, then until such a budget is prepared and distributed, the budget in effect for the immediately preceding year shall continue for the current year. In such case, the Board of Directors may propose a new budget at any time during the year at a special meeting of the Association. The proposed budget and assessment shall be delivered to the members at least thirty (30) days prior to the proposed effective date thereof and at least seven (7) days prior to the special meeting. The approval procedure set forth above for budgets considered at annual meetings shall also apply to budgets considered at special meetings. Enforcement under this Section is not dependent upon or related to other restrictions and/or other actions.

Section 4. Allocation of Annual Assessment. As part of the annual budget, the Board of Directors shall allocate the annual assessments to each Neighborhood as follows:

a. The percentage allocated for general use by the Association is to cover common costs, including, but not limited to directors' insurance, common area property taxes, Cove Road Maintenance, except for Gate No. 1 (responsibility of Cove Road/Uplands Neighborhood), light pole utility costs, annual meeting, postage, long distance, legal, signage, purchase of lots for common area.

b. The percentage allocated to each Neighborhood is to cover costs specific to each Neighborhood, including, but not limited to neighborhood grass and road and gate maintenance. The Director selected by each Neighborhood shall make the final determination as to the expenditure of the funds allocated for use by the Neighborhood, but will take into consideration input from other members of the Neighborhood.

Notice of any change in the allocation shall be included in the notice of the Base Assessment.

Section 5. Procedure for Making Neighborhood Expenditures.

a. A Neighborhood Director must first verify with the Association's Treasurer that funds are available to cover the proposed expenditure before any obligations are made. After availability of funds are verified, all bills must be signed by the Neighborhood Director as approved for payment and forwarded to the Association Treasurer for direct payment. The Treasurer has discretionary authority to remit funds to a Neighborhood Director for COD items based upon estimates submitted, or to reimburse funds advanced by the Director for cash expenditures upon presentation of receipts.

b. Any expenditures by a Neighborhood concerning changes to the architectural or esthetic appearance of the Neighborhood are subject the Architectural Control Committee's Guidelines.

c. In the event a neighborhood is not represented by a director, the Board of Directors shall cause the grass, road, and gate maintenance to be performed.

Section 6. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments from time to time. Special assessments may be levied against the entire membership, if the special assessment is for Common Expenses, or against the Lots within a particular Neighborhood, if the special assessment is for Neighborhood Expenses. Any special assessment that would cause the total of special assessments levied against any Lot in one calendar year to exceed two hundred dollars (\$200) first must be approved by two-thirds (2/3) of Owners holding a majority of the votes allocated to properties which will be subject to the special assessment. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 7. Specific Assessments. The Board shall have the power to specifically assess specific Lots pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article XIV, Section 1, costs and expenses of self-help pursuant to Article XIV, Section 2 and the costs of maintenance performed by the Association which the Owner is responsible for under Article VIII, Sections 1 and 2 shall be specific assessments. The Board may also specifically assess Lots for the following Association expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the Association:

(a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received.

(b) Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

The Association may also levy specific assessments against any Lot or Neighborhood to reimburse the Association for costs incurred in bringing the Lot or Neighborhood into compliance with the provisions of this Declaration, any other applicable covenants, the Articles, the Bylaws, and the rules and regulations of the Association. Such specific assessments may be levied upon the vote of the Board after notice to the Owner or Neighborhood, as applicable, and an opportunity for a hearing in accordance with Article XIV, Section 1 hereof.

Section 8. Delinquent Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

(a) If the assessment is not paid in full within thirty (30) days of the due date, or if any other charge is not paid within ten (10) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent 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, and interest at the rate of ten (10%) percent per annum, or such higher rate as permitted by the Act, shall accrue from the due date. All payments shall be applied first to costs and attorneys' fees, then to late charges, then to interest and then to delinquent assessments.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. 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. The Association, in the Board's discretion, may, but shall not be obligated to, record a notice of such lien in the Dawson County, Georgia records evidencing the lien created under the Act and this Declaration.

(b) Capital Budget and Contribution. The Board may prepare an annual or multi-year capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (d) above.

(c) 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 due and unpaid, including any late charges, interest, fines, or other charges against such Lot. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten dollars (\$10.00) or such higher amount as may be authorized under the Act, 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. The Association may require an additional fee not to exceed twenty five dollars (\$25.00) if the Association provides a copy of the Declaration and Bylaws to any such Person in connection with a closing or otherwise upon request.

(d) 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 Board's option, either be distributed equally to the Owners or credited to the next assessment chargeable to the Owners, or added to the Association's reserve account.

Article VI **Architectural Standards**

Section 1. Architectural Control Committee. No exterior construction, addition, erection, or alteration shall be made upon any part of the Community unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by the Architectural Control Committee ("ACC"). Notwithstanding the foregoing, reasonable decorations may be placed on the door of a residence located on a Lot, and reasonable, seasonal, decorative lighting may be displayed between Thanksgiving and January 15th.

The Board of Directors may divide the ACC into two (2) subcommittees, with one (1) subcommittee having jurisdiction over modifications and the other having jurisdiction over new construction. In the event of a conflict between the two (2) subcommittees, the decision of the new construction subcommittee shall control. The Board of Directors shall appoint the members of the ACC, or may adopt a resolution making the Board of Directors the ACC. The Board may employ for the ACC architects, engineers, or other Persons necessary to enable the ACC to perform its review. The ACC may, from time to time, delegate any of its rights or responsibilities hereunder to one (1) or more duly licensed architects or other qualified Persons, who shall have full authority to act on behalf of the ACC for all matters delegated. The ACC may, in its discretion, from time to time establish, abolish or amend standards to govern the development of Lots and the design and construction of improvements to a Lot. The text of such standards and amendments shall be available to each Owner. Such standards shall be binding upon all Owners. A review fee in a reasonable amount may be charged.

The ACC shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them from time to time, without the consent of the Owners. The ACC shall make the Design Guidelines available to Owners, Builders, and such other parties who seek to engage in development of or construction upon all of any portion of the Community, and all such Persons shall conduct their activities in strict accordance with such Design Guidelines. In the discretion of the Board, such Design Guidelines may be recorded in the Dawson/Pickens County, Georgia records, in which event the recorded version, as it may unilaterally be amended from time to time by the ACC by recordation of amendments thereto, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

The Board shall have the authority to impose impact fees and/or require a construction deposit as a prerequisite to allowing construction on a Lot.

Any amendments to the Design Guidelines adopted from time to time by the ACC in accordance with this Section shall apply to construction and modifications approved after the date of such amendment only, and shall not apply to plans or specifications previously approved or require modifications to or removal of structures previously approved by the ACC.

Section 2. Applications. Applications for approval of any such architectural modification shall be in writing and shall provide such information as the ACC may reasonably require. The ACC shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. In the event that the ACC fails to approve or to disapprove any application within forty-five (45) days after submission of all information and materials reasonably requested, the application shall be deemed approved. However no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ACC pursuant to Section 10 of this Article.

In the event that the ACC or its designated representative disapproves any application or part thereof, an Owner shall have the right to appeal the ACC's decision to the Board of Directors. The Board shall rule on the appeal within sixty (60) days of receiving written notice requesting an appeal from the Owner. In ruling on the appeal, the Board shall consider all relevant materials presented to it by either the Owner or the ACC, the decision of the ACC, and the application of the Owner to the ACC. The Board of Directors shall have the final authority to approve, disapprove, or conditionally approve or disapprove the application of the Owner. If the Board does not receive written notice from the Owner by certified mail requesting an appeal within fourteen (14) days from the date of the ACC's notice to the Owner of its decision, the decision of the ACC shall become final and all rights of appeal shall terminate and thereafter be void.

Section 3. Encroachments onto Common Area. The ACC subject to this Article VI may allow encroachments onto the Common Area, as it deems acceptable.

Section 4. Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance of such change, modification, addition, or alteration, unless otherwise agreed to in writing by the ACC. It is the responsibility of every Owner of a Lot to determine for himself or herself what architectural modifications have been made to his or her Lot by any predecessor-in-interest. In the discretion of the ACC, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

Section 5. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and neither the Board of Directors nor the ACC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building

codes and other governmental requirements. Neither the Association, the Board of Directors, the ACC, nor member of any of the foregoing shall be held liable for any injury, damage or loss arising out of the manner or quality of approved construction on or modifications to any Lot.

Section 6. No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board of Directors and ACC will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. Each Owner further acknowledges that the ACC may adopt different architectural standards and Design Guidelines for different Neighborhoods and for different parts of the same Neighborhood, based on visibility and location of the proposed modification in the Community. The approval of either the Board of Directors or the ACC of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board of Directors, or the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 7. Enforcement. Any construction, alteration, or other work done in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the ACC, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

In addition to the foregoing, the Board of Directors shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Article and its decisions. Furthermore, the Board shall have the authority to record in the Dawson/Pickens County land records notices of violation of the provisions of this Article. If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Area in violation of this Article, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain on the Common Area without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

Section 8. Commencement of Construction. All changes, modifications and improvements approved by the ACC hereunder must be commenced within six (6) months from the date of approval. If approved construction is not commenced within such time period, then such approval shall be deemed revoked by the ACC, unless the ACC gives a written extension for commencing the work. All work approved by the ACC hereunder shall be completed in its entirety within one (1) year from the date of commencement, unless otherwise agreed in writing by the ACC. All approved changes, modifications, and improvements must be completed in their entirety. An Owner may not construct only a portion or part of an approved change, modification, or improvement.

Section 9. Special Restrictions. All construction of residences, structures, and other improvements shall comply with the following:

(a) The site location of all residences and accessory buildings, if any, and all final plans and specifications shall be approved by the ACC or its designee.

(b) All construction shall be carried out in compliance with the laws, codes, rules, regulations and orders of all applicable governmental agencies and authorities.

(c) Concrete, concrete block, or cinder block shall not be used as a building material for the exposed exterior surface of any residence.

(d) No lumber, bricks, stones, cinder blocks, scaffolding, mechanical devices, or any other materials or devices used for building purposes shall be stored outside of a Residence or approved accessory structure, except for purposes of construction of a Residence or accessory structure, nor shall any such building materials or devices be stored on the Community for longer than the length of time reasonably necessary for the construction of the Residence or accessory structure in which such materials or devices are to be used.

(e) Construction of all Residences or other structures erected shall be completed and as to Residences, a certificate of occupancy, if required, shall be issued by the appropriate governmental entity on or before one (1) year from the date of commencement of construction. Construction shall be deemed to be commenced upon the pouring of foundation footings.

(f) Any construction in the Community shall be at the risk of the Owner of such Lot, and such Owner shall be responsible for any damage to any street, curbing or utility resulting from such construction; repairs of such damage must be made by the Owner commencing within thirty (30) days after receiving notice from the Association of such damage.

(g) No fence or fencing-type barrier of any kind other than electronic fencing shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, without the prior written consent of the ACC and in conformance with the Design Guidelines.

(h) All electrical services and telephone lines shall be placed underground unless otherwise approved by the Architectural Control Committee.

(i) Above ground swimming pools shall not be erected, constructed, or installed on any Lot.

(j) No trash or construction debris shall be buried on any portion of the Community.

(k) All clotheslines, garbage cans, woodpiles, etc. shall be located or screened so as to be concealed from view of neighboring Lots and streets. All rubbish, trash, and garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon.

(l) Heating, air conditioning or other mechanical equipment, and fuel or water tanks or similar receptacles may be installed only within the main dwelling, within an accessory building, buried underground, or otherwise located or screened so as to be concealed from view of neighboring Lots and streets.

(m) Each Residence shall contain a minimum of one thousand two hundred and fifty (1,250) square feet of heated floor space.

(n) No structure of a temporary character shall be placed upon any Lot at any time, except for shelters used by a building contractor during the course of construction. Such temporary shelters may not, at any time, be used as Residences, nor be permitted to remain on the Lot after completion of construction.

(o) No accessory building shall be placed, erected or maintained upon any part of any Lot except in connection with a Residence already constructed or under construction at the time that such outbuilding is placed or erected upon that Lot.

(p) No mobile home, house trailer, trailer (other than a boat trailer), tent, shack, barn, or other outbuilding or structure (except accessory buildings permitted under subsection (o)) shall be placed on any Lot at any time, either temporarily or permanently; provided, however, house trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of residences.

(q) No activity which may create erosion or siltation problems shall be undertaken in the Community without the prior written approval of the ACC or its designee of plans and specifications for the prevention and control of such erosion or siltation. The ACC or its designee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, and requiring landscaping as provided for herein. No activity which results in contamination of or damage to any other property in the Community shall be conducted, and each Owner shall be liable for all resulting damages from such activity and for restoration of all property damaged from contamination resulting from or attributable to such activity.

Section 10. Variances.

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

(b) The architectural standards and Design Guidelines and their enforcement may vary from time to time. These variances shall not constitute a waiver by the ACC or the Board of the right to adopt and enforce architectural standards and Design Guidelines under this Article. No decision by the ACC or Board shall constitute a binding precedent with respect to subsequent decisions of the ACC or Board. However, nothing in this Article shall permit the ACC or the Board to enforce retroactively its architectural standards or Design Guidelines against an Owner whose architectural change has been approved under the architectural standards of a previous ACC or Board.

Section 11. Building Location. Since the establishment of inflexible building setback lines for locating houses or other structures tends to force construction of buildings both directly behind and directly to the side of other Residences or buildings, with detrimental effect on privacy, view, preservation of important trees, etc., no specific setback lines are established by these covenants and restrictions other than those which may be required by applicable governmental rules and regulations and those which may be shown on recorded plats which shall be observed. The Architectural Control Committee shall have the right to control solely and absolutely the precise site and location of any proposed house, dwelling, building, or other structure or improvement; upon all Lots. Such location shall be determined, however, only after reasonable opportunity is afforded the Lot Owner to request a specific site.

Article VII

Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants in the Community. These use restrictions may only be amended in the manner provided in Article XIV, Section 3, regarding amendment of this Declaration. In addition, the Board may, from time to time, without consent of the Owners, adopt, modify, or delete rules and regulations applicable to the Community. These rules shall be distributed to all Owners prior to the date that they are to become effective and after distribution shall be binding upon all Owners and Occupants in the Community until and unless overruled, canceled, or modified in a regular or special meeting by a majority of the Total Association Vote.

Section 2. Use of Residence. Each Residence shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Residence or any part of the Community, except that the Owner or Occupant residing in a Residence may conduct ancillary business activities within the Residence so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside of the Residence; (ii) the business activity does not involve visitation of the Residence by employees, clients, customers, suppliers or other business invitees in greater volume than would normally be expected for guest visitation to a Residence without business activity; (iii) the business activity is legal and conforms to all zoning requirements for the Community; (iv) the business activity does not increase traffic in the Community in excess of what would normally be expected for Residences in the Community without business activity (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services); (v) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; (vi) 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 residents of the Community, as determined in the Board's discretion; and (vii) the business activity does not result in a materially greater use of the Common Area or Association services.

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

Section 3. Leasing.

(a) Leasing Provisions. Leasing of a Residence shall be governed by the following provisions:

(i) Notice. At least twenty (20) days prior to entering into the lease of a Residence, the Owner shall provide the Board with a copy of the proposed lease agreement. The Board shall approve or disapprove the form of said lease. In the event the form of the lease is disapproved, the Board shall notify the Owner in writing within ten (10) days of the receipt of the lease of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto. Owners shall provide the Secretary of the Board of Directors the names, addresses, and phone numbers of all tenants of any leased Lot.

(ii) General. A Residence may be leased only in its entirety; no fraction or portion of a Residence may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board may maintain and, upon request, provide a form which is deemed acceptable. There shall be no subleasing of a Residence or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one (1) year, except with written Board approval, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Residence, the Owner thereof shall provide the Board with a copy of the lease and the name of the lessee and all other people occupying the Residence. The Owner must also provide the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board's approval or disapproval shall be limited to the form of the proposed lease.

(iii) Liability for Assessments, Use of Common Elements, and Compliance with Declaration, Bylaws, and Rules and Regulations. Each Owner of a Residence covenants and agrees that any lease of a Residence shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant, and the lessee, by occupancy of the Residence, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(A) Compliance with Declaration, Bylaws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Residence in order to ensure such compliance. The Owner shall cause all Occupants of his or her Residence to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Residence are fully liable and may be sanctioned for any such violation. If the lessee, or a person living with the lessee, violates the Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be given to the Owner and the lessee, and such fine may be assessed against the lessee in accordance with Article XIV of this Declaration. If the fine is not paid by the lessee within the time period set by the Board, the Owner of the Residence shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Residence.

Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including reasonable attorney's fees actually incurred and court costs, associated with the eviction shall be specifically assessed against the Residence and the Owner thereof, such being deemed hereby as an expense which benefits the leased Residence and the Owner thereof.

(B) Use of Common Elements. The Owner of the Residence transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Elements.

(C) Liability for Assessments. When an Owner who is leasing his or her Residence fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by Owner. However, lessee 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 lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to Owner. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. 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.

(b) Applicability of this Section. Leases existing on the Effective Date hereof shall not be subject to the terms of subparagraph (a) above. Such leases may continue in accordance with the terms of the Original Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Section. Any Owner of a Residence which is leased on the date this Declaration is recorded in Dawson County land records shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Declaration is recorded in the Dawson County, Georgia land records.

This Section shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

Section 4. Occupants Bound. All provisions of the Declaration, Bylaws, and of any rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 5. Vehicles and Parking. No Owner or Occupant may keep or bring onto the Community more than a reasonable number of vehicles per Lot, at any time, as determined by the Board. All vehicles shall be parked within garages, on driveways or on other designated parking areas in the Community. Parking in yards is prohibited. The doors of garages shall be kept closed at all times, except during times of entry and exit from the garage, or when someone is working in or around the garage. Disabled and stored vehicles are prohibited from being parked on any portion of the Community, except in garages. For purposes hereof, 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 on the Community for fourteen (14) consecutive days or longer without prior written Board permission.

Motor homes, truck campers, and boat trailers may be kept or parked on a Lot in garages or other areas on a Lot in such a manner as to be concealed from view of neighboring Lots or streets. The location shall be approved by the ACC.

If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's rules and regulations, the Board or agent of the Association may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed or booted. The notice shall include the name and telephone number of the person or entity that will do the towing or booting and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the Board or agent of the Association may have the vehicle towed or booted in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is parked blocking another vehicle or access to a Lot or Residence, is obstructing the flow of traffic, or otherwise creates a hazardous condition, no notice shall be required and the Board or agent of the Association may have the vehicle towed immediately. If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow or boot.

Section 6. Vehicles Prohibited. No motorcycles, dune buggies, ATV's, and no other vehicles which emit loud noises, shall be permitted to be operated on any Lot or on the Common Property, except for ingress or egress to a Lot.

Section 7. Garages. No garage may be converted to permanent living space unless approved by the ACC. Garage doors shall remain closed at all times, except for necessary use, ingress and egress.

Section 8. Animals and Pets. No Owner or Occupant may keep any pets other than generally recognized household pets on any portion of the Community, and so long as not a nuisance, no Owner or Occupant may keep more than a total of two (2) generally recognized household pets per Lot. Notwithstanding the above, a reasonable number of generally recognized household pets, as determined in the Board's sole discretion, weighing less than two (2) pounds each, may be kept in the residences located on Lots.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose, and no structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Community without prior written ACC approval. Notwithstanding the foregoing, pets may be kept in fenced areas approved under Article VI or in areas where the pet is restricted by an electronic fence. Pets are not permitted to roam free on the common area. Pets must be kept on a leash or be under voice command or the physical control of a responsible person at all times when on the Common Area.

No potbellied pigs, pit bulldogs, Rottweilers, Doberman pinschers, or other animals determined in the Board's sole discretion to be dangerous may be brought onto or kept on the Community at any time.

Any pet that roams free on the Common Area, or in the Board's sole discretion, endangers the health of any Owner or Occupant, makes objectionable noise, or constitutes a nuisance or inconvenience to the Owners or Occupants or to the owner of any property located adjacent to the Community, may be permanently removed by the Board from the Community upon seven (7) days written notice to the owner of such pet. If the Owner or Occupant fails to remove the pet from the Community, the Board may remove the pet. Notwithstanding the foregoing, any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any Community member may be removed by the Board without prior written notice to the pet's owner.

All Owners and Occupants keeping pets within the Community shall comply with all applicable governmental ordinances and regulations. Without prejudice to the Board's right to remove any such household pets, the Board may prohibit a household pet that has caused

damage or injury from being walked in the Community. Animal control authorities shall be permitted to enter the Community to patrol and remove pets. Pets shall also be registered, licensed and inoculated as required by law. Furthermore, any Owner or Occupant who keeps or maintains any pet upon the Community shall be deemed to have agreed to indemnify and hold the Association, its directors, officers, and agents free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such pet within the Community.

Section 9. Signs. No sign of any kind shall be erected by an Owner or Occupant within the Community without the prior written consent of the ACC except (a) when offering a Lot or residence for sale or for lease, not more than one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard and having a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, (b) professional security signs consistent with the Community-Wide Standard, and (c) any signs required by legal proceedings. Notwithstanding the foregoing, the Board shall have the right to erect reasonable and appropriate signs. This Section shall not apply to any Person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first mortgage.

Section 10. Antennas and Satellite Dishes. Except as provided below, no satellite dish, 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 on any portion of the Community; provided, however, that the Association shall have the right to erect, construct and maintain such devices. The following shall apply to all Owners:

(i) No transmission antenna, of any kind, may be erected anywhere on the Community without written approval of the Board of Directors or the ACC.

(ii) No direct broadcast satellite (DBS) antenna or multi-channel multi-point distribution service (MMDS) antenna larger than one meter in diameter shall be placed, allowed, or maintained upon the Community.

(iii) DBS and MMDS satellite dishes or antennas one meter or less in diameter and television broadcast service antennas may only be installed in accordance with Federal Communication Commission (FCC) rules and the rules and regulations of the Association, both as may be amended from time to time.

In the event of a transfer of a Lot which includes the satellite dish or antenna, the Grantee shall assume all responsibility for the satellite dish or antenna and shall comply with this Declaration, the Bylaws and the rules and regulations regarding satellite dishes and antennas, including, but not limited to, those requirements relating to maintenance and removal of satellite dish or antenna.

Section 11. Firearms and Fireworks. The use, display or discharge of firearms or fireworks on any portion of the Community is prohibited; provided, however, that the display of lawful firearms in the Community is permitted by law enforcement officers and also is permitted for the limited purpose of transporting the firearms across the Common Area to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types,

regardless of size. The term "fireworks" shall include those items as listed in OCGA § 25-10-1, as amended.

Section 12. Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from a Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Area. Rubbish, trash, garbage, debris or other waste matter of any kind may not be burned within the Community.

Section 13. Clotheslines, Garbage Cans, Woodpiles, Etc. All recreational equipment, including without limitation, hammocks, and playground equipment, garbage cans, woodpiles, and related equipment and other similar items shall be located or screened so as to be concealed from view from any street or road and from adjacent Lots. Clothesline are not permitted on any Lot.

Section 14. Garage Sales. Garage sales, yard sales, flea markets, or similar activities are prohibited unless approved in writing by the Board of Directors.

Section 15. Fences. No fence or fencing type barrier of any kind, excluding invisible "Radio Fences" designed to restrain pets, shall be placed, erected, allowed, or maintained upon any portion of the Community, including any Lot, unless the type, fencing material, and location thereof shall have received the prior written consent of the ACC.

Section 16. Lighting. Except as may be permitted by the ACC, exterior lighting visible from the street shall not be permitted except for (a) approved lighting as originally installed on a Lot; (a) street lights in conformity with an established street lighting program for the Community; or (c) seasonal decorative lights. No exterior light shall be permitted to stay illuminated on a continuous basis. Street lights and flood lights located on a Lot must be controlled by a photo-cell or motion detector, and the light bulbs shall be adequately covered so as not to be visible from a road or adjacent Lot.

Section 17. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on a Lot. Exterior sculpture, fountains, flags, and similar items must be approved by the ACC; provided, however, statues less than four (4) feet in height may be placed on a Lot without ACC approval. In addition, the display of flags for generally recognized holidays on which flags are customarily displayed shall be permitted for a period from one (1) week prior to the date of such holiday until one (1) week after the date of such holiday. Flags shall be no larger than five feet by seven feet (5'x7'). No awnings shall be attached to or otherwise placed on the exterior of any structure on a Lot without the prior written consent of the ACC.

Section 18. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on and in his or her Lot. No property within the Community shall be used, in whole or in part, for the storage of any property or thing that will cause a Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye, nor shall any substance, thing, or material be kept that will discharge foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the Occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to

cause embarrassment, discomfort, annoyance, or nuisance, as defined in Georgia law, to any person using any property within the Community. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier, speaker or other sound device, except for devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law. However, any siren or device for security purposes shall contain a device which causes it to automatically shut off within fifteen (15) minutes.

Section 19. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities which might tend to cause disorderly, unsightly, or unkempt conditions, including without limitation, the assembly and disassembly of motor vehicles and other mechanical devices, shall not be pursued or undertaken in any part of the Community except within closed garages.

Section 20. Abandoned Personal Property. Personal property, except for personal property owned by the Association, is strictly prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Area, Area of Common Responsibility or on the rights-of-way located within the Community. If the Board or its designee, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Area, Area of Common Responsibility or on the rights-of-way located within the Community in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine. If personal property is removed in accordance herewith, neither the Association nor any officer or agent of the Association shall be liable to any Person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary, the Board may elect to impose fines or use other sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

Section 21. Tree Removal. No trees shall be removed without the prior written consent of the ACC, except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees or for safety reasons; or (c) trees within ten (10) feet of the residence, driveway, or walkways constructed or to be constructed on the Lot. Owners shall also comply with any local ordinance applicable to tree removal. In the event of a conflict between the provisions of this Section and any local ordinance, the more restrictive provision shall govern.

Section 22. 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. No Owner or Occupant may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 23. Sight Distance at Intersections. All property located at street intersections and at the intersections of streets and driveways shall be landscaped so as to permit safe sight across the corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 24. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless approved by the ACC.

Section 25. Joining of Lots, Changing Boundary Lines, Subdivision of Lots. Lots may be joined, subdivided or boundary lines may be changed, subject to the following conditions:

(a) the prior written approval of the Board of Directors of the Association is required if as a result of such proposed joining, subdivision or change of boundary lines, any Lot would be created which would be smaller than any of the Lots involved in the joining, subdivision or boundary line change;

(b) plats necessary to show any such altered boundaries of the involved Lots shall be prepared and certified as to accuracy by a registered land surveyor, properly recorded at the county courthouse, and written notice with copies of the of the recorded instruments made to the Association;

(c) accompanying the recorded plat shall be a writing stating that the Lot(s) described therein cannot be subdivided without prior written approval of the Board of Directors of the Burnt Mountain Estates Association, Inc. pursuant to this Section. Upon compliance with the above conditions, such newly defined Lot or Lots will be deemed to exist, subject to all of the provisions of the Association.

(d) assessments shall be paid in accordance with Article V, Section 2.

(e) No Lot shall be subdivided if as a result of such a subdivision any Lot would be created which would contain less than one (1) acre; however, a Lot may be divided if all portions of the divided Lot are made part of contiguous Lots. Plats necessary to show the altered boundaries of the affected Lots shall be prepared and certified as to accuracy by a registered land surveyor and recorded in the Dawson County land records. The Owner(s) of the contiguous Lots to which the divided Lot is being made a part shall be responsible for payment of all charges of preparation, execution and recordation thereof. The subdivided Lot shall cease to exist as a Lot for all purposes upon written notice to the Association of the recordation of the plat evidencing the subdivision.

Section 26. Outbuildings and Similar Structures. No structure of a temporary nature, unless approved in writing by the ACC, shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn or other structure may be used as a Residence, either temporarily or permanently.

Section 27. Use of Common Elements. There shall be no obstruction of the Common Area, nor shall anything be kept on, parked on, stored on or removed from any part of the Common Area without the prior written consent of the Board, except as specifically provided herein. There shall be no gardening or landscaping on the Common Area by Owners or Occupants without the prior written consent of the Board.

Section 28. Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without the prior written consent of the ACC, and in no event shall any above-ground swimming pool be permitted.

Section 29. Mailboxes. The location, type, color, size, and design of all mailboxes must be approved by the Architectural Control Committee.

Section 30. Exterior Security Devices. No exterior security devices, including, without limitation, window bars, shall be permitted on any residence on a Lot. Signs placed on the Lot or the exterior of the residence stating that such residence is protected by a security system shall not be deemed to constitute an exterior security device.

Section 31. Fuel or Water Tanks. No fuel tanks or water tanks shall be stored or maintained upon any Lot to be visible from any street or road or from any other Lot. Location shall be approved by the ACC.

Section 32. Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, and shades or for any other purpose without ACC approval.

Section 33. Retaining Walls. No retaining wall of any kind shall be placed, erected, allowed or maintained upon any portion of the Community, including any Lot, unless the type and location thereof shall have received the prior written consent of the ACC.

Section 34. Erosion Control; Contamination. No activity which may create erosion or siltation problems in the Community shall be undertaken on any Lot without the prior written approval of the Board of Directors or its designee of plans and specifications for the prevention and control of such erosion or siltation. Such plans and specifications shall be designed by a professional engineer licensed in the State of Georgia and all costs and expenses related thereto shall be borne exclusively by the Lot Owner. The Board of Directors or its designee may, as a condition of approval of such plans and specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may include, by way of example and not of limitation, physical devices for controlling the run-off and drainage of water, special precautions in grading, clean-up activities and requiring landscaping as provided for herein. No activity which results in contamination of or any damage to any stream, water course or any other Lot shall be conducted on any Lot, and each Owner shall be liable for all resulting damages from such activity and for restoration of a property damaged from contamination resulting from or attributable to such activity.

In addition, prior to commencing any improvements on a Lot, the Owner of such Lot and any builders, subcontractors, or other agents of such Owner, shall fulfill their obligations to comply with the requirements of the State of Georgia Department of Natural Resources, Environmental Protection Division ("EPD") and the Permit, including, but not limited to the following obligations:

(a) Submitting a Notice of Intent to the EPD in the manner required by the Permit and applicable law;

(b) Implementing and complying with those portions of the Erosion, Sedimentation and Control Plan applicable to activities on each Owner's respective Lot;

(c) Executing the Erosion, Sedimentation and Control Plan or portion thereof in accordance with Part V1.G of the Permit; and

(d) Complying with all inspection, notification, reporting, and record retention obligations relating to the Comprehensive Monitoring Plan as set forth in the Permit and applicable law.

Furthermore, if an Owner refuses or fails to do so within the time period identified in the notice, the ACC or the Board may then enter upon Lot to perform the actions specified in the written notice, on behalf of the Association with all such costs being deemed an Association common expense occasioned by the conduct of the violating Lot Owner. The Association then shall assess all such expenses including attorney's fees actually incurred, against the violating Lot Owner pursuant to Article XIV, Section 1 of this Declaration. Additionally, the Association may assess fines against the violating Lot Owner hereunder not to exceed Five Hundred and No/100 Dollars (\$500.00) per incident. All costs incurred by the Association hereunder, including reasonable attorney's fees actually incurred, and any fines assessed hereunder, shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Lot. Each Owner of a Lot and any builders, subcontractors, or other agents of such Owner, shall indemnify and hold ACC harmless against any and all expenses, including attorney's fees and legal expenses, in connection with any claim, cost, damage, fine, suit, other proceedings (including any settlement), or expense reasonably incurred or imposed upon ACC as a result of any breach of any obligation under this Section 34 or any other violation of the Permit by such Owner or any builders, subcontractors or agents of such Owner.

Section 35. Sale of Lots. A Lot Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give the Board written notice of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish the Board, as part of the notice, the name and address of the intended grantee and such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after receiving title to a Lot, the purchaser of the Lot shall give the Board written notice of his or her ownership of the Lot. Upon failure of a Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

Article VIII **Maintenance**

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of (a) all entry features for the Community, including, but not limited to, the landscaping associated with such

entry features (whether or not such entry features or landscaping are on a Lot or public right-of-way) and any irrigation system and the expenses for water and electricity, if any, provided to all such entry features, (b) drainage and detention areas to the extent such areas are not maintained on an ongoing basis by a local governmental entity; (c) street signs, if any, originally installed whether or not such street signs are on a Lot or public right-of-way, and (d) all roads, streets, alleys and other paved areas in the entire Community.

In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether located within or outside the Community, where the Board has determined that such maintenance would benefit all Owners. This shall include the right of the Association to assume maintenance responsibility with respect to any Neighborhood, in addition to those that may be designated by this Declaration or by Supplementary Declaration. This assumption of responsibility may take place either by agreement with the Neighborhood or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of such maintenance of a Neighborhood shall be assessed as a Neighborhood Assessment as provided in Article V, Section 5 hereof.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association, is caused through the willful or negligent act of an Owner or Occupant, his or her family, guests, lessees, or invitees, and is not completely covered or paid for by insurance, then the Association may perform the maintenance, repair or replacement at the expense of the Owner or Occupant, and all costs shall be added to and become a part of the assessment obligation of the Owner or Occupant and shall become a lien against the Lot of that Owner or Occupant.

The Association shall perform all maintenance in a manner consistent with the Community-Wide Standard.

Section 2. Owner's Responsibility. Except as provided in Section 1 above and unless such maintenance responsibility is otherwise assumed or assigned to the Association or a Neighborhood pursuant to this Declaration or any Supplementary Declaration, all maintenance of the Lots and all structures, parking areas, landscaping, and other improvements on a Lot shall be the sole responsibility of the Owner, who shall maintain such areas in a manner consistent with the Community-Wide Standard and this Declaration.

In the event that the Board of Directors determines that such areas are not maintained in a manner consistent with the Community-Wide Standard and this Declaration, except in an emergency situation, the Board of Directors shall give the Owner written notice of the Association's intent to provide the necessary maintenance, repair, or replacement at the Owner's sole cost and expense. The notice shall state the maintenance, repairs, or replacement deemed necessary. The Owner shall have thirty (30) days after receipt of the notice to complete the maintenance, repair, or replacement. In the event that the maintenance, repair, or replacement is not capable of completion within a thirty (30) day period, the Owner shall begin the work and shall complete it within a reasonable time. If the Board determines that (i) an emergency exists, or (ii) that an Owner has not complied, the Association may provide the maintenance, repair, or replacement at Owner's sole cost and expense, and all costs including reasonable attorneys fees,

shall be added to and become a part of the assessment obligation of the Owner and shall become a lien against the Lot.

Section 3. Neighborhood's Responsibility. Upon resolution of the Board of Directors or pursuant to additional covenants applicable to a Neighborhood, a Neighborhood may be delegated the responsibility for operating and maintaining certain portions of the Common Area which are the responsibility of the Association within or adjacent to such Neighborhood. This may include, without limitation, maintaining any green space and private streets and roads within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association. The costs of such operating and maintenance shall be paid by the Owners within such Neighborhood through Neighborhood Assessments established by the Board.

Any Neighborhood having responsibility for maintenance of all or a portion of the property within a particular Neighborhood pursuant to covenants affecting the Neighborhood shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If any such Neighborhood fails to perform its maintenance responsibility as required herein and in any additional covenants, the Association may perform it and assess the costs against all Lots within such Neighborhood as provided in Article V, Section 7 of this Declaration.

Article IX **Insurance and Casualty Losses**

Section 1. Insurance on Common Area. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area and other property, if any, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

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, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million and No/100 Dollars (\$1,000,000.00).

Premiums for all insurance shall be a common expense of the Association. The policies may contain a reasonable deductible, and the deductible amount shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefited parties, except as otherwise provided above and shall be governed by the provisions set forth below:

(a) All policies shall be written with a company authorized to do business in Georgia.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in any settlement negotiations.

(c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonably available and all insurance policies shall be reviewed annually by the Board of Directors. In conducting such reviews the Board may engage an expert whom in its sole discretion it deems fit.

(e) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) ordinance or law coverage, demolition cost coverage and increased cost of construction coverage;

(ii) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents, and guests;

(iii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iv) that no policy may be canceled, invalidated, or suspended on account of any one or more individual Owners;

(v) that no policy may be canceled, subjected to nonrenewal, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(vi) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vii) that no policy may be canceled subjected to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain worker's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available or if necessary in order

to satisfy the requirements of applicable laws. If obtained, the amount of fidelity coverage shall be determined in the Board of Directors' best business judgment, and, if available, shall at least equal three (3) months assessments plus reserves on hand. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, subjected to nonrenewal or substantially modified without at least thirty (30) days prior written notice to the Association.

Section 2. Individual Insurance. Each Owner of a Residence shall be obligated to obtain and maintain at all times blanket "all-risk" casualty insurance on such Residence and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. If reasonably available, the casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an "all-risk" policy, including vandalism and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. If "all-risk" coverage is not reasonably available, Owners of Lots shall obtain, at a minimum, fire and extended coverage. The policies required hereunder shall be in effect at all times and Owners shall provide a certificate of such required insurance to the Board of Directors, upon request. Authority to adjust losses under policies obtained by an Owner shall be vested in the Owner and the Mortgagee of such Owner.

Section 3. Damage and Destruction - Insured by Association.

(a) In General. Immediately after damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims covered under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. The Board of Directors shall have all enforcement powers specified in Article XIV, Section 1 of this Declaration in order to enforce this provision.

(b) Repair and Reconstruction. The Board of Directors must proceed to repair or reconstruct any damage or destruction to the Common Area on behalf of the Association unless within sixty (60) days after the casualty, it obtains the agreement of at least seventy-five percent (75%) of the Total Association Vote not to repair or reconstruct. Any damage to or destruction of the common property of any Neighborhood Association shall be repaired or reconstructed unless the Lot Owners representing at least seventy-five percent (75%) of the total vote of the Neighborhood Association, or such higher percentage as more specifically set forth in the legal instruments of such Neighborhood Association, decide within sixty (60) days after the damage or destruction not to repair or reconstruct. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction to the Common Area or common property of a Neighborhood Association shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is not sufficient to cover the cost of repair or reconstruction of the Common Area or to the common property of a Neighborhood Association, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be retained by and for the benefit of the Association in an Association account.

In the event that it should be determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Neighborhood Association shall not be repaired or reconstructed and no alternative improvements are authorized, then such portion of the Community shall be restored to its natural state and maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition.

Section 4. Damage and Destruction - Insured by Owners.

(a) Residences. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner within seventy-five (75) days after the damage or destruction. However, where repairs cannot be completed within seventy-five (75) days, they shall begin within the required period and shall be diligently and continuously pursued until their completion. Alternatively, the Owner may decide to demolish and remove all damaged improvements on the Lot within seventy-five (75) days after such damage or destruction. Owner shall thereafter be required to maintain the Lot in accordance with Community-Wide Standards. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XIV, Section 1 of this Declaration in order to enforce this provision.

Section 5. Insurance Deductible. The deductible for any insurance policy carried by the Association shall, in the event of damage or destruction, be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage under Section 1 of this Article. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful conduct of one (1) or more Owners, then the Board may specifically assess the full amount of such deductible against such Owners and their Lots pursuant to Article V, Section 7 hereof.

Article X **Condemnation**

In the event of a taking by eminent domain of any portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after the taking, Owners holding at least seventy-five (75%) percent of the Total Association Vote otherwise agree, the Association shall restore or replace the improvements taken on the remaining land included in the Common Area to the extent lands are available. The provisions of Article IX, Section 3, above, applicable to Common Area improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

Article XI
Annexation of Additional Property

Subject to the consent of the owner and upon the affirmative vote, or written consent, or any combination thereof, of Owners holding a majority of the Total Association Vote, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Dawson County, Georgia, records a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such Supplementary Declaration, unless otherwise provided in the Supplementary Declaration.

Article XII
Mortgagee Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "eligible holder"), will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

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

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 2. Approval of Action. Unless two-thirds (2/3) of the first Mortgagees or Owners give their consent, the Association shall not:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this Article XI, Section 2(a) other than personal property of the Association;

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

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and of the Common Area (The issuance and amendment of architectural standards, procedures, rules, and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this Article XII, Section 2(c);

(d) fail to maintain insurance, as required by this Declaration; or

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

First Mortgagees, after written notice to the Association, may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

Section 3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of any Common Area.

Section 4. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 5. Applicability of Article XII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or Georgia law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Section 7. Amendments by Board. Should the Federal National Mortgage Association, the Federal Residence Loan Mortgage Corporation, VA or HUD subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any

such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

Section 8. Liability for Common Expenses. Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or non-judicial foreclosure of the Mortgage, it shall not be liable for the share of the Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

Section 9. Financial Statement. Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

Section 10. Sales and Leases. Notwithstanding anything to the contrary herein contained, the provisions of this Declaration shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

Article XIII **Easements**

Section 1 Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of entry and exit, 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 following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Area, to limit the number of guests of Owners and tenants who may use the Common Area, and to provide for the exclusive use and enjoyment of specific portions of the Common Area at certain designated times by an Owner, his or her family, tenants, guests, and invitees or by a separate group or entity;

(ii) the right of the Association to suspend the voting rights of an Owner and the right of an Owner to use Common Area facilities available for use by the Community, if any, for any period during which any assessment against his or her Lot which is hereby provided for remains unpaid; and, for a reasonable period of time for a violation of the Declaration, Bylaws, or rules and regulations;

(iii) the right of the Association to borrow money for the purpose of improving the Common Area, or for constructing, repairing, or improving any facilities located or to be located on the Common Area, and to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Area; and

(iv) the right of the Association to dedicate or transfer all or any portion of the Common Area subject to any conditions agreed on by the members of the Association. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by the Owners representing at least two-thirds (2/3) of the Total Association Vote; and

(b) Any Owner may delegate his or her right of use and enjoyment in and to the Common Area and facilities located thereon to the members of his or her family and his or her tenants and guests. An Owner shall be deemed to have made a delegation of all these rights to the Occupants of such Owner's Lot, if leased.

Section 2. Easements for Utilities. There is reserved to the Association blanket easements upon, across, above and under all property within the Community for access, ingress, egress, installation, repairing, replacing, and maintaining (a) all utilities serving the Community or any portion of the Common Area, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, (b) water runoff and storm drainage systems, and (c) any other services such as, but not limited to, a master television antenna system, cable television system, or security system which may be installed to serve the Community. It shall be expressly permissible for Association, or its designee, to do or to authorize the installation, repairing, replacing, and maintaining of the wires, conduits, cables and other equipment related to providing any such utility or service. Should a party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 3. Easement for Entry. In addition to the right of the Board to exercise self-help as provided in Article XIV, Section 2, the Board shall have the right, but not the obligation, to enter upon any property within the Community for emergency, security, and safety reasons. This right may also be exercised by the agents of the Association, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. The Board shall have the right to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard if an Owner or Occupant does not cure the condition after request by the Board. For purposes of this Section, a water or other utility leak, fire, strong foul odor, obvious insect infestation, or sounds indicating that a person or animal might be injured or sick and require immediate medical attention shall be considered emergencies justifying immediate entry onto a Lot, and into a Residence on a Lot. 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 property shall exist.

Section 4. Easement for Entry Gate and Street Signs. There is hereby reserved to the Association, and its designee, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to grade the land under and around the entry features.

Section 5. Public in General. The easements and rights created in this Article XIII 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. The Board of Directors hereby reserves the right to close temporarily, to the extent reasonably practicable, upon fifteen (15) days prior written notice (which may be given by posting in conspicuous locations upon the relevant portion of the Community), all or any portion of the Community which, in the reasonable opinion of the Board, may be legally necessary to prevent a dedication thereof, or any accrual of any rights therein, in the general public or in any Person other than the Persons for which such easements are expressly created in this Declaration.

Article XIV **General Provisions**

Section 1. Enforcement. The Community shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and the Common Area; provided however, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a majority of the Total Association Vote at an annual or special meeting of the membership. Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance therewith shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, and to suspend an Owner's right to vote or to use the Common Area for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board to limit ingress and egress to or from a Lot. In the event that any Occupant of a Lot violates the Declaration, Bylaws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and Occupant, and the fine shall first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the property until paid. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

The Board shall not impose a fine, suspend the right to vote or suspend the right to use the Common Area (provided, however, if an Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association, suspension of the right to vote and the right to use the Common Area shall be automatic); unless and until the Association has sent or delivered written notice to the violator as provided in subsection (a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection (b) below.

(a) Notice. If any provision of the Declaration, Bylaws, Design Guidelines or any rule or regulation of the Association is violated, the Board shall send the violator written notice identifying the violation and fine(s) being imposed and advising the violator of the right to request a hearing before the Board to contest the violation or fine(s) or to request reconsideration of the fine(s). Fine(s) may be effective or commence upon the sending of such notice or such later date specified in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge the fine. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) Hearing. If a written request for hearing is received from the violator within ten (10) days of the date of the violation notice provided above, then the Board shall schedule and hold in executive session a hearing affording the violator a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. The Board may establish rules of conduct for such hearing, which may include limits on time and on the number of participants who may be present at one time.

Section 2. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Board may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 1 of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Area to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the Bylaws, or the rules and regulations; provided, however, written notice shall be given to the Owner of the Lot at least two (2) days prior to the time that any items of construction are altered or demolished. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Owner and shall be collected as provided herein for the collection of assessments. Furthermore, the Board of Directors shall have the authority to record in the Dawson County, Georgia land records notices of violation of the provisions of the Declaration, the Bylaws, Design Guidelines and rules and regulations.

Section 3. Amendment. This Declaration may be amended upon the affirmative vote or written consent, or any combination of affirmative vote and written consent, of Owners holding at least two-thirds (2/3) of the Total Association Vote. Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified in the amendment.

In addition to the above, material amendments to this Declaration must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Lots that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to

any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

If legal action is not instituted to challenge the validity of this Declaration or any amendment hereto within one (1) year of the recording thereof in the Dawson County, Georgia land records, then such amendment or document shall be presumed to be validly adopted.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

Section 5. Security. **THE ASSOCIATION MAY, BUT SHALL NOT BE REQUIRED TO, FROM TIME TO TIME, PROVIDE MEASURES OR TAKE ACTIONS WHICH DIRECTLY OR INDIRECTLY IMPROVE SECURITY IN THE COMMUNITY. HOWEVER, EACH OWNER, FOR HIMSELF OR HERSELF AND HIS OR HER TENANTS, GUESTS, LICENSEES, AND INVITEES ACKNOWLEDGES AND AGREES THAT THE ASSOCIATION IS NOT A PROVIDER OF SECURITY AND SHALL HAVE NO DUTY TO PROVIDE SECURITY FOR THE COMMUNITY. FURTHERMORE, THE ASSOCIATION DOES NOT GUARANTEE THAT NON-OWNERS AND NON-OCCUPANTS WILL NOT GAIN ACCESS TO THE COMMUNITY AND COMMIT CRIMINAL ACTS NOR DOES THE ASSOCIATION GUARANTEE THAT CRIMINAL ACTS WILL NOT BE COMMITTED BY OTHER OWNERS OR OCCUPANTS. 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 SECURITY MEASURES UNDERTAKEN.**

Section 6. Dispute Resolution. Any Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any director or officer or any agent of the Association. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing by the person requesting the hearing.

Section 7. Partition. The Common Area shall remain undivided, and no Owner or any other Person shall bring any action for partition or division of the whole or any part of the

Common Area without the written consent of all Owners and all holders of all Mortgages encumbering any portion of the Community.

Section 8. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 9. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 10. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 11. Preparer. This Declaration was prepared by George E. Nowack, Jr., Nowack, Curry & Wilco, P.C., One Alliance Center, 4th Floor, 3500 Lenox Road, Atlanta, Georgia 30326.

Section 12. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 13. Indemnification. In accordance with the Georgia Nonprofit Corporation Code, and to the full extent allowed by Georgia law, the Association shall indemnify every person who was or is a party or who is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Association), by reason of the fact that such person is or was serving as a director, officer or committee member of the Association, against any and all expenses, including attorneys' fees, imposed upon or reasonably incurred in connection with any action, suit, or proceeding, if such person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the person is proper under the circumstances.

Section 14. Books and Records.

(a) All members of the Association and any institutional holder of a first Mortgage shall be entitled to inspect the following records at a reasonable time and location specified by the Association, upon written request at least five (5) days before the date on which the member wishes to inspect and copy:

(i) its Articles or restated Articles of Incorporation and all amendments to them currently in effect;

(ii) its Bylaws or restated Bylaws and all amendments to them currently in effect;

(iii) resolutions adopted by either its members or Board of Directors increasing or decreasing the number of directors or the classification of directors, or relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

(iv) resolutions adopted by either its members or Board of Directors relating to the characteristics, qualification, rights, limitations, and obligations of members or any class or category of members;

(v) the minutes of all meetings of members and records of all actions approved by the members for the past three (3) years;

(vi) all written communications to members generally within the past three (3) years, including the financial statements furnished for the past three (3) years;

(vii) a list of the names and business or Residence addresses of its current directors and officers; and

(viii) its most recent annual report delivered to the Secretary of State.

(b) A member may inspect and copy the following records upon written notice at least five (5) business days before the date on which the member wishes to inspect and copy only if the member's demand is made in good faith and for a proper purpose that is reasonably relevant to the member's legitimate interest as a member; the member describes with reasonable particularity the purpose and the records the member desires to inspect; the records are directly connected with this purpose; and the records are to be used only for the stated purpose:

(i) excerpts from minutes of any Board meeting, records of any action of a committee of the Board while acting in place of the Board on behalf of the Association, minutes of any meeting of the members, and records of action taken by the members or the Board without a meeting, to the extent not subject to inspection under subsection 16(a);

(ii) accounting records of the Association; and

(iii) the membership list only if for a purpose related to the member's interest as a member. Without the consent of the Board, a membership list or any part thereof may not be: used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the Association; used for any commercial purpose; or sold to or purchased by any person.

The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Member.

Section 15. Financial Review. A review of the accounts of the Association shall be made annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's reviewed financial statement at the annual meeting, by a majority of the Association vote present, or represented by proxy, the Owners may require that the accounts of the Association be audited as a common expense by a public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of an audited financial statement within ninety (90) days of the date of the request.

Section 16. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it or reasonably necessary to effectuate the right or privilege.

Section 17. Variances. Notwithstanding anything to the contrary contained in this Declaration, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

IN WITNESS WHEREOF, the undersigned, being the duly appointed officers of the Association, have executed this instrument and affixed the corporate seal this 29th day of September, 2003.

BURNT MOUNTAIN ESTATES ASSOCIATION, INC.

S/ James A. Roper
President

S/ Francis G. Clark, Jr.
Secretary

Signed, sealed, and delivered this
29th day of September, 2003
in the presence of:

Brabara A. Feltman
Witness

Karen R. Williamson
Notary Public

[NOTARY SEAL]

EXHIBIT "A"

Definitions

The following words, when used in this Declaration or in any Supplementary Declaration (unless the context shall prohibit), shall have the following meanings:

(a) "Act" means the Georgia Property Owners Association Act, OCGA § 44-3-220, et. Seq. (Michie 1982) as may be amended.

(b) "Architectural Control Committee" or "ACC" shall mean the committee established to exercise the architectural review powers set forth in Article VI hereof.

(c) "Area of Common Responsibility" shall mean and refer to the Common Area (except for those portions of the Common Area which another Person is required to maintain under any easement, cost sharing agreement or covenant), together with those areas, if any, which by the terms of this Declaration or by contract or agreement with any Neighborhood become the responsibility of the Association. The Area of Common Responsibility shall include, but not be limited to, all open space, roads, streets, and paved areas in the Community, all fences, walls and retaining walls on the Common Area, and the entry gates.

(d) "Articles" or "Articles of Incorporation" shall mean the Articles of Incorporation of Burnt Mountain Estates Association, Inc., a nonprofit Georgia corporation, its successors and assigns.

(e) "Association" means Burnt Mountain Estates Association, Inc. a Georgia non-profit corporation, its successors or assigns.

(f) "Base Assessment" shall refer to assessments levied on all Lots subject to assessment under Article V to fund Common Expenses for the general benefit of all Lots, as more particularly described in Article V of this Declaration.

(g) "Board of Directors" or "Board" shall mean the appointed or elected body of the Association, as applicable, having its normal meaning under Georgia corporate law.

(h) "Builder" shall mean any Person which purchases one (1) or more Lots for the purpose of constructing improvements for later sale to consumers or parcels of land within the Community for further subdivision, development and/or resale in the ordinary course of such Person's business.

(i) "Bylaws" shall refer to the Bylaws of Burnt Mountain Estates Association, Inc., attached to this Declaration as Exhibit "D" and made a part of this Declaration.

(j) "Common Area" shall mean any and all real and personal property and easements and other interests, together with the facilities and improvements located on the property, now or in the future owned by the Association.

(k) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "B", attached hereto, and such additions thereto as may be made by the Association by Supplementary Declaration of other real property.

(l) "Community Association" shall mean Burnt Mountain Estates Association, Inc., a nonprofit Georgia corporation, its successors and assigns.

(m) "Community-Wide Standard" shall mean 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 of the Association. This determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

(n) "Design Guidelines" shall mean those standards adopted by the ACC designed to govern the development of the Lots and the design and construction of improvements on the Lots.

(o) "Lot" shall mean a portion of the Community, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as a detached residence for a single family. The term shall refer to the land as well as any improvements thereon.

(p) "Mortgage" shall mean any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(q) "Mortgagee" shall mean the holder of a Mortgage.

(r) "Neighborhood" shall refer to each separately designated residential area within the Community, whether or not governed by a Neighborhood Association (as defined below), in which the Owners may have common interests other than those common to all members of the Association.

(s) "Neighborhood Assessments" shall mean assessments levied against the Lots in a particular Neighborhood or Neighborhoods as more particularly described in Article V, Sections 2 and 4 of this Declaration.

(t) "Neighborhood Association" shall refer to any owners association having concurrent jurisdiction with the Association over any part of the Community.

(u) "Neighborhood Expenses" shall mean and include the actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve for capital repairs and replacements, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized herein or in any amendment which submits additional property to this Declaration applicable to the Neighborhoods.

(v) "Occupant" shall mean any Person staying overnight in a residence on a Lot for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year, regardless of whether such Person is a tenant or the Owner of such property.

(w) "Owner" shall mean and refer to the record owner, whether one (1) or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(x) "Person" shall mean any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

(y) "Property" means the real estate which is submitted to the Act and the provisions of the Declaration, as described in Exhibit "B" attached hereto and incorporated herein by reference. The Property is a residential property owners' development which hereby submits to the Georgia Property Owners Association Act OCGA § 4-3-220 et. Seq. (Michie 1982), as may be amended.

(z) "Residence" means the structure constructed on a Lot to be used for residential purposes.

(aa) "Supplementary Declaration" shall mean an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes additional restrictions and obligations on the property, or both.

(bb) "Survey" shall mean the plat or plats for Burnt Mountain Estates, as amended, recorded in the Dawson County, Georgia records.

(cc) "Total Association Vote" means all of the votes attributable to members, in good standing, of the Association.

EXHIBIT "B"

Property Submitted

All that tract or parcel of land lying and being in Land Lots 116 and 117 of the 5th District and 2nd Section of Pickens County, Georgia, and Land Lot 117 of the 5th District and 2nd Section of Dawson County, Georgia, and being designated as Tracts 1A, 2A, 3A, 4AS, 5A, 6A, 7A, 8A, 9A, 10A, 11A, 12A, 13A; 1B, 2B, 3B, 4B, 5B, 6B,; 1C, 2C, 3C and 4C of Burnt Mountain Estates per plat of survey by Lane S. Bishop, R.L.S., dated July 1983, and recorded in Plat Book L, Page 185, Pickens County, Georgia Records, and Plat Book 11, Page 179, Dawson County, Georgia Records.

AND

All that tract or parcel of land lying and being in Land Lot 117 of the 5th District and 2nd Section, Pickens and Dawson Counties, Georgia, and being Lots 14, 15, 16, 17, 18 and 19 of Block A, and Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19 of Block B, and Lots 1, 2, 3, 4, 5, 6, 7 and 8 of Block D, of BURNT MOUNTAIN ESTATES as per plat of survey of Lane S. Bishop, R.L.S., dated October 7, 1983, and recorded in Plat Book L, Page 215, Pickens County, Georgia Records, and in Plat Book 13, Page 295, Dawson County, Georgia Records, which plat is incorporated herein and made a part hereof.

AND

All that tract or parcel of land lying and being in Land Lots 117 and 136 of the 5th District and 2nd Section, Pickens County, Georgia, containing 1.90 acres as per plat of survey for BURNT MOUNTAIN ESTATES by Lane S. Bishop, R.L.S., dated December 5, 1983, and recorded in Plat Book L, page 261, Pickens County, Georgia Records, and by said references is incorporated herein and made a part hereof.

AND

All that tract or parcel of land lying and being in Land Lot 117 of the 5th District and 2nd Section, Pickens and Dawson Counties, Georgia, and being Lots 5, 6, 7, 8 of Block C of BURNT MOUNTAIN ESTATES as per plat of survey by Lane S. Bishop, R.L.S., dated October 7, 1983, and recorded in Plat Book L, Page 215, Pickens County, Georgia Records, and in Plat Book 13, Page 295, Dawson County, Georgia Records, which plat is incorporated herein and made a part hereof.

AND

All that tract or parcel of land lying and being in Land Lot 101 of the 5th District and 2nd Section, Pickens County, Georgia, being 4.15 acres as per plat of survey for Wade E. Gaddy by Lane S. Bishop, R.L.S., dated May 22, 1984, and recorded in Plat Book M, Page 46, to which said plat of reference is made for purposes of incorporation herein.

AND

All that tract or parcel of land lying and being in Land Lots 101 and 116 of the 5th District and 2nd Section, Pickens County, Georgia, and being Lot 12 of Block E, containing 1.6 acres, more or less, BURNT MOUNTAIN ESTATES as per plat of survey by Lane S. Bishop, R.L.S., dated July 15, 1985, and recorded in Plat Book M, page 268, Pickens County, Georgia Records, which plat of survey is incorporated herein and made a part hereof.

AND

All that tract or parcel of land lying and being in Land Lot 101 of the 5th District and 2nd Section, Pickens County, Georgia, being Lots 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, and 17 of Block Z BURNT MOUNTAIN ESTATES, as per plat of survey by Lane S. Bishop, R.L.S., dated April 1985; revised August 27, 1985, as to Lots 7 and 12; revised October 2, 1985, as to Lots 13 and 17; and revised October 7, 1985, locating easement, and being recorded in Plat Book N, Page 26, Pickens County, Georgia Records, which plat of survey is incorporated herein and made a part hereof.

AND

All that tract or parcel of land lying and being in Land Lots 101, 116 and 117 of the 5th District and 2nd Section, Pickens and Dawson Counties, Georgia, and being Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of Block E of BURNT MOUNTAIN ESTATES as per plat of survey by Lane S. Bishop, R.L.S., dated September 1984, and recorded in Plat Book M, Page 107, Pickens County, Georgia Records, and in Plat Book ____, Page ____ Dawson County, Georgia Records, which plat is incorporated herein and made a part hereof.

AND

All that tract or parcel of land lying and being in Land Lot 101 of the 5th District and 2nd Section, Pickens County, Georgia, and being Lots 1, 2, 3, 4, 5, and 6 of Block Z and a 0.38 acre tract of BURNT MOUNTAIN ESTATES as per plat of survey by Lane S. Bishop, R.L.S., dated April 1985, recorded in Plat Book M, Page 248, Pickens County, Georgia Records, which plat is incorporated herein and made a part hereof.

EXHIBIT "C"

Description of Neighborhoods

Exhibit "E"

Rotation of President and Vice President

2003	Pres: Cove Rd/Uplands Neighborhood	VP: Ridge Rd Neighborhood
2004	Pres: Long View Neighborhood	VP: Bear Paw Neighborhood
2005	Pres: Spring Run Neighborhood	VP: Locust Peg Neighborhood
2006	Pres: Ridge Road Neighborhood	VP: Cove Rd/ Uplands Neighborhood
2007	Pres: Bear Paw Neighborhood	VP: Longview Neighborhood
2008	Pres: Locust Peg Neighborhood	VP: Spring Run Neighborhood
2009	Pres: Cove Rd/ Uplands	VP: Ridge Rd Neighborhood
2010	And on: (the sequence repeats each year in the same order)	