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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,

RESTRICTIONS AND EASEMENTS

FOR

APALACHEE HERITAGE

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THIS INSTRUMENT ESTABLISHES A MANDATORY MEMBERSHIP HOMEOWNERS ASSOCIATION BUT DOES NOT SUBMIT THIS DEVELOPMENT TO THE PROVISIONS OF THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT, O.C.G.A. § 44-3-220, *ET SEQ.*

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DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS

FOR

APALACHEE HERITAGE

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**EXHIBIT "A" PROPERTY SUBMITTED**

**EXHIBIT "B" ADDITIONAL PROPERTY**

**EXHIBIT "C" BYLAWS OF APALACHEE HERTIAGE HOMEOWNERS ASSOCIATION, INC.**

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS

FOR

APALACHEE HERITAGE

THIS DECLARATION is made on the date hereinafter set forth by **THE RYLAND GROUP, INC.**, a Maryland corporation (hereinafter called "Declarant") and **APPALACHEE DEVELOPMENT PARTNERS, L.L.C.**, a Georgia limited liability company and **APPALACHEE LAND PARTNERS, L.L.C.**, a Georgia limited liability company (hereinafter collectively called "Developers");

W I T N E S S E T H

WHEREAS, Developers are the owners of the real property described in Exhibit "A" hereof; and

WHEREAS, Declarant and Developers desire to subject the real property described in Exhibit "A" hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration;

NOW, THEREFORE, Declarant and Developers hereby declare that the real property described in Exhibit "A" attached hereto and by this reference incorporated herein is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, mortgaged and otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens, hereinafter set forth, which are for protecting the value and desirability of and which shall run with the title to the real property hereby and hereafter made subject hereto and shall be binding on all persons having any right, title or interest in all or any portion of the real property now and hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns and shall inure to the benefit of each owner of all or any portion thereof.

Article 1  
Definitions

The following words, when used in this Declaration or in any Supplementary Declaration, shall have the following meanings:

1.1 "Approved Builder" means Richport Properties, Inc., a Georgia corporation, and any other home builder approved by Declarant for the construction of houses on Lots.

1.2 "Articles of Incorporation" means the Articles of Incorporation of Apalachee Heritage Homeowners Association, Inc., filed with the Georgia Secretary of State and incorporated herein by this reference as may be amended from time to time.

1.3 "Association" means Apalachee Heritage Homeowners Association, Inc., a Georgia nonprofit corporation, its successors and assigns.

1.4 "Board of Directors" or "Board" means the appointed or elected body of the Association, vested with the authority to manage the affairs of the Association under the Georgia Nonprofit Corporation Code, O.C.G.A. § 14-3-101, *et seq.*

1.5 "Bylaws" means the Bylaws of Apalachee Heritage Homeowners Association, Inc., attached to this Declaration as Exhibit "C" and incorporated herein by this reference as may be amended from time to time.

1.6 "Common Property" means any and all real and personal property, including, without limitation, easements and other interests therein, and the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

1.7 "Community" refers to that certain real property described in Exhibit "A", attached hereto, and such additions thereto as may be made by Supplementary Declaration as provided herein.

1.8 "Community-Wide Standard" means the standard of conduct, maintenance or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

1.9 "Declarant" means **THE RYLAND GROUP, INC.**, a Georgia corporation and its successors-in-title and assigns; provided that in a recorded instrument, such successor-in-title or assignee is designated as the Declarant hereunder by then holder of all of the rights of Declarant hereunder; and, provided, further, upon the effective date of the designation of a successor Declarant, all rights of the former Declarant in and to such status as Declarant hereunder shall cease, it being understood that there shall be only one holder of the rights of Declarant hereunder at any one point in time.

1.10 "Developers" mean **APPALACHEE DEVELOPMENT PARTNERS, L.L.C.**, a Georgia limited liability company, and **APPALACHEE LAND PARTNERS, L.L.C.**, a Georgia limited liability company, collectively, and their successors-in-title and assigns. A reference herein to a Developer or any Developer means a reference to either Appalachee Development Partners, L.L.C. or Appalachee Land Partners, L.L.C. acting alone and without the

consent of the other. It is the intent of this Declaration that each Developer, acting alone, shall have the power to exercise rights of Developer as to the portion of the Community being developed by that Developer. Nothing contained herein nor the acts of the Developers shall be construed as creating a partnership or joint venture between Developers.

1.11 "Lot" means any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes a single-family dwelling site as shown on a plat recorded in the Office of the Clerk of Superior Court of Gwinnett County, Georgia. The ownership of each Lot shall include, and there shall pass with the title to each Lot as an appurtenance thereto, whether or not separately described, all of the rights and interest of an Owner in the Common Property, as herein provided, together with membership in the Association.

1.12 "Mortgage" means any and all instruments used for the purpose of encumbering real property in the Community as security for the payment or satisfaction of an obligation, including, without limitation, any mortgage, deed to secure debt or deed of trust.

1.13 "Mortgagee" means the holder of a Mortgage.

1.14 "Occupant" means any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

1.15 "Owner" means the record owner, whether one 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.

1.16 "Person" includes any individual, individual acting in a fiduciary capacity, corporation, limited partnership, limited liability company, general partnership, joint stock company, joint venture, association, company or other organization, recognized as a separate legal entity under Georgia law.

1.17 "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes additional covenants, conditions, restrictions or easements on the land described therein.

1.18 "Total Association Vote" means the votes attributable to the entire membership of the Association (including votes of Declarant) as of the record date for such action, whether or not such members are present or represented at the meeting, if any, where such votes are to be cast.

## Article 2

### Property Subject To This Declaration

2.1 Property Hereby Subjected To This Declaration. The real property which is, by the recording of this Declaration, subject to the covenants, conditions, restrictions and easements

hereinafter set forth and which, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and encumbered subject to this Declaration is the real property described in Exhibit "A" attached hereto and by this reference made a part hereof.

2.2 Unilateral Annexation By Declarant. As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege, and option from time to time at any time until ten (10) years after the recording of this Declaration to subject real property described in Exhibit "B", attached hereto and by this reference incorporated herein, to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia a Supplementary Declaration describing the property being subjected. Any annexation shall be effective upon the filing for record of a Supplementary Declaration unless a later effective date is provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed and as long as rights of existing Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property. If any land is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

2.3 Other Annexation. Upon the written consent of: (a) the owner(s) thereof; (b) the Declarant; and (c) the Owners of at least two-thirds of the Lots, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the Office of the Clerk of the Superior Court of Gwinnett County, Georgia a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be executed on behalf of the Association by the President of the Association whose signature shall be attested by the Secretary of the Association. The annexation shall be effective only upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein.

2.4 Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article for the purpose of removing any portion of the Community then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

### Article 3

#### Association Membership and Voting Rights

3.1 Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership



per Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot. The rights and privileges of membership, including the right to hold office, may be exercised by a member or the spouse of a member, but in no event shall more than one office be held for each Lot owned. This Section is not intended to prohibit the same individual from being both an officer and a director of the Association. Nothing in this Section shall restrict the number of votes cast or the number of the officers and directors appointed by the Declarant.

3.2 Voting. Members shall be entitled to one vote for each Lot owned. When more than one Person holds an ownership interest in a Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Secretary prior to any meeting or referendum. The vote attributable to a Lot shall be suspended in the event more than one Person seeks to exercise it.

3.3 Notice of Sale, Lease or Acquisition. Prior to the sale or lease of a Lot, the Owner shall provide the Association with written notice of the name of the purchaser or lessee, as the case may be, and such other information as the Board may reasonably require. Upon acquisition of a Lot each new Owner shall provide the Association with written notice of the name and mailing address of the Owner and such other information as the Board may reasonably require.

#### Article 4 Assessments

4.1 Purpose of Assessments. 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 of Lots, including, without limitation, the maintenance of real and personal property, all as may be more specifically authorized from time to time by the Board of Directors.

4.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) general assessments; (b) special assessments; and (c) specific assessments. All such assessments, together with late charges in the amount of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due and interest (at a rate set by the Board of Directors from time to time, but not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred, shall, from the time the sums become due and payable, be a charge on the land and shall be a continuing lien in favor of the Association on the Lot against which each assessment is made. The recording of this Declaration shall constitute record notice of the existence of the lien and no further recordation of any claim of lien shall be required. Each such assessment, together with such late charges, interest and costs, shall also be the personal obligation of the Person who was the Owner of the Lot at the time the assessment fell due. Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot, and each grantee of an Owner shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of the grantor shall not apply to any first Mortgagee taking

title through foreclosure proceedings. No Owner may waive or otherwise exempt themselves from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any failure of the Association to take some action or perform some function required to be taken or performed by the Association, the obligation to pay assessments being a separate and independent covenant on the part of each Owner. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

4.3 General Assessments. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year. The Board shall cause the budget and the assessments to be levied against each Lot for the year to be delivered to each member at least thirty (30) days prior to the due date of any general assessment. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote and the Declarant. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for any period, then and until such time as a budget shall have been determined, as provided herein, the budget in effect shall continue. General assessments shall be levied equally on all similarly situated Lots and shall be paid in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in one annual installment. General assessments include any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property, operating expenses of the Association, payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper. General assessments may include, without limitation, sums for property taxes, insurance premiums, legal and accounting fees, management fees, charges for utilities, cleaning and janitor services, landscape maintenance, expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others.

4.4 Special Assessments. The Association may levy a special assessment if approved by two-thirds (2/3) of the Total Association Vote and the Declarant. Special assessments shall be paid as determined by the Board. The Board may permit a special assessment to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

4.5 Specific Assessments. The Board shall have the power to levy specific assessments 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 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 this Declaration and the costs of maintenance performed by the Association for which the Owner is responsible shall be specific assessments. The Board of Directors may also specifically assess Owners for Association expenses as follows: (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; and (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.

4.6 Subordination of Liens to Mortgages: The lien of all assessments authorized herein is hereby made subordinate to the lien of any first Mortgage placed on a Lot if, but only if, all assessments and charges with respect to such Lot authorized herein having a due date on or prior to the date of the Mortgage as filed of record have been paid. The lien hereby subordinated is only such lien as relates to assessments and charges authorized hereunder having a due date subsequent to the date such Mortgage is filed of record and prior to the satisfaction, cancellation or foreclosure of such Mortgage or the sale or transfer of the Lot pursuant to any proceeding in lieu of foreclosure or the sale or transfer of the Lot pursuant to a sale under power contained in such Mortgage. Such subordination is merely a subordination and shall not relieve the Owner of the Lot of the personal obligation to pay all assessments coming due during such period of ownership; shall not relieve such Lot from the lien provided for herein (except to the extent a subordinated lien is extinguished as a result of such subordination as against a Mortgagee or such Mortgagee's assignee or transferee by foreclosure or by sale under power); and no sale or transfer of such Lot to the Mortgagee or to any other Person pursuant to a decree of foreclosure, or pursuant to any other proceeding in lieu of foreclosure or pursuant to a sale under power, shall relieve any existing or previous Owner of such Lot of any personal obligation or relieve such Lot or the then Owner of such Lot from liability for any assessment authorized hereunder become due after such sale and transfer.

4.7 Remedies of the Association. Any assessments or installments thereof which are not paid when due shall be delinquent. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain such Owner's personal obligation and shall also pass to such Owner's successors-in-title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which such Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors-in-title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and such successors-in-title creating any indemnification of the Owner or any relationship of principal and surety as between themselves. Any assessment or installment thereof delinquent for a period of more than ten (10) days shall incur a late charge in the amount of Ten Dollars (\$10.00) or ten percent (10%) of the amount of each assessment or installment not paid when due and interest (at a rate set by the Board of Directors from time to time, but not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due) and costs of collection, including, without limitation, reasonable attorney's fees actually incurred. The Association may cause a notice of delinquency to be given to any Owner who has not paid within ten (10) days following the due date. In the event that the assessment remains unpaid after sixty (60) days, the Association may institute suit to collect such amounts and/or to foreclose its lien. The Association may file a claim of lien with the Office of the Clerk of Superior Court of the county where the Lot is located, but no such claim of lien shall be required to establish or perfect the lien for unpaid assessments. Each Owner, by acceptance of a deed vests in the Association the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the lien. The lien provided for in this Declaration shall be in favor of the Association and shall be for the benefit of all

Owners. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. The Association may also suspend the membership rights of the delinquent Owner, including the right to vote, the right of enjoyment in and to the Common Property and the right to receive and enjoy such servicing and other benefits as may then be provided by the Association. Any such suspension shall not affect such members obligation to pay assessments coming due during the period of such suspension and shall not effect the permanent lien on such Lot in favor of the Association.

4.8 Date of Commencement of Assessments. Assessments shall commence when the Board of Directors first determines a budget and levies assessments. The assessments provided for herein shall commence as to a Lot on the first to occur of the date that the Lot is first occupied for residential purposes; or is conveyed by a Developer or Declarant or Approved Builder to an owner who is not an Approved Builder or successor Declarant acquiring such Lot in the ordinary course of business. A Lot shall be occupied for residential purposes when it has been improved with a dwelling and has been conveyed to an owner who intends to occupy the dwelling, or, if the dwelling is occupied as a residence before such conveyance, the date of such occupancy.

4.9 Budget Deficits During Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may: (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves), and the sum of the annual, special and specific assessments collected by the Association in any fiscal year (such advances shall be evidenced by promissory notes from the Association in favor of the Declarant); or (b) cause the Association to borrow such amount from a commercial lending institution at the then prevailing rates for similar loans in the local area of the Community. No Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

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

4.11 Estoppel Letter. The Association shall, within five (5) days after receiving a written request therefor and for a reasonable charge, as established by the Board, certify to the amount of any unpaid assessments constituting a lien on a specified Lot. A certification letter signed by an officer of the Association or the Association's managing agent, if any, as to the amount of assessments due with respect to a Lot shall be binding upon the Association

4.12 Initiation Fee. Upon the first sale of each and every Lot after it has been improved with a residence for which a certificate of occupancy has been issued, an initiation fee in the amount of \$100.00 shall be collected from the purchaser at the closing of such sale for the benefit of the Association. These funds shall be placed in the operating account of the Association or in

a segregated account for the Association, as determined by the Board of Directors, and shall be for the purpose of insuring that the Association will have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary or desirable by the Board of Directors.

## Article 5

### Maintenance: Common Property

5.1 Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement of all landscaping and improvements situated on the Common Property. The Association shall also maintain (whether or not constituting Common Property): (a) all Community entry features, including entry area landscaping and any irrigation system and the expenses for water and electricity, if any, provided to all such entry features; (b) all storm water detention/retention ponds and storm water drainage facilities serving the Community, to the extent such responsibility has not been assumed on an ongoing basis by a local governmental entity; (c) all street medians and islands located in the Community, to the extent such are not maintained on an ongoing basis by a government body; (d) any pedestrian paths or walking trails located in the Community, to the extent such are not maintained on an ongoing basis by a government body; (e) all Community greenbelt and open spaces; and (f) all Community recreational facilities. In addition, the Association shall have the right, but not the obligation, to maintain other property not owned by the Association, whether within or without the Community and to enter into easements and covenant to share costs agreements regarding such property where the Board has determined that such action would benefit the Owners. In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner, or the Occupants, family, guests, lessees or invitees of an Owner, then the Association may perform such maintenance, repair or replacement and all costs thereof, not paid for by insurance, shall be assessed against the Owner as a specific assessment. All maintenance by the Association shall be performed consistent with the Community-Wide Standard.

The Association shall not be liable for injury or damage to Person or property: (a) caused by the elements of by an Owner or any other Person; (b) resulting from rain or other surface water which may leak or flow from any portion of the Common Property; or (c) caused by any street, pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair.

5.2 Owner's Responsibility. Except for maintenance performed on a Lot by the Association pursuant to Section 5.1, if any, all maintenance of the Lot and all structures, landscaping, and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. Such maintenance obligation shall include, without limitation, the following: prompt removal of all litter, trash, refuse, and waste; lawn mowing on a regular basis; tree and shrub pruning; watering landscaped areas; keeping improvements, and exterior lighting in good repair and working order; keeping lawn and garden areas alive, free of weeds, and

~~attractive; keeping driveways in good repair; complying with all governmental health and police requirements; and repair of exterior damages to improvements.~~ In the event that the Board of Directors determines that any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, the Association shall, except in an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair or replacement deemed necessary. The Owner shall have ten days after receipt of such notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within a ten-day period, to commence such work which shall be completed within a reasonable time. If any Owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement and all costs thereof shall be assessed against the Owner and the Lot as a specific assessment. This provision shall not apply to any Lot(s) owned by the Declarant or an Approved Builder, unless improved with a dwelling and occupied as a residence.

5.3 Conveyance of Common Property by Declarant or Developer to Association; No Implied Rights. The Declarant or a Developer may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be deemed to be accepted by the Association upon delivery of any personal property or upon recordation of an instrument of conveyance of any interest in real property, and the property shall thereafter be Common Property to be used and maintained by the Association for the benefit of its members. The Association hereby constitutes and appoints Declarant as its agent and attorney-in-fact to accept on behalf of the Association any such conveyance to the Association and to execute on behalf of the Association any and all documents, including, without limitation, deeds and transfer tax declaration forms, necessary or convenient to effectuate and document any such conveyance to the Association. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise. The Declarant or a Developer shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section and shall have no duty or obligation to convey any property or property rights to the Association regardless of whether or not any such property has been made available for the use of Owners. The Declarant or a Developer may impose or reserve, by lease, license, easement or otherwise such rights of use and enjoyment in and to all or any portion of the property so conveyed as Declarant or a Developer may reasonably require so long as such imposition or reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat nor the use by the Owners or maintenance by the Association of any property shall create any rights, easements or licenses, in the Association or the Owners, express or implied, unless and until any such property rights, easements or licenses are conveyed by the Declarant or a Developer to the Association or the Owners, as the case may be, by an instrument recorded in the real estate records of the County where the property is located.

5.4 Partition. The Common Property shall remain undivided and no Owner shall bring any action for partition or division of the whole or any part thereof without the written consent of all Owners of all portions of the property located within the Community and without the written

consent of all holders of all Mortgages encumbering any portion of the property, including, but not limited to, the Lots located within the Community.

5.5 Condemnation. In the event of a taking by eminent domain of any portion of the Common Property on which improvements have been constructed, the Association shall restore or replace such improvements so taken on the remaining Common Property, unless within 60 days after such taking, an alternative plan is approved by at least 75% of the Total Association Vote and the consent of Declarant. The provisions of this Declaration applicable to replacement or restoration of damaged improvements on the Common Property shall also apply to and govern the actions to be taken in the event that the improvements are not restored or replaced after a condemnation.

## Article 6 Architectural Standards

6.1 General. No exterior construction, alteration or addition of any improvements of any nature whatsoever (including, without limitation, staking, clearing, excavation, grading, filling, construction of impervious surface, building, exterior alteration of existing improvements, change in the exterior color of any existing improvement and planting and removal of landscaping materials), shall be commenced or placed upon any part of the Community unless, installed by the Declarant or an affiliate of the Declarant, approved in accordance with this Article, or otherwise expressly permitted under this Declaration. Any Owner may remodel, paint or redecorate the interior of structures on the Lot without approval hereunder. However, modifications to the interior of porches, patios and similar portions of a structure visible from outside the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. This Article shall not apply to the activities of the Declarant, affiliates of the Declarant, nor to improvements to the Common Property by or on behalf of the Association. Any Approved Builder may submit its standard plans for approval by Declarant hereunder, which approval will not be unreasonably withheld, and thereafter no further approval shall be required under this Article for such Approved Builder to construct improvements on Lots consistent with the approved standard plans. This Article may not be amended without the written consent of the Declarant until (a) the Declarant no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued.

6.2 Guidelines and Procedures. Except as provided above, no exterior construction, addition or alteration shall be made unless and until plans and specifications shall have been submitted in writing to and approved by the Declarant. Such plans and specifications shall be of sufficient detail to allow the Declarant to make its review and to the extent required by the Declarant shall show the nature, kind, shape, height, materials and location of the proposed improvement. The Declarant may adopt written design and development guidelines and application and review procedures, which may provide for a review fee. The Declarant shall have sole and full authority to prepare and to amend, from time to time at its sole discretion and without notice, the architectural guidelines. The Declarant shall make the architectural guidelines available to Owners and builders who seek to engage in construction upon all or any

portion of the Community and such Owners and builders shall conduct their operations strictly in accordance therewith. If the Declarant fails to approve or to disapprove submitted plans and specifications within thirty (30) days after receipt of all required plans and specifications, such approval shall be deemed to have been given. As a condition of approval under this Article, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any improvement, change, modification, addition or alteration. In the discretion of the Declarant, an Owner may be required to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest. The Declarant shall be the sole arbiter of such plans and may withhold approval for any reason, including, without limitation, purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. The Declarant and its representatives shall have the right, during reasonable hours and after reasonable notice, to enter upon any property in the Community to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Persons shall not be deemed guilty of trespass by reason of such entry. If construction does not commence on a project for which plans have been approved within 12 months of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the plans to the Declarant for reconsideration.

6.3 Limitation of Liability. Plans and specifications are not approved for engineering or structural design or quality of materials and by approving such plans and specifications the Declarant assumes no liability or responsibility therefor or for any defect in any structure constructed from such plans and specifications. Neither Declarant, the Association, nor the officers, directors, members, employees and agents of any of them shall be liable in damages to anyone submitting plans and specifications to any of them for approval or to any Owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every Person who submits plans and specifications and every Owner agrees that such Person or Owner will not bring any action or suit against Declarant, the Association or the officers, directors, members, employees and agents of any of them to recover any damages and hereby releases, remises, quitclaims and covenants not to sue for all claims, demands and causes of action arising out of or in connection with any judgment, negligence or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands and causes of action not known at the time the release is given.

6.4 No Waiver. The approval of the Declarant of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring approval or consent of the Declarant, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications or drawings or matters whatever subsequently or additionally submitted for approval or consent.

6.5 Variances. Notwithstanding anything to the contrary contained herein, the Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration and the architectural guidelines if it determines that waiver of application or enforcement of the provision in a particular case is dictated by unique circumstances, such as, but not limited to,



topography, natural obstructions, hardship, aesthetic considerations or environmental considerations and would not be inconsistent with the overall scheme of development for the Community. No variance shall (a) be effective unless in writing, (b) be inconsistent with the overall scheme of development for the Community, or (c) prevent the Declarant from denying a variance in other similar circumstances. For purposes of this provision, the inability to obtain approval of any governmental agency or the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

6.6 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Declarant, Owners shall, at their own cost and expense, remove such nonconforming structure or improvement and restore the land to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant and its agents shall have the right to enter the property, remove the nonconforming structure or improvement, and restore the property to substantially the same condition as previously existed. All costs, including, without limitation, attorney's fees, may be assessed against the Lot as a specific assessment. Any contractor, subcontractor, agent, employee or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the architectural guidelines may be excluded by the Declarant from the Community, subject to any applicable notice and hearing procedures contained in the Bylaws. In such event, neither the Declarant, the Association or the officers, directors, members, employees and agents of any of them shall be held liable to any Person for exercising the rights granted by this paragraph. In addition to any other remedies available to the Declarant, in the event of noncompliance with this Article, the Declarant may record in the appropriate land records a notice of violation hereunder naming the violating Owner. In addition to the foregoing, the Declarant shall have the authority and standing to pursue any and all remedies available at law and equity to enforce the provisions of this Article.

6.7 Architectural Review Committee. Until (a) the Declarant no longer has the right to unilaterally annex additional property to the Community; and (b) each Lot has been improved with a dwelling for which a certificate of occupancy has been issued, the Declarant shall have the sole right, power and authority under this Article. There shall be no surrender of this right except in a written instrument in recordable form executed by Declarant and recorded in the land records of the Clerk of the Superior Court of the county where this Declaration is recorded. Upon expiration or earlier surrender in writing of all or a portion of such right and authority, the Board of Directors shall appoint an Architectural Review Committee of the Association, which shall then have such jurisdiction over architectural control under this Article as may have been relinquished by the Declarant. The Declarant may in its sole discretion relinquish architectural control as to certain types of improvements or modifications to the Architectural Review Committee while retaining control over all other building and construction in the Community. For example and without limitation, the Declarant may relinquish control over modifications of existing structures to the Architectural Review Committee while retaining all authority to review and approve new home construction. Any right, power or authority of the Declarant which may be relinquished to the Association prior to the termination of the rights of Declarant hereunder shall be by written recorded instrument only and no such right, power or authority shall be relinquished by implication or otherwise. The establishment of an advisory Architectural Review Committee shall not be deemed to be a relinquishment by Declarant of any of its right,

power and authority hereunder. After the termination of all rights of Declarant hereunder, the Architectural Review Committee shall have all right, power and authority to review and approve building and construction activity within the Community hereunder and this Article shall then be read and interpreted as if any reference to the Declarant in this Article 6 were a reference to the Architectural Review Committee.

Article 7  
Use Restrictions and Rules

7.1 Rules and Regulations. The Board of Directors may, from time to time, with the consent of Declarant and without a vote of the members, promulgate, modify or delete rules and regulations applicable to the Community. Such rules and regulations shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified by a majority of the Total Association Vote and the consent of Declarant.

7.2 Residential Use. Each Lot shall be used for residential purposes exclusively. Leasing of a Lot for residential occupancy shall not be considered a business or business activity. No trade or business of any kind may be conducted in or from a Lot, except that the Owner or Occupant in residence at the Lot may conduct business activities within the house so long as the business activity: (a) does not otherwise violate the provisions of the Declaration or Bylaws; (b) is not apparent or detectable by sight, sound or smell from the exterior of the Lot; (c) does not unduly increase traffic flow or parking congestion; (d) conforms to all zoning requirements for the Community; (e) does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; (f) is consistent with the residential character of the Community; (g) does not constitute a nuisance or a hazardous or offensive use; and (h) does not threaten the security or safety of other residents of the Community, all as may be determined in each case in the sole discretion of the Board of Directors. The Board may issue rules regarding permitted business activities. 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: (x) the activity is engaged in full or part-time; (y) the activity is intended to or does generate a profit; or (z) a license is required for the activity.

7.3 Signs. No sign of any kind shall be erected within the Community without the prior written consent of the Declarant or, after the termination of the rights of Declarant hereunder, the Architectural Review Committee. Notwithstanding the foregoing, the Board, the Declarant, the Developers and any Approved Builder shall have the right to erect reasonable and appropriate signs. For-sale signs and security signs consistent with the Community-Wide Standard and any signs required by legal proceedings may be erected upon any Lot. The provisions of this Section shall not apply to any Mortgagee in possession due to foreclosure of a first Mortgage or as grantee pursuant to any deed in lieu of such foreclosure.

7.4 Vehicles; Parking. Vehicles shall be parked only in appropriate parking spaces serving the Lot or other designated areas, if any. All parking shall be subject to such rules and regulations as the Board may adopt. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf carts, trucks, campers, buses, vans and automobiles. The term "commercial vehicles" as used herein, shall include, without limitation, any vehicle which bears any indicia of commercial use, including, but not limited to, writing, logos, or which would not be primarily used for the transportation of passengers. The term "parking areas" shall refer to the number of garage parking spaces and if and only if, the Occupants of a Lot have more vehicles than the number of garage parking spaces, those excess vehicles which are an Occupant's primary means of transportation on a regular basis may be parked on the driveway on the Lot. All homes shall contain a garage; carports shall not be permitted. Garage doors should be kept closed at all times, except during times of ingress and egress from the garage. No vehicle may be left upon any portion of the Community, except in a garage or other area designated by the Board, if it is not licensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle may be removed from the Community by the Board of Directors. Any towed vehicle, boat, personal water craft, recreational vehicle, motor home, trailer, motorcycle, minibike, scooter, go-cart, golf cart, camper, bus or mobile home regularly stored in the Community or temporarily kept in the Community, except if kept in a garage or other area designated by the Board, for periods longer than 48 hours may be removed from the Community by the Board of Directors. Trucks with mounted campers which are used as a primary means of transportation shall not be considered recreational vehicles provided they are used on a regular basis for transportation and the camper is stored out of public view upon removal. Commercial vehicles shall not be permitted on any Common Property or any Lot, except if kept in an enclosed garage; provided construction, service, and delivery vehicles shall be exempt from this provision for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot or the Common Property.

7.5 Leasing. Lots may be leased for residential purposes. Unless otherwise provided by the Board of Directors, all leases shall have a minimum term of at least six months. All leases shall require, without limitation, that the Occupants acknowledge receipt of a copy of the Declaration, Bylaws, use restrictions and rules and regulations of the Association. The lease shall also obligate the Occupants to comply with the foregoing.

7.6 Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted on any Lot, with the exception of dogs, cats or other usual and common household pets in reasonable number as determined by the Board. No pets shall be kept, bred or maintained for any commercial purpose. No exterior pens for household pets shall be erected or maintained on any Lot unless approved in accordance with the provisions of Article 6 hereof.

7.7 Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on a 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 such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the

peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on within the Community, nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property within the Community. No plants, animals, device or thing of any sort shall be maintained in the Community whose activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community by other Owners and Occupants. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot. This provision shall not apply to any Lot(s) owned by a Developer, the Declarant or an Approved Builder.

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

7.9 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting of radio or video signals shall be placed, allowed or maintained upon any portion of the Community, including any Lot, unless approved in accordance with the provisions of Article 6 hereof; provided, however, no such approval shall be necessary to install: (a) antennas designed to receive direct broadcast satellite services, including direct-to-home satellite services, that are one meter or less in diameter; (b) antennas designed to receive video programming services via multi-point distribution services that are one meter or less in diameter or diagonal measurement; or (c) antennas that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennae on the rear of the dwelling unless an acceptable quality signal cannot otherwise be obtained.

7.10 Tree Removal. No trees that are more than four inches in diameter at a point 12 inches above the ground and no ornamental or flowering trees, including, but not limited to, dogwood trees, cottonwood trees, cherry trees or apple trees, regardless of diameter, shall be removed without the prior written consent of the approving authority under Article 6 hereof. 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. This provision shall not apply to the removal of trees by the Developers, the Declarant or any Approved Builder.

7.11 Drainage. Catch basins, retention ponds, detention ponds and drainage easement areas are for the purpose of controlling the natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner may obstruct or alter the drainage flows after location and installation of catch basins, retention ponds, detention ponds, drainage swales, storm sewers or storm drains without approval in accordance with the provisions of Article 6 hereof.

7.12 Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, shrub or

other planting or thing shall be placed or permitted to remain where, in the opinion of the Board, it would create an unsafe condition.

7.13 Garbage Cans, Woodpiles, Etc. All garbage cans, woodpiles, swimming pool pumps, filters and related equipment, and other similar items shall be located or screened so as to be concealed from view from neighboring streets and property. All rubbish, trash and garbage shall be regularly removed and shall not be allowed to accumulate. Trash, garbage, debris or other waste matter of any kind may not be burned within the Community, except by Developers, Declarant or any Approved Builder during the original construction of a residence on a Lot.

7.14 Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval in accordance with the provisions of Article 6 hereof. Declarant, however, hereby expressly reserves the right to subdivide and/or revise and re-record the subdivision plat of any Lot(s) with the consent of the Owner of the effected Lot(s) and to approve the revision and re-recording of any plat of any Lot(s) owned by any builder or developer, including, but not limited to, changing any Lot to Common Property or creating a public or private street over any Lot or property that was formerly a Lot, without the consent of any Person, other than the Owner(s) of such Lot(s).

7.15 Firearms. The use of firearms in the Community is prohibited. The term "firearms" includes, without limitation, B-B guns and pellet guns.

7.16 Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof. Guidelines detailing acceptable fence styles or specifications may be issued pursuant to Article 6, but in no event may a chain link or barbed wire fence be approved; provided, however, the Declarant and the Association may erect any type of fence on the Common Property or elsewhere within the Community as they may deem appropriate or as necessary to satisfy the requirements of any law, regulation or governmental entity or for health and safety of Owners and Occupants.

7.17 Utility Lines. Except as may be permitted under and pursuant to Article 6 hereof, no overhead utility lines, including lines for cable television, shall be installed within the Community, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

7.18 Air-Conditioning Units. No window air conditioning units may be installed.

7.19 Lighting. Exterior lighting on any Lot visible from the street shall not be permitted, except for: (a) approved lighting as originally installed on a Lot; (b) one decorative post light; (c) street lights in conformity with an established street lighting program for the Community; (d) seasonal decorative lights; (e) front house illumination of model homes; or (f) other lighting approved under and pursuant to Article 6 hereof.

7.20 Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any property. ~~No white rocks shall be permitted~~

as groundcover for landscaping beds. Exterior sculpture, fountains, flags and similar items must be approved under and pursuant to Article 6 hereof. No awnings, shades or window boxes shall be attached to or otherwise placed on the exterior of any structure on a Lot without prior written approval in accordance with the provisions of Article 6 hereof.

7.21 Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed unless as an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Declarant or the Architectural Review Committee as the case may be in accordance with the provisions of Article 6 hereof.

7.22 Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof and in no event shall any above-ground swimming pool be permitted.

7.23 Gardens, Play Equipment and Garden Pools. No vegetable garden, hammock, play equipment (including, without limitation, basketball goals) or garden pools shall be erected or maintained upon any Lot without prior written approval in accordance with the provisions of Article 6 hereof and in no event shall any metal swing set be permitted.

7.24 Mailboxes. All mailboxes serving Lots shall be approved in accordance with the provisions of Article 6 hereof. Identical replacement mailboxes may be installed without further approval; but no modification to or change in mailboxes may be made unless approved in accordance with the provisions of Article 6 hereof.

7.25 Clotheslines. No exterior clotheslines of any type shall be permitted upon any Lot.

7.26 Window Treatments. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades or for any other purpose. The side of all window treatments which can be seen at any time from the outside of any structure located on a Lot must be white or off-white.

7.27 Outbuildings and Similar Structures. No structure of a temporary nature 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, without written approval in accordance with the provisions of Article 6 hereof. However, this Section shall not be construed to prevent Developers, Declarant, an Approved Builder and those engaged in development, construction, marketing, property management or sales in the Community from using sheds, trailers or other temporary structures for any of the foregoing purposes. In addition, nothing in this Declaration shall be construed to prevent Declarant or an Approved Builder from developing, constructing, marketing, or maintaining model homes or speculative housing within the Community.

7.28 Entry Features. Owners shall not alter, remove or add improvements to any entry feature or fencing constructed or erected by the Developers or the Association on any Lot, or any

part of any easement area associated therewith without prior approval in accordance with the provisions of Article 6 hereof.

7.29 Stream Buffer. Land-disturbing activities shall not be conducted on any Lot or Common Property within twenty-five (25) feet of: (i) the banks of any stream within the Community, as measured from the point where vegetation has been wrested by normal stream flow; or (ii) any wetlands as depicted on the recorded subdivision plats for the Community, except with prior written approval under Article 6 hereof, and compliance with Georgia law, including without limitation, the Control of Erosion and Sedimentation Act, O.C.G.A. Section 12-7-1, *et seq.*, as amended from time to time.

7.30 Natural Buffer Areas. A Lot or Common Property may contain a natural or enhanced buffer area as shown on the applicable recorded subdivision plats for the Community. The buffer area shall exist as an undisturbed buffer area of existing vegetation. After the initial construction by Developers, Declarant or Approved Builder, Owners shall not disturb any buffer area in any way including, without limitation, the construction any improvements in the buffer area, or cutting of trees, bushes or other vegetation except with prior written approval under Article 6 hereof.

## Article 8

### Insurance and Casualty Losses

8.1 Insurance on Common Property. The Association shall obtain the insurance coverage necessary to satisfy the requirements of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the U.S. Department of Veterans Affairs, and the U.S. Department of Housing and Urban Development, as applicable to the Community. Accordingly, the Board of Directors shall obtain casualty insurance for all insurable improvements, whether or not located on the Common Property, which the Association is obligated to maintain. This insurance shall provide, at a minimum, fire and extended coverage 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. The Board of Directors shall obtain a public liability policy applicable to the Common Property 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 (\$1,000,000.00) Dollars. Policies may contain a reasonable deductible as determined by the Board of Directors. In addition to the other insurance required by this Section, the Board of Directors 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. If obtained, the amount of fidelity coverage shall at least equal three months' total assessments plus reserves on hand. Fidelity coverage shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation. All such insurance coverage shall be written in the name of the Association.

8.2 Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots and each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry all-risk casualty insurance on the Lot and all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot. The casualty insurance shall cover loss or damage by fire and other hazards commonly insured under an all-risk policy, if reasonably available 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. The policies required hereunder shall be in effect at all times.

8.3 Damage and Destruction -- Insured by Association. Immediately after damage or destruction by fire or other casualty to 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 arising 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. Any damage or destruction to property covered by insurance written in the name of the Association shall be repaired or reconstructed unless, within 60 days after the casualty, a proposal not to repair or reconstruct such property is approved by at least 75% of the Total Association Vote and the Declarant. 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 60 days. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the members of the Association, levy a special assessment against the Owner of each Lot. Additional assessments may be made in like manner, as necessary, 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 deposited to the benefit of the Association. In the event that it should be determined by the Association in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, the property shall thereafter be maintained by the Association in a neat and attractive condition.

8.4 Damage and Destruction -- Insured by Owners. 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 thereof within 75 days after such damage or destruction or, where repairs cannot be completed within 75 days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within 75 days after such damage or destruction.



Article 9  
Mortgagee Provisions

9.1 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 Lot number, therefore 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; and (c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

9.2 Audit. 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 audited financial statements of the Association within 90 days of the date of the request.

9.3 No Priority. No provision of this Declaration or the Bylaws gives any Owner or other party priority over any rights of a 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 the Common Property.

9.4 VA/HUD Approval. As long as the Declarant has the right to appoint and remove the officers and/or directors of the Association and so long as the project is approved by the U.S. Department of Housing and Urban Development ("HUD") for insuring or the U.S. Department of Veterans Affairs ("VA") for guaranteeing any Mortgage in the Community the following actions shall require the prior approval of the VA and/or HUD as applicable: annexation of additional property to the Community, except for unilateral annexation by Declarant as provided herein; dedication of Common Property to any public entity; merger, consolidation or dissolution of the Association; and material amendment of the Declaration, Bylaws or Articles of Incorporation.

Article 10  
Easements

10.1 General. Each Lot shall be subject to those easements, if any, shown or set forth on the recorded subdivision plats for the Community, as amended from time to time as well as the easements now or hereafter established by the Declarant in this Declaration or by any other document recorded in the Office of the Clerk of Superior Court for Gwinnett County, Georgia.

10.2 Easements for Use and Enjoyment. Every Owner shall have a right and easement of ingress and egress, use and enjoyment by the Owner and the Occupants of the Owner's Lot in

and to the Common Property which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

(a) the right of the Association to charge reasonable admission and other fees for the use of any Community recreational facilities, to limit the number of Persons who may use the Community recreational facilities, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by authorized users and their guests and invitees;

(b) the right of the Association to suspend the voting rights of an Owner for any period during which any past due assessment against any Lot of the Owner remains unpaid; and, for a reasonable period of time for an infraction of the Declaration, Bylaws or rules and regulations;

(c) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon and, upon the affirmative vote of the Owners of at least two-thirds of the Lots (other than Declarant) and the consent of Declarant, to give as security for the payment of any such loan a Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community (Regardless of any contrary provision in this Declaration or in any such Mortgage given by the Association, the exercise of any rights by the holder of such Mortgage in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of Declarant or any Owner or the holder of any Mortgage encumbering any Lot or other property located within the Community.);

(d) the right of the Association, acting through the Board of Directors and without a vote of the members, to dedicate or grant licenses, permits, easements and rights-of-way over, under and through the Common Property;

(e) the right of the Association to dedicate or transfer all or any portion of the Common Property upon the approval of the Owners of at least two-thirds of the Lots (other than Declarant) and the Declarant;

(f) the rights of the grantee, holder or a person having a third-party right of enforcement under any conservation easement over any portion of the Common Property (The Association acting through the Board of Directors and without a vote of the members may grant a conservation easement, as such term is defined in O.C.G.A. - §44-10-1, *et seq.*, over any portion of the Common Property and shall accept Common Property which has been burdened with a conservation easement by Declarant, a Developer or any other predecessors in title.);

(g) all other rights of the Association, the Declarant, Owners and Occupants set forth in this Declaration or in any deed conveying Common Property to the Association; and

(h) all encumbrances and other matters shown by the public records affecting title to the Common Property.

10.3 Easements for Utilities. There is hereby reserved to the Developers and granted to the Declarant, any Approved Builder and the Association a blanket easement upon, across, above and under all property within the Community for access, ingress, egress, installation, alteration, repairing, replacing, and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Developers, Declarant or the Association might decide to have installed to serve the Community. Developers, Declarant, the Approved Builder, the Association or their designees, as the case may be, may alter drainage and water flow, install, repair, replace and maintain or authorize the installation, repairing, replacing and maintaining of such wires, conduits, cables and other equipment related to the providing of any utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Developers, Declarant, Approved Builder or the Board shall have the right to grant such easement.

10.4 Easement for Emergency Entry. The Association shall have the right, but not the obligation, to enter upon any Lot for emergency, security and safety reasons and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, Bylaws, and rules, which right may be exercised by any member of the Board, the officers, agents, employees, and managers of the Association and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Lot to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in an emergency situation and in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Association, but shall not authorize entry into any single family dwelling without permission of the Owner.

10.5 Easement for Maintenance. Developers hereby grant to the Association a perpetual easement across the exterior portions of all Lots as may be reasonably necessary for the maintenance required hereunder. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment to Lots, reasonable steps shall be taken to protect such property and damage shall be repaired by the Association or its contractors at their sole expense.

10.6 Easement for Entry Features and Streetscapes. There is hereby reserved to the Developers and granted to the Association an easement for ingress, egress, installation, construction landscaping and maintenance of entry features and similar streetscapes for the Community, over and upon any portion of a Lot containing such entry features or streetscapes as may be more fully described on the recorded subdivision plats 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 entry features and streetscapes and the right to grade the land under and around the same.

10.7 Easement for Drainage. There is hereby reserved to the Developers and granted to the Declarant, any Approved Builder and the Association a blanket easement across all Lots for creating and maintaining satisfactory storm water drainage in the Community; provided, however, such easement area shall not include any portion of a Lot within the outer perimeter of the dwelling structure. This easement shall include the right to construct and maintain catch basins, retention ponds, detention ponds, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. It is anticipated that increased storm water run-off across downstream Lots will result from the construction of impervious surface on Lots. Neither the Developers, the Declarant, the Association nor any builder or Owner constructing according to plans and specifications approved under Article 6 hereof shall have any liability to any Owner due to the increased flow or increased velocity of surface water resulting from approved construction on a Lot.

10.8 Easement During Construction and Sale Period. Notwithstanding any provisions now or hereafter contained in this Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, architectural guidelines, and amendments thereto, Developers reserve an easement across the Community for Developers, Declarant and any Approved Builder to maintain and carry on, upon such portion of the Community as Declarant may reasonably deem necessary, such facilities and activities as in the sole opinion of Declarant may be required or convenient for Declarant's, Developers' or such Approved Builder's development, construction and sales activities related to property hereby and hereafter subjected to this Declaration or nearby property being developed by Developers including, but not limited to: the right of access, ingress and egress for vehicular and pedestrian traffic and construction activities over, under, on or in the Community, including, without limitation, any Lot; the right to tie into any portion of the Community with streets, driveways, paths, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to grant easements over, under, in or on the Community, including without limitation the Lots, for the benefit of neighboring properties for the purpose of tying into and/or otherwise connecting and using sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community; the right to convert Lots (with the consent of the Owner thereof) to Common Property and/or streets; the right to construct recreational facilities, utilities and other improvements on Common Property; the right to carry on sales and promotional activities in the Community; and the right to construct and operate business offices, signs, construction trailers, model residences and sales offices. Developers, Declarant or any Approved Builder may use residences, offices or other buildings owned or leased by Developers, Declarant or any Approved Builder as model residences and sales offices without charge. This Section shall not be amended without the Declarant's written consent until the Declarant's rights hereunder have terminated as herein provided.

Article 11  
General Provisions

11.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations and use restrictions, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plats for the Community and in the deed to such Owner's Lot, if any. The Board of Directors may impose fines or other sanctions for violations of the foregoing, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Association, the Declarant or an aggrieved Owner. Failure by the Declarant, the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions or design guidelines and to assess the cost of recording and removing such notice against the Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

11.2 Occupants Bound. All provisions of the Declaration, Bylaws, rules and regulations, use restrictions and design guidelines which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and design guidelines. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

11.3 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant, the Architectural Review Committee or their respective duly authorized agents shall have the power to enter upon any Lot or any other portion of the Community to abate or remove any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the violating Owner shall be given ten days' written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment.

11.4 Duration. The covenants, conditions, restrictions and easements contained in this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, perpetually to the extent provided by law; provided, however, if and to the extent that, Georgia law limits the period during which covenants restricting land to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time, any such provision(s) shall be (a) automatically extended for successive periods of twenty (20) years (or the maximum period allowed by applicable law, if less), unless a written instrument signed

by the then Owners of at least two-thirds (2/3) of the Lots has been recorded within the year immediately preceding the beginning of a twenty (20) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended, renewed, modified or terminated as otherwise provided herein or by applicable law.

11.5 Termination of Rights of Declarant, Developers and Approved Builder. The rights of Declarant, Developers and any Approved Builder to take, approve or consent to actions under this Declaration, the Articles of Incorporation and the Bylaws shall cease and be of no further force and effect upon the earlier of: (a) the date that the Declarant, Developers or the Approved Builder, as the case may be, no longer owns any property in the Community and Declarant no longer has the right to unilaterally annex additional property to the Community as provided herein and a certificate of occupancy has been issued for a dwelling on each Lot in the Community; or (b) the date of recording by Declarant (or by an Approved Builder or Developer) in the real estate records of the county where the Community is located of a written instrument terminating all of Declarant's (or Approved Builder's or Developer's) rights hereunder.

11.6 Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, without limitation, the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or private insurance company, including, without limitation, the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner of such Lot consents thereto in writing. Further, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Owners hereunder nor shall it adversely affect title to any Lot without the consent of the affected Owner. The Board of Directors, with the written consent of the Declarant, and without a vote of the members may amend this Declaration for the sole purpose of electing to be governed by and complying with the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, *et seq.* In addition to the above, this Declaration may be amended upon the affirmative vote or written consent of the Owners of at least two-thirds of the Lots and the consent of Declarant. Amendments to this Declaration shall become effective upon recordation unless a later effective date is specified therein. The consent of the Declarant to any amendment shall be evidenced by the execution of said amendment by Declarant. The consent of the requisite number of Owners to any amendment shall be evidenced by the execution of the amendment by said Owners, or, in the alternative, the sworn statement of the President or any Vice President or the Secretary of the Association attached to or incorporated in the amendment, which sworn statement states unequivocally that the consent of the required number of Owners was obtained and that any

notices required by this Declaration, the Bylaws, the Articles of Incorporation and Georgia law were given.

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

11.8 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.

11.9 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.

11.10 No Merger. There shall be no merger of any of the covenants, conditions, restrictions or easements created or reserved hereby with the fee estate of Developers or Declarant, by reason of the fact that Developers or Declarant may own or hold the estate or interest both encumbered and benefited by such covenants, conditions, restrictions or easements and no such merger shall occur unless and until Declarant or Developers, while owning all of the estate or interests, shall execute a written statement or instrument affecting such merger and shall duly record the same.

11.11 Preparer. This Declaration was prepared by David N. Dorough, Jr., Dorough & Dorough, LLC, Attorneys at Law, One Decatur TownCenter, Suite 240, 150 E. Ponce de Leon Avenue, Decatur, Georgia 30030-2553.

11.12 Notices. Notices provided for in this Declaration or the Articles or Bylaws shall be in writing, and shall be addressed to an Owner at the address of the Lot and to the Declarant, or the Association at the address of their respective registered agent in the State of Georgia. Any Owner may designate a different address for notices to such Owner by giving written notice to the Association. Notices addressed as above shall be mailed by United States Registered or Certified Mail, return receipt requested, postage paid, or delivered in person, including delivery by Federal Express or other reputable courier service. The time period in which a response to any such Notice must be given or any action taken with respect thereto, shall commence to run from the date of personal delivery or receipt on the return receipt of the Notice by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no Notice was given shall be deemed to be receipt of the Notice sent.

11.13 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 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

11.14 Indemnification. To the fullest extent allowed by the Georgia Nonprofit Corporation Code, and in accordance therewith, the Association shall indemnify every current and former officer, director and committee member against any and all expenses, including, but not limited to, attorney's fees, imposed upon or reasonably incurred by any officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer, director or committee member may be a party by reason of being or having been an officer, director or committee member. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director or committee member, or former officer, director or committee member, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

11.15 Agreements. Subject to the prior approval of Declarant all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors, shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

11.16 Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors 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 is warranted and would not be inconsistent with the overall scheme of development for the Community.

11.17 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least 75% of the Total Association Vote and the consent Declarant. This Section shall not apply to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to *ad valorem* taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made unilaterally by the Declarant as provided herein or is approved by the percentage votes necessary to institute proceedings as provided above.



IN WITNESS WHEREOF, the Declarant and Developers herein hereby execute this instrument under seal, this 2nd day of April, 2001.

DECLARANT: **THE RYLAND GROUP, INC.,** a Maryland Corporation

Signed, sealed and delivered in the presence of

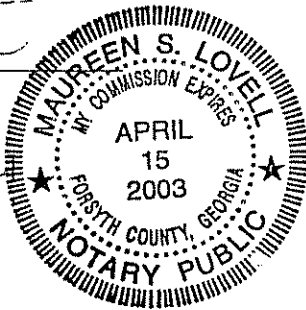
By:

[Signature]  
Charles J. Fuhr  
Operational Vice President

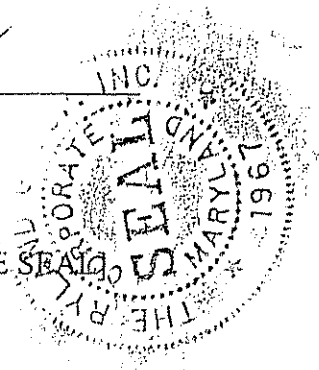
[Signature]  
WITNESS

[Signature]  
NOTARY PUBLIC

[AFFIX NOTARY SEAL]



[AFFIX CORPORATE SEAL]



[Signatures Continued on Next Page]

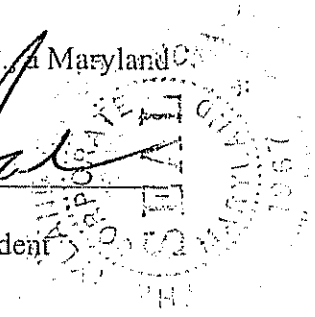
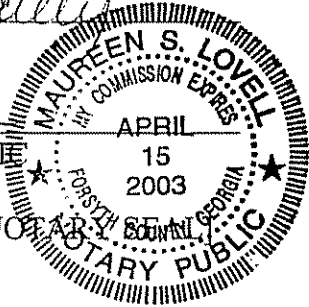
DEVELOPER: APPALACHEE DEVELOPMENT PARTNERS, L.L.C., a Georgia limited liability company

Signed, sealed, and delivered in the presence of:

BY: THE RYLAND GROUP, INC., a Maryland corporation, as its member

WITNESS Kelly Butler  
Maureen S. Lovell  
NOTARY PUBLIC

By: ✓ Charles J. Fuhr  
Operational Vice President



[AFFIX NOTARY SEAL]

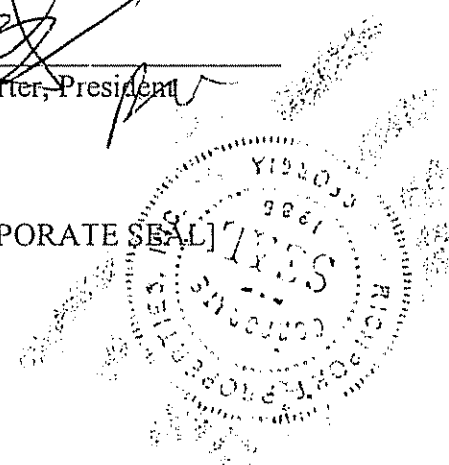
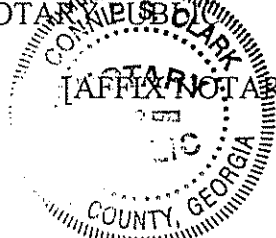
[AFFIX CORPORATE SEAL]

Signed, sealed, and delivered in the presence of:

BY: RICHPORT PROPERTIES, INC., a Georgia corporation, as its Operational Member

WITNESS Jean M. Clapper  
Connie S. Clark  
NOTARY PUBLIC

By: Richard L. Potter, President



[AFFIX NOTARY SEAL]

[AFFIX CORPORATE SEAL]

Notary Public, DeKalb County, Georgia  
My Commission Expires February 8, 2004

[Signatures Continued on Next Page]

DEVELOPER:

APPALACHEE LAND PARTNERS,  
L.L.C., a Georgia limited liability company

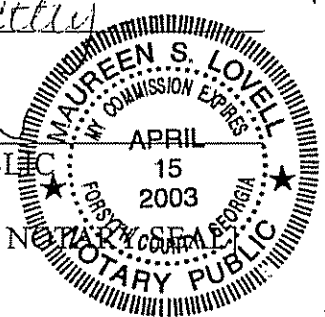
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in the presence of:

BY:

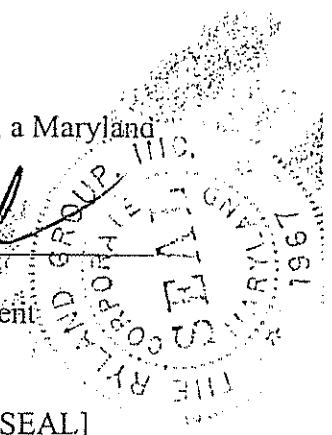
THE RYLAND GROUP, INC., a Maryland  
corporation, as its Member

Holly Batten  
WITNESS  
Ma Loure  
NOTARY PUBLIC

By: Charles J. Fuhr  
Charles J. Fuhr  
Operational Vice President



[AFFIX CORPORATE SEAL]



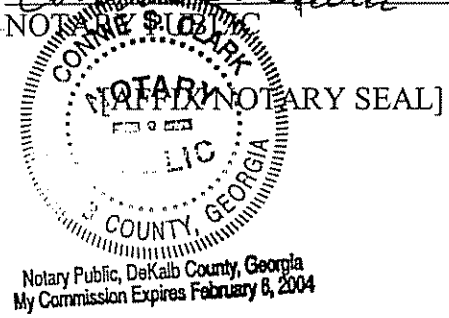
Signed, sealed, and delivered  
in the presence of:

BY:

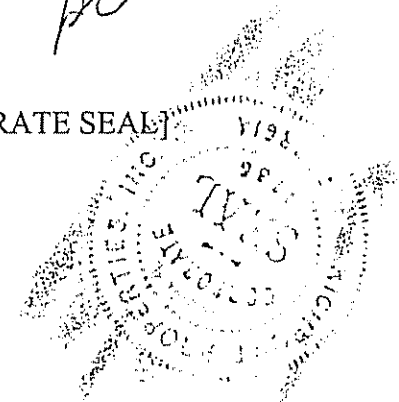
RICHPORT PROPERTIES, INC., a Georgia  
corporation, as its Operational Member

Jean M. Clapper  
WITNESS  
Connie Clark  
NOTARY PUBLIC

By: Richard L. Porter  
Richard L. Porter, President



[AFFIX CORPORATE SEAL]



**LAND DESCRIPTION**  
**TRACT ONE**

All that tract or parcel of land lying and being in Land Lot 19 of the 7<sup>th</sup> Land District, Gwinnett County, Georgia, containing 16.351 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an iron pin at the Land Lot Corner common to Land Lots 19, 20, 304, and 305; thence along the Land Lot Line common to Land Lots 19 and 304, South 59°05'08" West, 1343.24 feet to a iron pin being the TRUE POINT OF BEGINNING; thence continuing along said Land Lot Line, South 59°10'01" West, 1869.57 feet to iron pin on the easterly margin of the Right-of-way of Dacula Road (Right-of-way varies); thence along the easterly margin of said Right-of-way the following courses and distances: North 23°29'35" West, 74.66 feet to a point; North 22°18'39" West, 72.24 feet to a point; North 19°42'16" West, 45.56 feet to a point; along a curve to the right having a radius of 385.56 feet an arc length of 140.26 feet, being subtended by a chord of North 09°00'20" West, 139.49 feet to a point; North 09°12'37" East, 59.73 feet to a point; North 19°45'21" East, 44.80 feet to a point; along a curve to the right having a radius of 348.88 feet an arc length of 137.15 feet, being subtended by a chord of North 36°14'49" East, 136.27 feet to a point; North 50°19'30" East, 68.43 feet to a point; North 53°47'39" East, 52.69 feet to a point; North 56°42'34" East, 89.04 feet to a point; North 59°34'16" East, 38.40 feet to a point; along a curve to the right having a radius of 1001.82 feet an arc length of 139.97 feet, being subtended by a chord of North 63°43'27" East, 139.85 feet to a point; North 67°54'43" East, 88.16 feet to a point; North 69°22'00" East, 127.86 feet to a point; North 70°56'39" East, 128.67 feet to a point; North 71°46'40" East, 117.27 feet to a point; North 72°09'12" East, 109.49 feet to a point; North 70°43'43" East, 93.34 feet to a point; along a curve to the left having a radius of 1980.73 feet an arc length of 173.35 feet, being subtended by a chord of North 67°39'58" East, 173.29 feet to a point; North 61°53'07" East, 54.24 feet to a point; along a curve to the left having a radius of 481.97 feet an arc length of 109.33 feet, being subtended by a chord of North 53°23'28" East, 109.10 feet to a point; North 44°33'21" East, 27.06 feet to a point; along a curve to the left having a radius of 436.27 feet an arc length of 83.30 feet, being subtended by a chord of North 36°36'59" East, 83.17 feet to a point; North 29°16'18" East, 33.14 feet to a point; North 24°07'02" East, 62.22 feet to a point; North 19°59'04" East, 60.60 feet to a point; thence departing said Right-of-way, South 29°15'21" East, 435.81 feet to the TRUE POINT OF BEGINNING.

The above-described property is shown as Tract One containing 16.351 acres on that certain Release Tract Exhibit for Apalachee on the River - Apalachee Partners, dated October 19, 1999, prepared by Development Consultants Group (Job # 99016).

LAND DESCRIPTION  
TRACT TWO

All that tract or parcel of land lying and being in Land Lot 19 of the 7<sup>th</sup> Land District, Gwinnett County, Georgia, containing 22.85 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an iron pin at the Land Lot Corner common to Land Lots 19, 20, 304, and 305, being the TRUE POINT OF BEGINNING; thence along the Land Lot Line common to Land Lots 19 and 304, South 59°05'08" West, 1343.24 feet to a iron pin; thence departing said Land Lot Line North 29°15'21" West, 435.81 feet to a point on the southerly margin of the Right-of-way of Dacula Road (Right-of-way varies); thence along the southerly margin of said Right-of-way the following courses and distances: North 19°59'04" East, 89.49 feet to a point; North 19°45'40" East, 161.82 feet to a point; along a curve to the left having a radius of 584.24 feet an arc length of 149.49 feet, being subtended by a chord of North 12°01'04" East, 149.08 feet to a point; North 03°50'25" East, 31.82 feet to a point; along a curve to the left having a radius of 658.86 feet an arc length of 139.45 feet, being subtended by a chord of North 03°49'32" West, 139.19 feet to a point; North 08°51'34" West, 184.81 feet to a point; North 80°44'00" East, 24.00 feet to a point; North 09°15'59" West, 29.69 feet, more or less, to a point in the centerline of the Apalachee River; thence departing said Right-of-way, in a easterly direction along the centerline of the Apalachee River 1027 feet, more or less, to a point; thence departing the centerline of the Apalachee River, South 31°03'17" East, 668.91 feet, more or less, to the TRUE POINT OF BEGINNING.

The above-described property is shown as Tract Two containing 22.85 acres on that certain Release Tract Exhibit for Apalachee on the River - Apalachee Partners, dated October 19, 1999, prepared by Development Consultants Group (Job # 99016).

99016/PARCEL-TWO.LD

EXHIBIT "A"  
**LAND DESCRIPTION**  
**TRACT THREE**

All that tract or parcel of land lying and being in Land Lots 20, 304 and 305 of the 5<sup>th</sup> and 7<sup>th</sup> Land Districts, Gwinnett County, Georgia, containing 21.53 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an iron pin at the Land Lot Corner common to Land Lots 19, 20, 304, and 305, being the TRUE POINT OF BEGINNING; thence along the Land Lot Line common to Land Lots 19 and 20 North 31°03'17" West, 668.91 feet, more or less, to a point in the centerline of the Apalachee River; thence departing said Land Lot Line in an easterly direction along the centerline of the Apalachee River 898 feet, more or less, to a point; thence departing the centerline of the Apalachee River, South 50°37'52" West, 269.59 feet to a point; thence South 26°29'31" West, 159.16 feet to a point; thence along a curve to the right having a radius of 247.00 feet an arc length of 41.98 feet, being subtended by a chord of South 58°38'19" East, 41.93 feet to a point; thence South 37°09'32" West, 174.91 feet to a point; thence South 47°02'22" East, 166.88 feet to a point; thence South 65°01'26" East, 153.03 feet to a point; thence South 56°19'16" East, 147.60 feet to a point; thence South 32°39'42" East, 50.43 feet to a point; thence South 06°46'05" East, 72.93 feet to a point; thence South 34°35'23" West, 186.48 feet to a point; thence South 87°39'43" West, 80.24 feet to a point; thence North 87°55'31" West, 80.00 feet to a point; thence North 89°12'09" West, 96.16 feet to a point; thence North 87°43'59" West, 67.09 feet to a point; thence South 68°30'38" West, 178.80 feet to a point; thence North 80°33'49" West, 110.75 feet to a point; thence North 70°59'29" West, 105.38 feet to a point; thence South 72°02'44" West, 168.40 feet to a point; thence South 03°27'12" West, 80.00 feet to a point; thence South 02°12'26" East, 72.12 feet to a point; thence South 87°49'10" West, 137.44 feet to a point; thence along a curve to the left having a radius of 328.00 feet an arc length of 50.12 feet, being subtended by a chord of South 06°33'30" East, 50.07 feet to a point; thence South 79°03'50" West, 214.91 feet to a point; thence North 29°15'21" West, 441.53 feet to a point on the Land Lot Line common to Land Lots 19 and 304; thence along said Land Lot Line, North 59°05'08" East, 1343.24 feet to the TRUE POINT OF BEGINNING.

The above-described property is shown as Tract Three containing 21.53 acres on that certain Release Tract Exhibit for Apalachee on the River - Apalachee Partners, dated October 19, 1999, prepared by Development Consultants Group (Job # 99016).

99016/PARCEL-THREE.LD

EXHIBIT "A"

**LAND DESCRIPTION  
TRACT FOUR**

All that tract or parcel of land lying and being in Land Lots 20, 304 and 305 of the 5<sup>th</sup> and 7<sup>th</sup> Land Districts, Gwinnett County, Georgia, containing 108.387 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an iron pin at the Land Lot Corner common to Land Lots 19, 20, 304, and 305; thence along the Land Lot Line common to Land Lots 19 and 304, South 59°05'08" West, 1343.24 feet to a iron pin; thence South 29°15'21" East, 441.53 feet to a point; thence North 79°03'50" East, 214.91 feet to a point; thence along a curve to the right having a radius of 328.00 feet an arc length of 50.12 feet, being subtended by a chord of North 06°33'30" West, 50.07 feet to a point; thence North 87°49'10" East, 137.44 feet to the TRUE POINT OF BEGINNING; thence North 02°12'26" West, 72.12 feet to a point; thence North 03°27'12" East, 80.00 feet to a point; thence North 72°02'44" East, 168.40 feet to a point; thence South 70°59'29" East, 105.38 feet to a point; thence South 80°33'49" East, 110.75 feet to a point; thence North 68°30'38" East, 178.80 feet to a point; thence South 87°43'59" East, 67.09 feet to a point; thence South 89°12'09" East, 96.16 feet to a point; thence South 87°55'31" East, 80.00 feet to a point; thence North 87°39'43" East, 80.24 feet to a point; thence North 34°35'23" East, 186.48 feet to a point; thence North 06°46'05" West, 72.93 feet to a point; thence North 32°39'42" West, 50.43 feet to a point; thence North 56°19'16" West, 147.60 feet to a point; thence North 65°01'26" West, 153.03 feet to a point; thence North 47°02'22" West, 166.88 feet to a point; thence North 37°09'32" East, 174.91 feet to a point; thence along a curve to the left having a radius of 247.00 feet an arc length of 41.98 feet, being subtended by a chord of North 58°38'19" West, 41.93 feet to a point; thence North 26°29'31" East, 159.16 feet to a point; thence North 50°37'52" East, 269.59 feet, more or less, to a point in the centerline of the Apalachee River; thence in an easterly direction along the centerline of the Apalachee River 4778 feet, more or less, to a point; thence departing the centerline of the Apalachee River and along the centerline of a creek 215 feet, more or less, in a southerly direction to a point; thence departing the centerline of said creek, South 76°50'22" East, 1285.27 feet, more or less, to a iron pin on the northwesterly margin of the Right-of-way of Fence Road, being an 80-foot Right-of-way; thence along the northwesterly margin of the Right-of-way of Fence Road the following courses and distances: South 46°42'57" West, 342.67 feet to a point; along a curve to the right having a radius of 935.35 feet an arc length of 611.06 feet, being subtended by a chord of South 65°24'16" West, 600.25 feet to a point; South 84°07'13" West, 182.76 feet to a point; along a curve to the left having a radius of 570.91 feet an arc length of 417.62 feet, being subtended by a chord of South 63°09'52" West, 408.37 feet to a point; along a curve to the left having a radius of 884.45 feet an arc length of 188.26 feet, being subtended by a chord of South 36°06'39" West, 187.91 feet to a point; thence departing said Right-of-way North 61°06'00" West, 190.74 feet to a point; thence North 66°09'55" West, 125.57 feet to a point; thence North 61°04'27" West, 520.33 feet to a point; thence North 61°17'40" West, 129.28 feet to a point; thence North

99016 PARCEL FOUR.LD

74°08'36" West, 51.28 feet to a point; thence North 61°30'09" West, 197.79 feet to a point; thence South 86°13'53" West, 230.16 feet to a point; thence North 66°43'16" West, 140.30 feet to a point; thence North 35°34'16" West, 330.24 feet to a point; thence North 89°26'01" West, 78.51 feet to a point; thence North 74°21'00" West, 144.39 feet to a point; thence North 85°37'25" West, 314.59 feet to a point; thence North 23°39'33" West, 84.48 feet to a point; thence North 29°19'40" West, 309.42 feet to a point; thence North 02°12'26" West, 59.63 feet to the TRUE POINT OF BEGINNING.

The above-described property is shown as Tract Four containing 108.387 acres on that certain Release Tract Exhibit for Apalachee on the River - Apalachee Partners, dated October 19, 1999, prepared by Development Consultants Group (Job # 99016).

99016/PARCEL-FOUR.LD



**LAND DESCRIPTION**  
**TRACT FIVE**

All that tract or parcel of land lying and being in Land Lots 304 and 305 of the 5<sup>th</sup> Land District, Gwinnett County, Georgia, containing 47.42 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an iron pin at the Land Lot Corner common to Land Lots 19, 20, 304, and 305; thence along the Land Lot Line common to Land Lots 19 and 304 South 59°05'08" West, 1343.24 feet to a iron pin; thence South 29°15'21" East, 441.53 feet to the TRUE POINT OF BEGINNING; thence North 79°03'50" East, 214.91 feet to a point; thence along a curve to the right having a radius of 328.00 feet an arc length of 50.12 feet, being subtended by a chord of North 06°33'30" West, 50.07 feet to a point; thence North 87°49'10" East, 137.44 feet to a point; thence South 02°12'26" East, 59.63 feet to a point; thence South 29°19'40" East, 309.42 feet to a point; thence South 23°39'33" East, 84.48 feet to a point; thence South 85°37'25" East, 314.59 feet to a point; thence South 74°21'00" East, 144.39 feet to a point; thence South 89°26'01" East, 78.51 feet to a point; thence South 35°34'16" East, 330.24 feet to a point; thence South 66°43'16" East, 140.30 feet to a point; thence North 86°13'53" East, 230.16 feet to a point; thence South 61°30'09" East, 197.79 feet to a point; thence South 74°08'36" East, 51.28 feet to a point; thence South 61°17'40" East, 129.28 feet to a point; thence South 61°04'27" East, 520.33 feet to a point; thence South 66°09'55" East, 125.57 feet to a point; thence South 51°06'00" East, 190.74 feet to a point on the northerly margin of the Right-of-way of Fence Road, being an 80-foot Right-of-way; thence along said Right-of-way along a curve to the left having a radius of 884.45 feet an arc length of 95.42 feet, being subtended by a chord of South 26°55'20" West, 95.37 feet to a point; thence departing said Right-of-way, North 69°59'33" West, 134.02 feet to a point; thence North 70°54'58" West, 62.04 feet to a point; thence North 69°59'33" West, 122.74 feet to a point; thence South 21°58'01" West, 215.45 feet to a point; thence North 66°23'09" West, 165.62 feet to a point; thence North 70°36'27" West, 208.97 feet to a point; thence North 42°50'58" West, 118.11 feet to a point; thence South 54°01'27" West, 194.01 feet to a point; thence South 35°58'33" East, 5.80 feet to a point; thence along a curve to the left having a radius of 422.00 feet an arc length of 27.65 feet, being subtended by a chord of South 37°51'09" East, 27.64 feet to a point; thence South 50°16'14" West, 136.81 feet to a point; thence South 41°47'25" East, 80.28 feet to a point; thence South 44°49'45" West, 169.30 feet to a point; thence South 59°43'47" West, 211.22 feet to a point; thence South 33°15'21" East, 66.08 feet to a point; thence South 25°15'21" East, 285.48 feet to a point; thence North 56°03'45" East, 151.96 feet to a point; thence South 42°42'34" East, 131.10 feet to a point; thence South 47°17'26" West, 13.65 feet to a point; thence South 31°31'11" East, 196.32 feet to a point on the Land Lot Line common to Land Lots 303 and 304; thence along said Land Lot Line, South 58°28'49" West, 493.95 feet to a point; thence North 29°15'21" West, 2839.39 feet to the TRUE POINT OF BEGINNING.

The above-described property is shown as Tract Five containing 47.42 acres on that certain Release Tract Exhibit for Apalachee on the River - Apalachee Partners, dated October 19, 1999, prepared by Development Consultants Group (Job # 99016).

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**LAND DESCRIPTION  
TRACT SIX**

All that tract or parcel of land lying and being in Land Lots 304 and 305 of the 5<sup>th</sup> Land District, Gwinnett County, Georgia, containing 16.88 acres of land, more or less, and being more particularly described as follows:

BEGINNING at an iron pin at the Land Lot Corner common to Land Lots 19, 20, 304, and 305; thence along the Land Lot Line common to Land Lots 19 and 304 South 59°05'08" West, 1343.24 feet to a iron pin; thence South 29°15'21" East, 3280.93 feet to a stone monument; thence North 58°28'49" East, 493.95 feet to the TRUE POINT OF BEGINNING; thence North 31°31'11" West, 196.32 feet to a point; thence North 47°17'26" East, 13.65 feet to a point; thence North 42°42'34" West, 131.10 feet to a point; thence South 56°03'45" West, 151.96 feet to a point; thence North 25°15'21" West, 285.48 feet to a point; thence North 33°15'21" West, 66.08 feet to a point; thence North 59°43'47" East, 211.22 feet to a point; thence North 44°49'45" East, 169.30 feet to a point; thence North 41°47'25" West, 80.28 feet to a point; thence North 50°16'14" East, 136.81 feet to a point; thence along a curve to the right having a radius of 422.00 feet an arc length of 27.65 feet, being subtended by a chord of North 37°51'09" West, 27.64 feet to a point; thence North 35°58'33" West, 5.80 feet to a point; thence North 54°01'27" East, 194.01 feet to a point; thence South 42°50'58" East, 118.11 feet to a point; thence South 70°36'27" East, 208.97 feet to a point; thence South 66°23'09" East, 165.62 feet to a point; thence North 21°58'01" East, 215.45 feet to a point; thence South 69°59'33" East, 122.74 ~~XXXXXX~~ feet to a point; thence South 70°54'58" East, 62.04 feet to a point; thence South 69°59'33" East, 134.02 feet to a point on the northerly margin of the Right-of-way of Fence Road, being an 80-foot Right-of-way; thence along said Right-of-way along a curve to the left having a radius of 884.45 feet an arc length of 59.03 feet, being subtended by a chord of South 21°55'10" West, 59.01 feet to a point; thence continuing along said Right-of-way, South 20°00'27" West, 455.47 feet to a iron pin; thence departing said Right-of-way, South 58°28'49" West, 769.90 feet to the TRUE POINT OF BEGINNING.

The above-described property is shown as Tract Six containing 16.88 acres on that certain Release Tract Exhibit for Apalachee on the River - Apalachee Partners, dated October 19, 1999, prepared by Development Consultants Group (Job #99016).

EXHIBIT "B"

Additional Property Which May Be Unilaterally  
Submitted To This Declaration by Declarant

All that tract or parcel of land lying and being in Land Lots 304 and 305 of the 5th District and Land Lots 19 and 20 of the 7th District, Gwinnett County, Georgia.