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 COUNTY OF CHEROKEE, GA  
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 BOOK 7127 PAGE 401  
*Anne M. Leland*

Return Recorded Documents to:

S. Alan Cohn, Esquire  
 Hudnall, Cohn & Abrams, P.C.  
 3550 Engineering Drive  
 Norcross, Georgia 30092

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NOTWITHSTANDING THE ESTABLISHMENT OF HIDDEN SPRINGS TOWNHOMES HOA, INC. AND THE SUBMISSION OF THE PROPERTY TO THE TERMS AND CONDITIONS OF THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIDDEN SPRINGS, HIDDEN SPRINGS IS NOT A CONDOMINIUM AS DEFINED IN THE GEORGIA CONDOMINIUM ACT (CHAPTER 44, ARTICLE 3 OF THE OFFICIAL CODE OF GEORGIA)

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

FOR

HIDDEN SPRINGS

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR HIDDEN SPRINGS (the "Declaration"), made this 27<sup>th</sup> day of May, 2004 by Homeland Legacy, Inc., a Georgia Corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property lying and being in Land Lots 273 and 274 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section, City of Holly Springs, Cherokee County, Georgia, a portion of said property being more particularly described on Exhibit "A"; attached hereto and made a part hereof (hereinafter referred to as "Property"); and

WHEREAS, the Declarant plans to develop, construct, and build on the Property a residential single-family townhome community; said community to be known as "HIDDEN SPRINGS"; and

WHEREAS, the Declarant is desirous of developing and maintaining various amenities within HIDDEN SPRINGS, of protecting the Owners of said Units against any use thereof as which will depreciate the value of the Property; of preserving, as far as practicable, the natural beauty of the community; and, in general, of ensuring that improvements on the Property will be of a high quality; and, by establishing and providing for the enforcement of this Declaration during and after development; and

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WHEREAS, Declarant has deemed it desirable to create an association for the purpose of maintaining the administering portions of the Property and the improvements thereon and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Declarant has caused to be incorporated under the laws of the State of Georgia a nonprofit corporation called HIDDEN SPRINGS TOWNHOMES HOA, INC. (hereinafter the "Association"), for the purpose of exercising said functions; and

WHEREAS, to this end, the Declarant desires to subject the Property to the covenants, restrictions, easements, agreements, charges and liens hereinafter set forth, each of which is for the protection and benefit of said Units and Property, and for the benefit of all subsequent owners of said Units and Property, and each of which shall inure to the benefit of and run with each of said Units.

NOW, THEREFORE, the Declarant hereby declares that the Property is hereby subjected to the provisions of this Declaration and shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration and the covenants, conditions, restrictions, easements, agreements, charges and liens hereinafter set forth. Every grantee of any interest in any Unit made subject to this Declaration, by acceptance of a deed or other conveyance of such interest, whether or not it shall be so expressed in any such deed or other conveyance, whether or not such deed or other conveyance shall be signed by such person and whether or not such person shall otherwise consent in writing, shall take subject to all the terms and conditions thereof and shall be deemed to have assented to all of said terms and conditions of this Declaration.

## ARTICLE I DEFINITIONS

When used in this Declaration, the following terms, whether capitalized or not, shall have the following definitions unless the context hereby shall prohibit or otherwise require. All terms used herein shall apply to any gender and the singular or plural form as may be required by the context.

Section 1.1. "Association" shall mean and refer to HIDDEN SPRINGS TOWNHOMES, HOA, INC., a Georgia Not-for-Profit Corporation, its successors and assigns.

Section 1.2. "Board" shall mean and refer to the Board of Directors of the Association.

Section 1.3. "Common Area" shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of all the Owners.

Section 1.4 "Declarant" shall mean and refer to Homeland Legacy, Inc., a Georgia Corporation, its successors and assigns, provided such successor and/or assign shall acquire such Property for purposes of development or sale, and provided further, in the instrument or conveyance to any such successor and/or assign, such successor and/or assign is expressly

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designated as the "Declarant" hereunder. In addition, should any of the Property become subject to the lien of a security instrument given by the Declarant as security for the repayment of a construction or development loan, then all the rights, privileges and options herein reserved to "Declarant" shall inure to the benefit of the holder of such mortgage upon its becoming the owner of the Property then subject thereto through whatever means, or the purchaser of all such Property at a judicial or foreclosure sale made pursuant to any power of sale contained in such security instrument; and, further, all the rights, privileges and options reserved to "Declarant" may be transferred to the successor-in- title of any such acquirer of title to such Property provided any such successor-in-title shall acquire for the purpose of sale or development all or some portion of such Property, and provided further, in the instrument of conveyance to such successor-in-title, such successor-in-title is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor of such conveyance, shall be the "Declarant" hereunder at the time of such conveyance.

Section 1.5 "Declaration" shall mean and refer to the covenants, conditions and restrictions and all other provisions set forth herein in this entire document, as this document may be amended from time to time.

Section 1.6 "Limited Common Area" shall mean and refer to that certain portion of the Property that is reserved for the exclusive benefit of one or more, but not all, of the Owners.

Section 1.7 "Mortgagee" shall mean and refer to the holder, guarantor or insurer of any security instrument given to secure any Unit.

Section 1.8 "Owner" or "Unit Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any Unit, which is a part of the Property, but excluding those having such interest merely as a security for the performance of any obligation.

Section 1.9. "Plat" shall mean and refer to that certain plat or survey by which the Property is submitted to the terms and conditions of this Declaration; said plat being more particularly described as (i) that certain plat of survey by Dixon-Ross Surveying, Inc., entitled "Survey for Hidden Springs Subdivision, Phase 1, Section A", dated February 23, 2004, as recorded in Plat Book \_\_\_\_\_, Page \_\_\_\_\_, Cherokee County, Georgia Deed Records; as may be amended or revised from time to time, and (ii) any supplemental plats by which any and/or all of the Additional Property is added to the terms and conditions of this Declaration pursuant to Article IV hereof.

Section 1.10. "Property" shall mean and refer to the real property described on Exhibit "A", attached hereto and made a part hereof that has been lawfully submitted to this Declaration.

Section 1.11. "Townhome Building" shall mean and refer to a building located on the Property containing two or more Units.

Section 1.12. "Townhome Lot" or "Lot" shall mean and refer to a portion of the Property reserved for the exclusive use an Owner, subject to the terms and provisions hereof. For the purposes hereof, all portions of the Townhome Lot shall be Limited Common Area for the Unit for which is serves.

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Section 1.13. "Unit" shall mean and refer to the single-family physical structure or living unit actually built within the Townhome Building on the Property. The boundaries of the Units shall be as described on Exhibit "C", attached hereto and made a part hereof.

## ARTICLE II

### PROPERTY

Section 2.1. General. The Property shall consist of the Property described on Exhibit "A" and all improvements located thereon. The improvements shall consist of ten (10) Townhome Buildings which contain fifty-five (55) Units, paved parking areas, drives, utility systems, and other improvements serving the Units. The amenities as located on the Property will be a recreation area which shall consist of two (2) tennis courts, a swimming pool and a clubhouse.

## ARTICLE III

### PROPERTY RIGHTS

Section 3.1. Owner's Easement of Ingress and Egress. Each Owner shall have an easement of ingress and egress upon and across any portion of the Common Area which may be necessary to enable said Owner (a) to have access to and from his entrance to a public street and (b) to enter and/or exit his Unit either through the front or rear entrance. This easement shall apply to all Owners, their transferees, assigns, families, tenants, guests, licensees, agents, and invitees. This easement shall be appurtenant to and shall pass with title to every Unit, whether or not included in any deed, subject to the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as set forth in Section 3.2 (C) hereof. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been signed by two-thirds of each class of members as designated in Section 5.5 hereof.

Section 3.2. Owner's Use and Enjoyment. Subject to the provisions herein, every member of the Association shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, including without limitation, the right of pedestrian and vehicular access, ingress and egress to and from his Unit over those portions of the Common Area from time to time designated for such purposes and the right to use any utility systems serving the Common Area and Units, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following:

(A) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area, including, but not limited to, parking restrictions;

(B) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, for constructing, repairing or improving any facilities

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located or which may be located thereon, and, upon the assent of two-thirds of the Class A Members and the Class B Member, if any, to give as security a mortgage conveying all or any portion of the Common Area. The lien and encumbrance of any such mortgage, however, shall be subject and subordinate to all rights, interest, easements and privileges herein reserved or established for the benefit of the Declarant, any Owner, or the holder of any security interest, regardless of when executed, given by the Developer or any Owner;

(C) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been signed by two-thirds (2/3) of the Class A Member and the Class B Member, if any. Notwithstanding anything contained herein, the Class B Member shall have the right to convey any easements which it deems necessary pursuant to Section 3.5 hereof.

(D) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility which may be hereafter situated or constructed upon the Common Area and to impose reasonable limits (and charges) on the number of guests who may use such recreational facilities;

(E) the right of the Board to suspend an Owner's voting rights and rights to use any recreation facilities within the Common Area (i) for any period during which any assessment of the Association against the Owner's Unit remains unpaid, and (ii) for any infraction of this Declaration or the By-Laws of the Association for the duration of the infraction.

Section 3.3. Limited Common Area. Ownership of each Unit shall entitle the Owner thereof the exclusive use of those portions of the Property consisting of:

(A) any heating and/or air conditioning compressors, units components or other apparatus serving such Unit which may be located beyond the boundaries thereof;

(B) any steps, stoops, landings and appurtenant fixtures and facilities providing direct access to the Unit; and

(C) any patio, shed, covered or uncovered terrace, balcony or deck together with the enclosure or cover therefore and the ground underneath, now or hereafter located in whole or in part adjacent to a Unit;

(D) any grass, lawns, shrubs, bushes, paths, driveways, walkways, sidewalks, planting beds, and plants which may be located on the Townhome Lot, which have been approved by the Architectural Control Committee and are therefore designated for the use of such Owner.

In the event that any of the items described herein shall serve more than one but less than all Units in a Townhome Building, such items shall be Limited Common Area appurtenant to the Units served thereby.

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Section 3.4. Easement for Maintenance. The Association shall have a general easement for maintaining the Property in accordance with the provisions of Article VIII hereof.

Section 3.5. Easements Reserved for Declarant. Declarant hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, upon, over and across any portion of the Property so long as Declarant owns any Unit primarily for the purpose of sale:

(A) for the erection, installation, construction, and maintenance of wires, lines, and conduits, and necessary for property attachments in connection with the transmission of electricity, gas, water, telephone, community antenna television cables, and other utilities;

(B) for the construction of the Townhome Buildings and Units;

(C) for the installation, construction, and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility function;

(D) for use as sales offices, model homes and parking spaces in connection with its effort to market the Units; and

(E) for the maintenance of such other facilities, equipment and signs as in the sole discretion of Declarant may be reasonably required, convenient or incidental to the completion, improvements and sale of the Units.

(F) for ingress and egress by vehicular and pedestrian traffic over such drives, roadways, walkways and paths as are shown on the Plat recorded in connection with the Property

Section 3.6. General Easement for the Association. The Association, in addition to the rights of the Association pursuant to Section 3.2 hereof, have a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including but not limited to, any manager employed by the Association and any employees of such manager to enter upon the Property or any portion thereof in the performance of their respective duties and responsibilities, including those set forth in Section 8.1 hereof; said easement specifically includes, but is not limited to, the right to enter upon the Property or any portion thereof, including a Unit or Limited Common Area, in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and upon reasonable advance notice to the Owner and the Unit directly affected thereby.

Section 3.7. Encroachments. There shall be a reciprocal appurtenant easement of encroachment between each Unit and the Common Area or the Limited Common Area adjacent thereto due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or permissibly altered thereon; provided, however, that in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of any individual Owner, tenant or the Association. In the event that any Unit or other authorized improvement shall be partially or totally damaged or destroyed as a result of fire or casualty, or as a result of condemnation or eminent domain proceedings, and then repaired or reconstructed, encroachments of improvements of the Unit upon the adjacent Common Area or Limited Common

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Area, due to such repair or reconstruction, shall be permitted and valid easements for such encroachments and maintenance, repair and replacement thereof shall exist.

#### ARTICLE IV

##### Additional Property

Section 4.1. General. The Additional Property is located contiguous to the Property and is described on Exhibit "D", attached hereto and made a part hereof. The Declarant shall have the right, but not the obligation, to construct additional Units and/or recreational property on the Additional Property. There will be a maximum of two hundred one (201) Units added to the Property by submitting all of the Additional Property to the terms and conditions of the Declaration. At such time as all Additional Property is added to the terms and conditions of these Covenants, there will be a total of two hundred fifty six (256) Units submitted to the terms and conditions hereof in Hidden Springs. Notwithstanding, the Declarant shall be under no obligation to submit any Additional Property to the terms and conditions of this Declaration or to construct any additional recreational property on the Additional Property.

Section 4.2. Expiration of Option. The right and option of Declarant to amend this Declaration and add any or all of a portion of the Additional Property shall expire seven (7) years from the recording of this Declaration. Other than as stated herein, there are no other limitations on said right and option of Declarant to add any or all of the Additional Property.

Section 4.3. Manner of Exercise. The option herein reserved unto the Declarant shall be exercisable by the recording with the Clerk of Superior Court of Cherokee County, Georgia of (a) an amendment to this Declaration, duly executed on behalf of the Declarant, and on behalf of all mortgagees who may have an interest in a portion of the Additional Property being added to this Declaration, and (b) a plat or plats of survey of a portion of the Additional Property being added to this Declaration.

Section 4.4 Property Description. The legal description of the portion of the Additional Property to be added to this Declaration will be described and made subject to this Declaration in the duly recorded amendment referred to in Section 4.3, above. Any portion of the Additional Property, when made subject to this Declaration, must be contiguous to the Property previously submitted to this Declaration.

Section 4.5. Construction Standards and Appearance. Any structure erected on any portion of the Additional Property made subject to this Declaration shall be substantially completed and shall be similar to and compatible with the structures on the Property in terms of quality of construction, principal materials to be used, architectural style, and esthetic qualities, as determined by Declarant, in its reasonable discretion.

Section 4.6. Use Restrictions. Any portion of the Additional Property made subject to this Declaration shall be used for residential purposes only and subject to the use restrictions as set forth in Article IX hereof.

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Section 4.7. Voting. The number of votes in the Association shall be increased by the number of Units added to the Property by amendment and each Unit in the whole of the Property shall have one (1) vote in the Association.

Section 4.8. No Obligation. Notwithstanding anything contained herein, the Declarant does not have any obligation (i) to submit any or all of the Additional Property to the terms and conditions of this Declaration or (2) to construct any recreational property and/or amenities within the Additional Property. Any Additional Property added to the terms and conditions hereof shall be submitted at the Declarant's own discretion.

## ARTICLE V

### ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS

Section 5.1. Name of Homeowners' Association. The name of the homeowners' association shall be HIDDEN SPRINGS TOWNHOMES HOA, INC.

Section 5.2. Administration. Except to the extent otherwise required by the provisions of the Official Code of Georgia relating to nonprofit corporations, this Declaration, the Articles of Incorporation and By-Laws of the Association, the powers herein or otherwise granted to the Association may be exercised by the Board, acting through the officers of the Association, without any further consent or action on the part of the Owners. Declarant shall have the right to appoint and remove all members of the Board officer or officers of the Association until such time as the first to occur of the following events:

(A) the later of:

(i) the expiration of seven (7) years from the date of the recording of this Declaration; or

(ii) the date upon which three-fourths (3/4) of the Units have been sold by Declarant to an Owner for residential occupancy and all Additional Property has been submitted to the Declaration; or

(B) the surrender by the Declarant of the authority to appoint and remove the directors and officers of the Association by an express amendment to this Declaration executed by the Declarant. Each Owner by acceptance of a deed to or other conveyance of a Unit, vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Declaration.

Section 5.3. Duties and Powers. The duties and powers of the Association shall be those set forth in the Official Code of Georgia relating to nonprofit corporations and to this Declaration, the Articles of Incorporation and By-Laws of the Association (as may from time to time be amended), together with those reasonably implied to effect the purposes of the Association;



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provided however, that if there are conflicts or inconsistencies between the Official Code of Georgia, this Declaration, the By-Laws or the Articles of Incorporation, the Official Code of Georgia, this Declaration, the By-Laws and then the Articles of Incorporation, in that order, shall prevail, and each Owner, by acceptance of a deed or other conveyance therefore, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies. The Association may exercise any other right of privilege given to it expressly by this Declaration or by law, together with every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

Section 5.4. Membership. Every Owner shall be deemed a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Unit, and ownership of any Unit shall be the sole qualification for such membership. In the event that fee title to a Unit is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee. The foregoing is not intended to include mortgagees or any other persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more persons, shall have more than one membership per Unit. The right and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a member or a member's spouse; but, in no event shall more than one vote be cast or more than one office held for each Unit owned. When more than one person holds an interest in a Unit, the vote for such Unit shall be exercised as the Owners of such Unit shall themselves determine. The vote appurtenant to any Unit shall be suspended in the event that more than one person seeks to exercise it.

Section 5.5. Classes of Membership. The Association shall have two (2) classes of voting membership which shall be known as Class A and Class B:

(A) With the exception of the Declarant, every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is a record owner of a fee interest in any Unit which is a part of the Property subject to the Declaration, or which otherwise becomes subject, by the terms of this Declaration as amended, to assessment by the Association, shall be a Class A member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity who holds such interest solely as security for the performance of a debt or obligation shall not be a Class A member solely on account of such interest. Each class A member shall be entitled to one (1) vote for each Unit in which such member holds the interest required for Class A membership.

(B) The Class B member shall be the Declarant or its nominee or nominees, and shall include every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who shall obtain any Class B membership by assignment from the Declarant which specifically assigns the rights of Class B membership. The Class B member or members shall have one (1) Class B membership for each Unit in which such member holds the interest otherwise required for Class A membership. Each Class B member shall be entitled to three (3) votes for each Class B membership which it holds. Each class B membership shall lapse and become a nullity on the first to happen of the following events:

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(i) thirty (30) days following the date on which the total authorized issued and outstanding Class A memberships equal the total authorized issued and outstanding Class B memberships multiplied by three (3), and the Declarant has submitted all of the Additional Property to the terms and conditions of this Declaration; or

(ii) December 31, 2011; or

(iii) upon the surrender of said Class B memberships by the then holder thereof for cancellation on the books of the Association. Upon lapse or surrender of any of the Class B memberships as provided for in this paragraph, the Declarant or its successor in interest shall thereafter remain a Class A member of the Association as to each and every Unit in which the Declarant then holds the interest otherwise required for such Class A membership.

(C) Both Class A and Class B members are hereinafter referred to singularly as "Member" and collectively as "Members".

Section 5.6. Control by Declarant. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant shall have the right to appoint and remove all of the members of the Board of the Association and any officer and officers of the Association as provided by and for the term set forth in Section 5.2 hereof. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors and officers of the Association in accordance with the foregoing provisions of this Section 5.6 and the provisions of Section 5.2. Upon the expiration of Declarant's right to appoint and remove directors and officers of the Association pursuant to this Section 5.6 and Section 5.2 such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Units, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owners shall elect a new Board which shall undertake the responsibilities of the Board, and Declarant shall deliver all books, accounts and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

## ARTICLE VI

### ASSESSMENTS

Section 6.1. Purpose of Assessments. The assessments for common expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Units, and shall include, but shall not be limited to, the payment of management fees, administration expenses, utility charges, insurance premiums, maintenance, landscaping, repair costs, and establishing of reserve funds, all as may be more specifically authorized from time to time by the Board of Directors of the Association.

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Section 6.2. Creation of Lien. Each Unit within the Property is hereby made subject to a lien and permanent charge in favor of the Association for annual assessments or charges, and special assessments or charges. Each Unit hereafter made subject to this Declaration shall automatically be subjected to said lien and permanent charge at the time such Unit is made subject to this Declaration. Such annual and special assessments shall be fixed, established and collected as hereinafter provided. There shall be an equitable charge and a continuing lien upon the Unit against which each assessment is made, and such permanent charge and lien shall bind such Unit and the successors in interest in such Unit while such successor holds an interest therein, unless otherwise provided herein. The lien for assessments shall also include, in addition to the annual and special assessments as described herein, the following:

- (A) late charges as may be assessed in accordance with O.C.G.A. 44-3-232 (a),  
and
- (B) simple interest at the rate of 10% (ten percent) per annum, and
- (C) costs of collection, including court costs, with expenses required for the protection and preservation of the Unit, and reasonable attorney fees actually incurred; and
- (D) the fair rental value of the Unit from the time of the institution of an action until the sale of the Unit at foreclosure or until judgment rendered in the action is otherwise satisfied.

The Association may enforce the lien created hereby in accordance with the provisions of Section 6.14 hereof.

6.3. Personal Obligation of Assessments. Each Owner shall covenant and agree to pay to the Association annual assessments or charges and special assessments or charges, such annual and special assessments to be fixed, established and collected from time to time as hereinafter provided and any person who was the Owner of any Unit subject to assessment by the Association at a time when any assessment came due with respect to such Unit shall be personally obligated to pay such assessment, together with all other costs as allowed by Georgia law. The personal obligation hereby created may be enforced by the Association in any appropriate proceeding in law or in equity.

Section 6.4. Priority of Assessment Liens. The lien of the assessments as described in Section 6.2 hereof shall be superior to all other liens and encumbrances on such Unit except only for:

- (A) the liens of ad valorem taxes,
- (B) the liens of any first priority mortgage covering the Unit and the lien of any mortgage recorded prior to the recording of this Declaration, and

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(C) the lien of any secondary purchase money mortgage covering the Unit, provided that neither the Grantee nor any successor Grantee on the Mortgage is the seller of the Unit.

Section 6.5. Initial Annual Assessments. Every Member of the Association shall pay an annual assessment to the Association as follows:

A) By All Owners of Unit Except Declarant. Subject to the provisions of Section 6.10 hereof, all Owners of a Unit (other than the Declarant) shall pay an initial annual assessment as determined by the Declarant, which Annual Assessment subject to any increased annual assessment pursuant to Section 6.6 hereof and subject to any future adjustments as determined by the Association in accordance with the provisions of Section 6.7 hereof. At the option of the Declarant or the Board of Directors, as the case may be, the assessments may be collected quarterly, semi-annually or annually.

B) By Declarant. For each lot owned by the Declarant which is made subject to this Declaration, the Declarant shall be obligated to pay twenty-five per cent (25%) of the annual assessment until such time as (i) the Unit is occupied, or (ii) the Unit is sold.

Section 6.6. Increased Annual Assessment - Recreational Property. Notwithstanding the provisions of Section 6.7 hereof, the Board of Directors may increase the Initial Annual Assessment by any amounts which may be reasonable and necessary, in its sole discretion, to operate, maintain, and repair any recreational amenity which may be made subject to this Declaration pursuant to Article IV of this Declaration; the amount of said increase being hereinafter referred to as the "Increased Annual Assessment." Any Increased Annual Assessment shall commence on the first day of the month following (i) completion of the recreational property, and (ii) submission of the recreational property to the terms and conditions of this Declaration.

Section 6.7. Adjusted Annual Assessments. The amount of the assessment provided for in Section 6.5 (Initial Annual Assessment) and Section 6.6 (Increased Annual Assessment) shall be called the "Adjusted Annual Assessment". The Adjusted Annual Assessment may be increased for the second fiscal year of operation by not more than twenty-five (25%) above the Adjusted Annual Assessment for the first fiscal year of operation, and for each subsequent year, the increase shall not be more than ten (10%) above the Adjusted Annual Assessment for the previous year without a vote of the membership. This amount may be increased for the second fiscal year of operation above twenty-five (25%) and for each subsequent year above ten percent (10%) by a vote of two-thirds (2/3rds) of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 6.8. Special Assessments. In addition to the Initial Annual Assessment authorized by Section 6.5, and the Increased Annual Assessment authorized by Section 6.6, the Association may levy a special assessment, provided that any such special assessment shall have the assent of 2/3 of the votes of the Members who are eligible to vote on such proposed assessment who are voting in person or by proxy at a meeting duly called for this purpose.

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Section 6.9. Initial Assessment. At the closing of the sale of all Lots to first Owner to purchase such Lot for a purpose other than the construction of a residence thereon, said Owner shall pay at the closing of the purchase and sale of said Lot an initial assessment of \$200.00. The initial assessment shall be paid only once for each lot and shall be paid to the Association. One-half (1/2 ) of the Initial Assessment may be used by the Association for the operating expenses, maintenance costs and any other reasonable expenses which may be incurred by the Association for any and/or all the purposes as set forth in Section 6.1 hereof. The remaining one-half (1/2) of the Initial Assessment is to be placed in a reserve account which shall be delivered to the Association at such time as the Declarant no longer has the right to appoint and remove members of the Board pursuant to Section 5.2 hereof. NOTWITHSTANDING anything contained herein, as long as the Declarant has the right to appoint and remove all members of the Board in accordance with the provisions of Sections 5.2 hereof, the reserve account funded by the Initial Assessment may be used only upon two-thirds (2/3) majority vote of the Class A Members and the consent of the Class B Member.

Section 6.10. Date of Commencement of Assessments; Due Dates. Unless the date is changed by the Board of Directors, the Initial Annual Assessments provided for in this Article VI shall commence as of date of closing of a Unit by an Owner. The Adjusted Annual Assessment shall commence of January 1 of each year and may be paid either annually, semi-annually, or quarterly, as may be determined by the Board. The due date of any special assessment shall be fixed in the resolution authorizing such assessment. The Increased Annual Assessment shall commence in accordance with the provisions as set forth in Section 6.6 hereinabove.

Section 6.11. Certificate. The Treasurer, or the manager of the Association shall, within five (5) days after written request therefore and upon payment of such fee as is from time to time determined by the Board, furnish to any Owner, a certificate in writing signed by an officer of the Association setting forth whether the assessments for which said Owner is responsible, have been paid, and, if not paid, the outstanding amount due and owing, together with all fines, accrued interest and other penalty charges. A fee of \$10.00 (or greater if permitted by Georgia Law) may be assessed for the issuance of such certificates. Such certificate shall be conclusive evidence against all but such Owner of payment of any assessment therein stated to have been paid.

Section 6.12. Subordination of the Charge and Lien to Mortgages. The lien and permanent charge of all assessments authorized herein (including annual and special) with respect to any Unit is hereby made subordinate to the lien of any first priority mortgage or any purchase money second mortgage placed on such Unit and to the lien of any mortgage recorded prior to the recording of this Declaration. Such subordination is merely a subordination and shall not relieve the Owner of the mortgaged property of his personal obligation to pay all assessments coming due at a time when he or she is the Owner of such property.

Section 6.13. Individual Assessments. Any expense of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitee of any Owner shall be specifically assessed against such Owners and their respective Units. The individual assessments provided for in this Section shall be levied by the Board and the amount and due date of such assessment shall be as specified by said Board.

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Section 6.14. Effect of Non-Payment; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days after the date when due shall incur a late charge in an amount to be not in excess of the greater of \$25.00 or 10 percent of the amount of each assessment or installment thereof not paid when due, and, in addition thereto, shall also commence to accrue simple interest at the rate of ten (10%) percent per annum. A lien and equitable charge as herein provided for each assessment shall attach simultaneously as the same shall become due and payable. The Association, prior to the instituting of any action, judgment and/or foreclosure against the Owner and/or the property, shall first give to the Owner not less than ten (10) days written notice by certified mail, return receipt requested, at both the address of the Unit and at any other address or addresses which the Owner may have designated to the Association in writing. The notice shall specify the amount of the assessments then due and payable together with authorized late charges and interest accrued thereon. Thereafter, the lien may be foreclosed by the Association by an action, judgment and foreclosure in the same manner as other liens for the improvement of real property. The Association shall have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein, including by way of illustration but not limitation, abandonment of his/her Unit or by renunciation of membership in the Association.

## ARTICLE VII

### ARCHITECTURAL STANDARDS AND USE RESTRICTIONS

Section 7.1 Purpose. In order to preserve the natural setting and beauty of the Property, to establish and preserve a harmonious and esthetically pleasing design for the Property, and to protect and promote the value of the Property, the Units and all improvements located thereon or therein, together with the Townhome Lots shall be subject to the restrictions as set forth in this Article VII.

Section 7.2. Architectural Control Committee. Notwithstanding the provisions of Section 5.2, the Architectural Control Committee shall be appointed by the Declarant until such time as 90% of the Units are sold and closed and all Additional Property has been submitted to the Declaration. Thereafter (or sooner if the Declarant so elects), the Board shall appoint a new Architectural Control Committee which shall consist of up to five (5) but not less than three (3) members, all of whom shall be Owners and who may or may not be members of the Board. The regular term of office of each member shall be one (1) year, coinciding with the fiscal year of the Association. Any member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The Architectural Control Committee shall elect a chairman and he, or in his absence the vice chairman, shall be the presiding officer at its meetings. The Architectural Control Committee shall meet as may be required, as well as upon call of the chairman. A majority of the members of the committee shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present in person or by proxy at a meeting of the Architectural Control Committee shall constitute the action of the Architectural Control Committee on any matter before it. The Architectural

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Control Committee is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist said committee in performing its functions set forth herein.

Section 7.3. Permitted Improvements. No structure of any nature shall be constructed, altered, added to, and/or maintained upon any part of the Property, except:

- (A) those structures and other improvements constructed by Declarant,
- (B) those structures or improvements as are approved by the Architectural Control Committee in accordance with this Article, and
- (C) those structures and other improvements which pursuant to this Article do not require the consent of the Architectural Control Committee.

Section 7.4. Standards. The Architectural Control Committee is hereby authorized to promulgate from time to time written architectural standards, policies and guidelines (the "Standards") governing the construction, location, landscaping and design of structures and other improvements, the contents of submissions of plans and specifications, and other information required to evidence compliance with and obtain approval pursuant to this Article. Any such Standards published shall be binding and enforceable on all Owners with respect to all structures and other improvements requiring the approval of the Architectural Control Committee.

Section 7.5. Architectural Approval. No Structure shall be commenced, constructed, placed, moved onto, or maintained by any Owner, other than Declarant, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data showing the nature, color, type, shape, height, materials, and location of same shall have been submitted to and approved in writing by the Architectural Control Committee. One copy of such plans, specifications and related data so submitted shall be retained in the records of the Architectural Control Committee and the other copy shall be returned to the Owner marked "approved", "approved as noted" or "disapproved". The Architectural Control Committee shall have the right, but not the obligation, to establish a fee sufficient to cover the expense of reviewing submissions and to compensate any consulting architects, landscape architects, urban designers, inspectors or attorneys retained in accordance with the terms hereof. The foregoing, notwithstanding, an Owner may make any interior improvements and alterations within his Unit that do not affect (i) the exterior appearance, or (2) the structural integrity of any of the Townhome Building or any other Unit within the Townhome Building, without the necessity of approval or review by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications and other data submitted for approval are acceptable to the Association. Representatives of the Architectural Control Committee shall have the right during reasonable hours to enter upon and inspect any Unit or other improvements with respect to which construction is underway to determine whether or not the plans and specifications therefore have been approved and are being complied with. In the event that said Committee shall determine that such plans have not been approved or are not being complied with, the Association shall be entitled to enjoin further construction and to require the

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removal or correction of any work in place which does not comply with the approved plans and specifications.

In the event that the Architectural Control Committee fails to approve or disapprove any plans or specifications within thirty (30) days after such plans shall have been submitted, such plans will be deemed to have been expressly approved. Upon approval of plans and specifications, no further approval under this Article shall be required with respect thereto, unless such construction contemplated in the plans has not been substantially commenced within six (6) months of the approval of the plans and specifications therefore or unless the plans and specifications are materially altered or changed. The Architectural Control Committee may refuse to approve any plans and specifications upon any grounds consistent with the objects and purposes of this Declaration, including purely esthetic considerations, so long as such grounds are not arbitrary or capricious.

Section 7.6. Landscaping Approval. To preserve the esthetic appearance of the Property no fencing, grading, excavation, or filling of any nature whatsoever shall be installed by a Owner (other than the Declarant) on the Townhome Lot unless the plans therefore have been submitted to and approved in writing by the Architectural Control Committee. The provisions in this Article regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed planting, clearing, grading, excavation and/or filling.

Section 7.7. Approval not a Guarantee. No approval of plans and specifications and no publication of construction standards, (if published by the Architectural Control Committee) shall be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither the Declarant, the Association, nor the Architectural Control Committee shall be responsible or liable on any defects in any plans or specifications submitted, revised or approved pursuant to terms of this Article, any loss or damages to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances or regulations, nor any defects in construction undertaken pursuant to such plans and specifications. Every Owner, by submission of such plans and specifications to the Architectural Control Committee as required by this Article, hereby releases and agrees to hold harmless and to defend the Declarant, the Association and any and all members of the Architectural Control Committee from any such liability, claim and/or damage resulting from the Architectural Control Committee approving said plans and specifications.

Section 7.8. Building Restrictions. All Structures and other improvements shall be constructed in compliance with any and all applicable state, county, and municipal zoning and building restrictions.



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## ARTICLE VIII

### MAINTENANCE

Section 8.1. Association's Responsibilities. Except as otherwise provided for herein, the Association shall maintain, landscape and keep in good repair, as the case may be, all portions of the Common Area. The Associations' responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of:

- (A) any wall or fence, if any, surrounding the Property; and
- (B) any and all roads, driveways, walks, parking areas, buildings (excluding Limited Common Area improvements), if any, and other improvements situated within the Common Area, including any recreational facilities located thereon, but excluding Limited Common Area improvements located thereon;
- (C) any utility lines, pipes, plumbing, wires, conduits and systems which are part of the Common Area;
- (D) any entryway treatment, entryway signs and entryway landscaping for HIDDEN SPRINGS;
- (E) all entryway lights, if any;
- (F) all the irrigation facilities, if any, serving the entryway landscaping for the Property;
- (G) any detention pond or facility located on the Property, to the extent that maintenance and repair of same is not assumed by Cherokee County;
- (H) any recreational facilities built for the common use of all Owners including, but not limited to, any community pool, tennis courts, clubhouse, and/or playground equipment as may be constructed on any of the Property; and
- (I) any lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area, but excluding the Townhome Lot; and
- (J) any grass, lawns, shrubs, bushes, paths, driveways, walkways, sidewalk, planting beds, and plants which may be located on the Townhome Lot, but excluding that which has been designated as Limited Common Area pursuant to Section 3.3 (D) hereof; and
- (K) maintenance and upkeep of the Open Spaces and the Private Road (Alley) as designated on the Plat.

Section 8.2. Liability of Association. The Association shall not be liable for injury or damage to any person or property caused by the elements or by any Owner or any other person. No

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diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

Section 8.3. Owner's Responsibilities. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Units, together with the Limited Common Area and the Townhome Lot, shall be the responsibility of the Owner of such Unit. Each Owner shall be responsible for maintaining his Unit in a neat, clean and sanitary condition, and such responsibility shall include but not be limited to the maintenance and care of all exterior surfaces of all the Unit (including repainting and roof repair). As provided in Section 8.4 hereof, each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner but which responsibility such Owner fails or refuses to discharge. No Owner shall (a) decorate, repaint, change or otherwise alter the appearance of any portion of the exterior of his Unit or the Limited Common Area unless such decoration, repainting, change or alteration is first approved, in writing, by the Architectural Control Committee as provided in this Declaration, or (b) do any work which, in the reasonable opinion of the Architectural Control Committee, would jeopardize the soundness and safety of the Property, reduce the value thereof or impair any easement or hereditament thereto, without in every such case obtaining the prior written approval of the Architectural Control Committee.

8.4. Failure of Owner to Maintain. In the event that Declarant or the Board determines that: (i) any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, cleaning, repair or replacement of items for which he is responsible hereunder, or (ii) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of any Owner, his family, tenants, guests or invitee, and is not covered or paid for by insurance in whole or in part, then, in either event, Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of Declarant's or the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or in the event that such maintenance, cleaning, repair or replacement is not capable of completion within said fifteen (15) day period, to commence said maintenance, cleaning, repair or replacement within said fifteen (15) day period. In the event the Owner fails or refuses to perform the necessary maintenance, cleaning and repair as described herein within the time periods as described hereinabove, the Association shall have the right to provide such necessary maintenance, cleaning, repair or replacement on behalf of said Owner and any and all costs associated therewith shall become an Individual Assessment pursuant to Section 6.13 hereof.

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7127 419**ARTICLE IX****USE RESTRICTIONS**

Section 9.1. Single Family Residential Use. All Units shall be restricted exclusively to single family residential use only and no trade or business of any kind may be carried on therein. As used herein, "single family" shall not require a relationship of blood or marriage and shall include roommate relationships, but shall specifically exclude boarding house, hotel or transient uses. Occupancy of four or more persons who are not related by blood or marriage shall be deemed to be an occupancy for non single family use and shall be expressly prohibited hereby. No Unit shall be used for any commercial, business or professional purpose, except that an Owner may use a portion of the Unit to "do work at home", as long as the Owner does not run, operate or control his business from his Unit and does not create regular customer, client, or employee traffic or otherwise create a nuisance. Furthermore, the use of a Unit or a portion thereof for business meetings, entertainment or the enjoyment or business of the Owner's employees, trustees, agents, clients, or customers shall not be deemed to be a violation of this covenant if such use does not create regular customer, client, or employee traffic or otherwise create a nuisance.

Section 9.2. Common Area. The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from the respective Units and for such other purposes as authorized by this Declaration and/or by the Board.

Section 9.3. Use by Declarant. Notwithstanding the provisions of Section 9.1 hereof, during the period of sale and construction, the Declarant shall be entitled to and have an easement for access to, ingress to and egress from the Townhome Building and the Property as may be required for purposes of the sale of the Units, and the construction, installations, improvements and maintenance of components of the Property. While the Declarant owns any Unit, any unsold or unoccupied Units may be used as a model and the Declarant may (i) use one or more of such unsold or unoccupied Units as a sales office, (ii) do any and all acts which are reasonable and necessary to promote and sell the Units, and (iii) maintain any and all signs which may be reasonable and, customary within the Unit, on a portion of the Common Area and/or the Limited Common Area to aid in the sale of such Unit or any other Unit within the Property.

Section 9.4. Use of Units, Decks and Patios. Each Owner shall maintain his Unit in good condition and in good order and repair, at his own expense, and shall not do or allow anything to be done to or in his Unit which may increase the cost or cause the cancellation of insurance on other Units or on the Common Area. No Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his Unit, or which may be visible from the outside of his Unit (other than draperies, curtains, or shades of a customary nature and appearance, subject to the rules and regulations of the Board), or paint or decorate or adorn the outside of his Unit, without the prior written consent of the Board. The foregoing restrictions as to use shall not be construed to prohibit an Owner from placing and maintaining outdoor furniture and decorative foliage of a customary nature and appearance on a deck, terrace or patio which is Limited Common Area.

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Section 9.5. Use of Townhome Lots. Each Owner shall have the right to plant and maintain trees, shrubbery, bushes, hedges and plants on any portion of the Townhome Lot without the prior approval of the Architectural Control Committee except as may be limited by Section 7.6 hereof. Any trees, shrubbery, bushes, hedges and plants which may be located on the Townhome Lot shall be maintained by the Owner.

Section 9.6 Signs. Except as provided in Section 9.3 hereof, no signs or billboards of any kind (including but not limited to commercial and similar signs) shall, without the Architectural Control Committee's prior written approval of the plans and specifications therefore, be installed, placed or maintained on any Unit or on any portion of a Structure visible from the exterior thereof, or within any portion of the Common Area except:

- (i) such signs as may be required by legal proceedings;
- (ii) not more than one "For Sale" sign provided however, that in no event shall any such sign be larger than two square feet in area;
- (iii) directional signs for vehicular or pedestrian safety in accordance with the plans and specifications approved by the Architectural Control Committee; and
- (iv) signs indicating an "Open House"; and
- (v) not more than one "For Rent" sign; provided however, that in no event shall any such sign be larger than two square feet in area and any such sign shall be posted only in accordance with Sections 9.14 (D) hereof.

Notwithstanding anything contained herein, as long as the Declarant has any Unit for sale, no signage shall be posted on any portion of the Property (excluding the Unit), including, but not limited to, any "For Sale" sign, "For Rent" sign, "Open House" sign or any other sign of any kind or nature without the express written consent of the Declarant and the Architectural Control Committee pursuant to Section 9.3 hereof.

Section 9.7. Fences. No fence or wall of any kind shall be erected, placed, or altered on any portion of the Property by any Owner, other than the Declarant, without the prior written consent of the Architectural Control Committee. In addition, no fence shall be placed closer to the street than the most rear corner of the Unit.

Section 9.8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out building or structure shall be used on any portion of the Property. The Declarant, at its option, may use such structure as needed for the construction and marketing of the Units.

Section 9.9. Pets. No animals, livestock, reptiles, birds or poultry of any kind shall be raised, bred or kept within any Unit, except that dogs, cats or other generally recognized household pets may be kept provided that they are not kept bred or maintained for any commercial purpose. A maximum of two (2) pets per household shall be allowed and provided that none of such pets are permitted to

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be a source of annoyance to any other resident or residents of any other Unit, and no known vicious animal shall be kept in any Unit. All pets shall be under leash at all times when walked or exercised outside the Unit. Owners shall be immediately responsible for the proper clean up and disposal of all waste created by their animals.

Section 9.10. Antennae. No antenna, satellite dish (over 18 inches in diameter) or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Property; provided, however, the Declarant and/or the Association shall have the right to erect, construct and maintain such devices. All such devices must be attached to the rear of the Unit unless said Owner obtains, prior to installation, (a) approval by the Architectural Control Committee, (b) a letter from a recognized provider of services stating that the device must be located in the front or on the side of the Unit for proper use and reception.

Section 9.11. Playground and Recreational Equipment. No playground or recreational equipment shall be placed or installed on any portion of the Property without the prior written approval of the Architectural Control Committee.

Section 9.12. Parking. Ownership shall be entitled to park a maximum of two (2) operable vehicles on the driveway between the Unit and the adjacent street on a regular and ongoing basis; unless the parking of more vehicles is approved by the Board. Except for construction vehicles necessitated by the Declarant's activities, no commercial vehicles may be stored or parked on any portion of the Property, except for those vehicles making deliveries or providing services to the Owners. No house trailers, mobile homes, campers, inhabitable vehicles of any kind, school buses, trucks, trailers, or vehicles that have been incapacitated for over 48 hours may be stored or parked on any portion of the Property unless the Association has provided a designated area for such parking. An owner of vehicle shall be responsible for moving a vehicle within twenty-four hours after receiving notice from the Association to remove said vehicle.

Section 9.13. Nuisances. No noxious or offensive activity shall be carried on upon any Unit, nor shall anything be done thereon which may be or become an annoyance, discomfort, embarrassment, or nuisance to any other Owner or occupants of a Unit.

Section 9.14. Leasing.

(A) Leasing. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner for which the Owner receives any consideration, or benefit, including, but not limited to, a fee, gratuity, or payment or consideration of any other type or kind.

(B) Leasing Prohibited. In order (i) to protect the equity of the individual property owners at Hidden Springs, (ii) to carry out the purpose for which the Association was formed by preserving the character of the Association as a homogeneous residential community of predominantly owner-occupied complex; and (iii) to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be

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substantially owner-occupied, leasing of a Unit shall be prohibited, except in the case of undue hardship, as provided below.

(C) Undue Hardship. The Board shall be empowered to allow reasonable leasing of Units, upon written application, to avoid undue hardship upon an Owner. By way of illustration, "undue hardships" are those in which (i) an owner must relocate his or her residence and cannot, within ninety (90) days from the date the Unit is placed on the market, sell the Unit for a price at or below its current appraised market value; (ii) where the Owner dies and the Unit is being administered by his or her estate; or (iii) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit. Notwithstanding Section 9.14(B) hereof, those Owners who have demonstrated that the inability to lease their unit would result in undue hardship and have obtained the requisite approval of the Board may lease their Unit for such duration as the Board reasonably determined is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall only be permitted upon the Board's written approval, a copy of the lease, signed by the lessee and lessor, shall be submitted to the Board within ten (10) days after it has been signed by both parties.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and By-Laws, in order to enforce the provisions of this Section. Any transaction which does not comply with this Section 9.14(C) shall be voidable at the option of the Board of Directors.

(D) Permitted Leasing Requirement. Leasing, which is permitted pursuant to Section 9.14(C) hereof, shall be governed by the following provisions:

(1) General Terms. Units may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Association. No transient tenants may be accommodated in a Unit. All leases shall be in writing and in a form approved by the Board of directors of the Association. All rentals must be for a term of not less than one (1) year. The Owner must make available to the tenant copies of the Declaration, By-Laws, and the rules and regulations. All lease and lessees are subject to the provisions of this Declaration and the By-Laws. Any lease of a Unit in the community shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the Unit. Any lessee, by occupancy in a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(a) Liability for Assessment. Lessee agrees to be personally obligated for the payment of all assessments against the Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions

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of this Declaration, the By-Laws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Upon request by the Association, lessee shall pay to the Association all unpaid annual and special assessments, as lawfully determined and made payable during the term of the lease and any other period of occupancy by lessee; provided, however, lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make only rental payments to lessor.

(2) Compliance With the Declaration, By-Laws, and Rules and Regulations.

Lessee agrees to abide by and comply with all provisions of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. Owner agrees to cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee, or any person living with the lessee, violates the Declaration, By-Laws, or rules or regulations for which a fine is imposed, such fine shall be assessed against the lessee; provided, however, if the fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. All unpaid fines, together with late charges, interest not to exceed the maximum legal rate, costs, and reasonable attorneys' fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Unit against which each fine is made. Each such fine, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Unit at the time the assessment fell due. Any lessee charged with a violation of the Declaration, By-Laws, rules and regulations adopted pursuant thereto is entitled to the same procedure to which an Owner may be entitled, if any, prior to the imposition of a fine or other sanction.

Any violation of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto is deemed to be a violation of the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association (as a third-party beneficiary of the lease agreement between the Owner and the lessee), acting through the Board, the power and authority to evict the lessee on behalf of and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the tenant, any cost, including attorneys' fees and court costs, associated with the eviction shall be specially assessed against the Unit and the Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof.

(3) Use of Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, to include, but not be limited to, the use of any and all recreational facilities and other amenities.

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Section 9.15. Rules and Regulations. Reasonable rules and regulations concerning the use of the Property may be made and amended from time to time by the Board of Directors of the Association; provided that copies of such regulations and amendments thereto shall be furnished by the Association to all Owners. Such regulations shall be binding upon the Owners, their families, tenants, guests, invitees and agents. A copy of the initial Rules and Regulations (which may be altered, modified and amended in accordance with the terms and provisions of the By-laws) is attached hereto as Exhibit "E".

## ARTICLE X

### PARTY WALLS

Section 10.1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Unit upon the Property and placed on the dividing line between the Units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of Georgia law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 10.2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to their use.

Section 10.3. Damage or Destruction. If a party wall is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall may restore it, and if other Owner or Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 10.4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 10.5. Right to Contribution. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successor in title. Nothing contained herein shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which are payable under any policy or policies of insurance for such damage.

Section 10.6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such disputes shall be referred to arbitration. Each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, the decision shall be by a majority of all the arbitrators, and shall be binding upon the parties. Pursuant to Georgia law, judgment upon the award of the arbitrators may be maintained in any court of law with jurisdiction thereon.



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7127 425**ARTICLE XI****INSURANCE**

**Section 11.1. Insurance by Association.** At all times during the term of this Declaration, the Association, its successors and assigns, shall be required to keep any and all insurable improvements located on the Common Area fully insured, subject to normal policy exclusions, by a reputable insurance company authorized to transact business in the State of Georgia with (i) fire, vandalism, malicious mischief and extended coverage insurance in the amount adequate to cover the full replacement cost (without depreciation but subject to such deductible levels as are deemed reasonable by the Board) of such improvements in the event of loss of any and/or all of such improvements, together with fixtures and contents thereof; (ii) public liability insurance covering all Common Area and all damage or injury caused by the negligence of the Association or any of its members or agents with single limit of not less than \$1,000,000.00 liability per person, and \$50,000.00 property damage; (iii) worker's compensation insurance as may be required by law; (iv) fidelity bond coverage, if so determined by the Board and/or required by a Mortgagee; and (v) such other insurance as the Board may deem appropriate. Premiums for such insurance, if obtained, shall be an expense of the Association. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association and all such insurance shall be governed by the provisions as contained in the By-laws of the Association. Any such policies of insurance shall require that the certificate holders and insured be given thirty (30) days written notice of any cancellation of such policies.

**Section 11.2. Damage or Destruction to Improvements.** Immediately after the damage or destruction by fire or other casualty of all or any portion of the improvements covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and in any such event, the Board shall obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed improvements. Repair or reconstruction, as used in this Article, means restoring or repairing the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. The Association shall restore or replace such damaged or destroyed improvements. If the insurance proceeds, if any, for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund as may be established for such purpose, the Board may levy a special assessment against all Owners, without the necessity of a vote as required elsewhere in this Declaration, such assessment to be in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such an emergency assessment shall be levied against all the Owners equally in the same manner as annual assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board. Any proceeds remaining after defraying such costs shall be retained by and used for the benefit of the Association.

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Section 11.3. Insurance by Owner. Each Owner shall obtain and maintain insurance for all insurable improvements located on their respective Unit and all improvements appurtenant to their Unit which are in the Limited Common Area against loss or damage by all risks of physical loss or damage, subject to normal policy exclusions, in an amount sufficient to cover the full replacement cost of such improvements in event of damage or destruction from any insured peril. Any such insurance policies may contain reasonable deductibles as determined by the Owner. In the event any Owner fails to maintain such insurance, the Association is authorized, but not obligated to obtain such insurance, whereupon such Owner shall immediately reimburse the Association for such premium. The cost of such premium shall be deemed an individual assessment under Section 6.13 of this Declaration and shall be added to and become apart of the assessment to which the Unit is subject.

## ARTICLE XII

### CONDEMNATION

Section 12.1. General. Whenever all or any part of the Property shall be taken by any authority having the power of condemnation or eminent domain, then each Owner shall receive notice thereof and shall be allowed to participate in the proceedings incident thereto. The award or proceeds made or collected shall be payable to the Association as trustee for all Owners and shall be disbursed as follows:

(A) Common Area Taking. If the taking is a portion of the Common Area upon which improvements have been constructed (excluding Limited common Area improvements appurtenant to the Units) then the Association shall restore or replace such improvement so taken, to the extent practicable, on the remaining property included in the Common Area, unless within sixty (60) days after such taking, at least seventy-five (75%) of the Class A Members of the Association and the Declarant, for so long as it owns more than ten (10) Units primarily for the purpose of sale, shall otherwise agree. .

(B) One or More Units. If the taking includes one or more Units or any portion thereof including Limited Common Area improvements appurtenant thereto, then, if all parties cannot otherwise agree, a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Owners so affected.

## ARTICLE XIII

### AMENDMENTS

Section 13.1. Amendments by Declarant. Subject to the terms of Section 13.2 of this Declaration, the Declarant, for so long as it owns a Unit primarily for the purpose of sale may amend this Declaration by an instrument in writing filed and recorded in the records of the Office of the Clerk of the Superior Court of Cherokee County, Georgia, without the approval of any Owner or Mortgagee if:

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(A) such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith,

(B) such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Units subject to this Declaration,

(C) such amendment is required by an institutional or governmental lender or purchaser of mortgage loans to enable such lender or purchaser to make or purchase mortgage loans on any Unit or other improvements subject to this Declaration,

(D) such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Units or other improvements subject to this Declaration.

(E) such amendment is deemed necessary, in Declarant's sole opinion, to make the provisions more workable, to clarify any provision or ambiguity, to eliminate any confusion or conflict, or if such is necessary, to bring any provision hereof into compliance with any applicable government statute, rule, regulation or judicial determination which shall be in conflict therewith.

Section 13.2. Limitations. Notwithstanding anything contained in Section 13.01 hereof, the Owner and/or Mortgagee, as the case may be, must consent to any amendment by the Declarant if:

(A) such amendment adversely affects the title to any Unit, and then, such amendment shall be valid only upon the written consent thereto by the existing Owners affected thereby, or

(B) such amendment materially alters or changes any Owner's right to the use and enjoyment of his Unit as set forth in this Declaration, and then, such amendment shall be valid only upon the written consent thereto by 2/3 of the existing Owners affected thereby, or

(C) such amendment would materially and adversely affect the security, title or interest of any Mortgagee, and then, such amendment shall be valid only upon the written consent thereto of all Mortgages so affected.

(D) as long as there is a Class B Membership, the Declaration shall not be amended for any of the following purposes without the prior written consent of the Secretary of Housing and Urban Development and/or the Secretary of Veteran Affairs: Annexation of additional property to the Declaration, dedication of Common Areas, or any other Amendment other than those described in Section 13.1 hereof.

Section 13.3. Amendment by Association. Amendments to this Declaration, other than those authorized by Section 13.1 hereof, shall be proposed and adopted in the following manner:

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(A) notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be provided to each member of the Association as set forth in this Declaration.

(B) at such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the Association. Such amendment must be approved by Members holding at least two-thirds (2/3) of the total votes in the Association provided, however (i) that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee and (ii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must be approved by Declarant.

(C) the agreement of the required percentage of the Owners and, where required, the Declarant and any mortgagee, to any amendment of this Declaration, shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state that the Agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the Amendment itself.

(D) this Article shall not be amended without the prior written approval of Declarant, so long as it owns a Unit primarily for the purpose of sale.

(E) neither the Declarant nor the Association can convey any portion of the Common Area as a security interest or as collateral for any loan to the Association without the consent of two-thirds of all Class A Members and the Class B Members as well as the consent of all Mortgagees.

Section 13.4. Effective Date. The effective date of any amendment shall be the date of recording the amendment in the office of Superior Court of Hall County, Georgia, or on such later date as may be specified therein.

#### ARTICLE XIV

#### MORTGAGEE PROVISIONS

Section 14.1. Rights of First Mortgagees. Each first mortgagee of a Unit shall (a) be entitled to written notice from the Association of any default by an Owner in the performance of his obligations under the Declaration which is not cured within thirty (30) days; (b) be entitled to attend and observe all meetings of Owners, but not meetings of the Board; (c) be furnished copies of annual audited financial reports made to the Owners (if requested in writing); (d) be entitled to inspect the financial books and records of the Association and current copies of this Declaration, the By-Laws and other rules of the Association during reasonable business hours; (e) be entitled to notice of any material modification of any insurance policy or fidelity policy maintained by the Association; and (f) be entitled to written notice of any condemnation loss or any casualty loss

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which affects a material portion of the Property; provided; however, that such mortgagee shall first file with the Association a written request that such notices and copies of financial reports be sent to a named agent or representative of the mortgagee at an address as stated in such notice.

Section 14.2. Consent of First Mortgagees. In addition to the rights of a Mortgagee pursuant to Article XIII hereof, and notwithstanding any provisions to the contrary contained herein, unless the holders of at least seventy-five (75%) per cent of the first mortgagees on Units in Hidden Springs have consented in writing, the Declarant and the Association shall not do any of the following:

(A) by act or omission seek to abandon, subdivide, encumber, sell or transfer the Common Area. The granting of easement for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association shall not be deemed a transfer within the meaning of this clause;

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

(C) by act or omission materially change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining the architectural design or the exterior appearance of the Townhome Building or the Unit or the Limited Common Area improvements;

(D) use hazard insurance proceeds for losses to any of the Common Area for other than the repair, replacement or reconstruction of such Common Area;

(E) terminate professional management and assume self-management of Hidden SPRINGS;

Section 14.3. Priority of First Mortgagees. No provision of this Declaration shall be construed to grant to any Owner or any other party any priority over any rights of first mortgagees of the Units pursuant to their first mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or the Common Area or any portions thereof.

Section 14.4. Taxes, Insurance Premiums, Etc. First mortgagees of Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area, and first mortgagees making such payments shall be owed immediately therefore from the Association.

## ARTICLE XV

### ENFORCEMENT

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Section 15.1. Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association, if any, adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to its Unit, if any. Failure to comply with any of the same shall be grounds for imposing and assessing of fines, or temporarily suspending voting rights and the right of use of certain of the Common Areas and services paid for as a common expense, and/or instituting an action to recover sums due, for damages and/or injunctive relief, such actions to be maintainable by Declarant, the Board on behalf of the Association, or, in a proper case, by an aggrieved Owner. Should Declarant or the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorney's fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, the By- Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by the recovery of damages and that Declarant, the Association, or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach. No delay, failure or omission on the part of Declarant, the Association or any aggrieved Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right or action shall accrue nor shall any action be brought or maintained by anyone whatsoever against Declarant or the Association, for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach of the provisions of this Declaration, the By-Laws or any rules and regulations of the Association, however long continued.

Section 15.2. Self-Help. In addition to any other remedies provided for herein, the Declarant and the Association or its duly authorized agent, using such force as may be reasonably necessary, shall have the power to enter upon the Unit, the Limited Common Area and/or the Common Area to abate or remove, an erection, thing, or condition which violates this Declaration, the By-Laws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Owner ten (10) days written notice of its intent to exercise self-help. All costs of self-help including reasonable attorney's fees, shall be assessed against the violating Owner and shall be collected as provided herein for the collection of assessments.

## ARTICLE XVI

### MISCELLANEOUS PROVISIONS

Section 16.1. Duration. The provisions of this Declaration shall run with and bind the Property, shall be and remain in effect, and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive

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periods of ten (10) years unless an instrument, signed by at least 75% of the then Owners of record and the holders of first mortgages on their Units has been recorded in the Office of the Clerk of the Superior Court of Cherokee County, Georgia Deed Records to terminate or change such provisions in whole or in part. Every purchaser or grantee of any interest in any property now or hereafter subject to this Declaration, by acceptance of a deed or other conveyance thereof, thereby agrees that the provisions of this Declaration may be extended as provided above.

Section 16.2. Notices. Any notice required to be sent to any Member pursuant to any provision of this Declaration shall be served either by personal delivery or by depositing such notice in the mails, postage prepaid, regular mail, addressed to the Member for whom it is intended at his or her last known place of residence, or to such other address as may be furnished to the secretary of the Association, and such service shall be deemed sufficient. The date of service shall be the actual date of personal delivery or the date of mailing.

Section 16.3. Professional Management and Other Contracts. Any agreement for professional management of Hidden Springs must provide for termination by the Association, without cause and without payment of any penalty or termination fee, upon not more than ninety (90) days written notice. The term of any such agreement may not exceed one (1) year. For so long as there is a Class B member of the Association, the Association will not be bound directly or indirectly to either contracts or leases unless there is a right of termination of any such contract or lease, without cause, at any time after there ceases to be a Class B member, upon not more than ninety (90) days notice to the other party.

Section 16.4. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provisions or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 16.5. Conflicts. In the event of any conflict between the Official Code of Georgia, this Declaration, the By-Laws or the Articles of Incorporation, the Official Code of Georgia, this Declaration, the By-Laws and then the Articles of Incorporation, in that order, shall prevail.

Section 16.6. No Liability. Declarant has used its best efforts and acted with due diligence in connection with the preparation and recording of this Declaration to ensure that the Association and each Owner has the right and power to enforce the terms and provisions hereof against every other Owner. In the event this Declaration is unenforceable by the Association or an Owner or any other person for any reason whatsoever, the Declarant and its agent shall have no liability of any kind as a result of such enforceability, and each Owner, by acceptance of a deed conveying a Unit, acknowledges and agrees that the Declarant and its agents shall have no such liability.

Section 16.7. Captions. The captions of each Section hereof 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 sections to which they refer.

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Section 16.8. Liability of Successor Declarant. Nothing contained herein shall make responsible or subject to liability any successor to Declarant by operation of law or through purchase of Declarant's interest in the Property or any portion thereof, whether by foreclosure of a deed to secure debt or other security interest encumbering the Property or delivery of a deed in lieu of foreclosure, for any act, omission or matter occurring or arising from any act, omission or matter occurring prior to the time such successor succeeded to the interest of the Declarant.

Section 16.9. Rights of Third Parties. This Declaration shall be recorded for the benefit of the Declarant, the Owners, and their mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in Hidden Springs except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the provisions of this Declaration and the rights of the Declarant and mortgagees as herein provided, the Owners shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

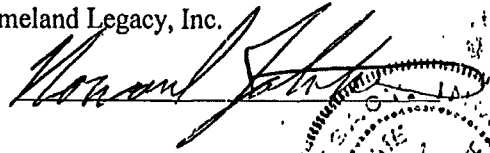
Section 16.10. Gender. The masculine, feminine and neuter gender shall be construed to include a male, female, partnership or corporation where the context so requires.

Section 16.11. State of Georgia. This Declaration shall be construed in accordance with the laws of the State of Georgia.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by its duly elected officers and its seal attached, this day and year first above written.

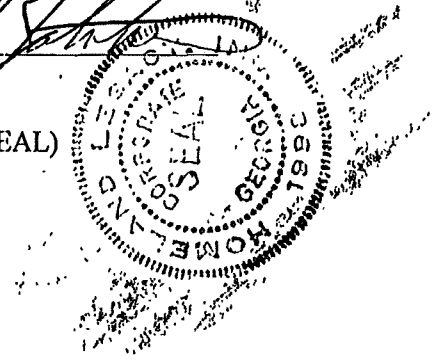
Homeland Legacy, Inc.

BY:

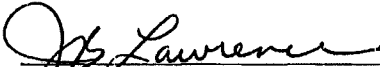


(CORPORATE SEAL)

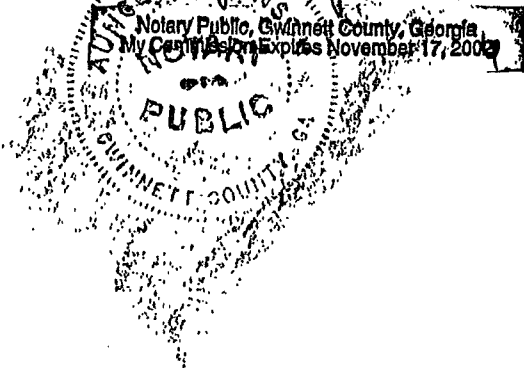
COPY



Signed, Sealed and Delivered in the presence of:

  
Unofficial Witness

  
Notary Public





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EXHIBIT "A" – Property  
Hidden Springs  
Phase I, Section A

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 273 and 274 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section, City of Holly Springs, Cherokee County, Georgia and being more particularly described as follows:

BEGIN at the intersection formed by the southern right-of-way of Hidden Valley Drive (50' right-of-way) and the northwestern right-of-way of Ash Street (right-of-way varies) and running thence southwesterly along the northwestern right-of-way of Ash Street South 25 degrees 07 minutes 42 seconds West a distance of 140.12 feet to an iron pin found; running thence South 46 degrees 57 minutes 52 seconds West a distance of 38.44 feet to an iron pin found; running thence South 46 degrees 19 minutes 28 seconds West a distance of 162.31 feet to an iron pin found; running thence South 52 degrees 36 minutes 50 seconds West a distance of 113.34 feet to an iron pin set; running thence South 52 degrees 36 minutes 50 seconds West a distance of 50.01 feet to an iron pin set; running thence South 52 degrees 36 minutes 50 seconds West a distance of 136.65 feet to an iron pin set; leaving Ash Street and running thence South 00 degrees 10 minutes 57 seconds West a distance of 602.17 feet to an iron pin found; running thence South 67 degrees 33 minutes 32 seconds West a distance of 192.45 feet to a R/W Monument Found; running thence South 29 degrees 45 minutes 42 seconds West a distance of 313.28 feet to an iron pin found; running thence North 86 degrees 35 minutes 21 seconds West a distance of 691.03 feet to an iron pin found; running thence North 03 degrees 24 minutes 39 seconds East a distance of 429.04 feet to an iron pin found; running thence North 86 degrees 35 minutes 21 seconds West a distance of 167.29 feet to an iron pin found; running thence North 00 degrees 57 minutes 16 seconds East a distance of 69.87 feet to an iron pin found; running thence North 17 degrees 01 minutes 49 seconds West a distance of 80.36 feet to an iron pin found; running thence South 75 degrees 38 minutes 38 seconds East a distance of 148.22 feet to a point; running thence South 86 degrees 44 minutes 44 seconds East a distance of 51.78 feet to a point; running thence South 72 degrees 57 minutes 20 seconds East a distance of 42.53 feet to a point; running thence South 86 degrees 40 minutes 59 seconds East a distance of 74.71 feet to a point; running thence North 47 degrees 23 minutes 34 seconds East a distance of 93.78 feet to a point; running thence North 57 degrees 08 minutes 04 seconds East a distance of 128.51 feet to a point; running thence South 89 degrees 45 minutes 55 seconds East a distance of 99.29 feet to a point; running thence South 64 degrees 55 minutes 27 seconds East a distance of 125.47 feet to a point; running thence along a curve to the left an arc distance of 117.55 feet (said arc being subtended by a chord having a chord bearing of South 61 degrees 24 minutes 35 seconds East, a chord distance of 116.93 feet and a radius of 327.81 feet) to an iron pin set; running thence North 15 degrees 06 minutes 41 seconds East a distance of 189.91 feet to an iron pin set; running thence along a curve to the left an arc distance of 98.87 feet (said arc being subtended by a chord having a chord bearing of North 88 degrees 55 minutes 31 seconds East, a chord distance of 97.56 feet and a radius of 175.00 feet) to an iron pin set; running thence North 17 degrees 15 minutes 38 seconds West a distance of 81.92 feet to an iron pin set; running thence North 57 degrees 17 minutes 28 seconds West a distance of 97.54 feet to an iron pin set; running thence North 01 degrees 28 minutes 21 seconds East a distance of 129.13 feet to an iron pin set; running thence South 88 degrees 31 minutes 39 seconds East a distance of 91.21 feet to an iron pin set; running thence North 01 degrees 28 minutes 21 seconds East a distance of 78.64 feet to an iron

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pin set; running thence South 89 degrees 39 minutes 51 seconds East a distance of 44.20 feet to an iron pin set; running thence North 03 degrees 57 minutes 16 seconds East a distance of 93.54 feet to an iron pin set; running thence North 88 degrees 35 minutes 41 seconds West a distance of 52.54 feet to an iron pin set; running thence North 01 degrees 24 minutes 19 seconds East a distance of 190.30 feet to an iron pin set on the southern right-of-way of Hidden Valley Drive; continuing thence along Hidden Valley Drive South 86 degrees 17 minutes 01 seconds East a distance of 90.29 feet to an iron pin set; continuing along Hidden Valley Drive an arc distance of 133.70 feet (said arc being subtended by a chord having a chord bearing of North 89 degrees 15 minutes 13 seconds East, a chord distance of 133.56 feet and a radius of 858.28 feet) to an iron pin set; continuing along said right-of-way North 84 degrees 47 minutes 28 seconds East a distance of 114.96 feet to an iron pin set; continuing along said right-of-way along a curve to the right an arc distance of 79.96 feet (said arc being subtended by a chord having a chord bearing of North 87 degrees 25 minutes 32 seconds East, a chord distance of 79.93 feet and a radius of 869.47 feet) to a point; continuing along said right-of-way South 89 degrees 56 minutes 23 seconds East a distance of 133.47 feet to an iron pin set; continuing along said right-of-way along a curve to the right an arc distance of 138.73 feet (said arc being subtended by a chord having a chord bearing of South 84 degrees 07 minutes 51 seconds East, a chord distance of 138.49 feet and a radius of 673.04 feet) to an iron pin found and the Point of Beginning; all as shown on plat of survey entitled "Survey For: Hidden Springs Subdivision Phase I, Section A" as prepared by Dixon-Ross Surveying, Inc., dated February 23, 2004.

Less and Except any portion of the above described property located within the rights-of-way of any public roads located within said property which have been dedicated to the City of Holly Springs and/or Cherokee County, Georgia.

This is a portion of the property consisting of 42.43 acres as shown on that certain survey entitled "Boundary Survey for Brooks Land, Inc., New South Federal Savings Bank, Commonwealth Land Title Insurance Company as prepared by Dixon-Ross Surveying, Inc., dated February 5, 2003.

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EXHIBIT "B" - Common Area  
Hidden Springs

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 273 and 274 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section, City of Holly Springs, Cherokee County, Georgia and being more particularly described as follows:

BEGIN at the intersection formed by the southern right-of-way of Hidden Valley Drive (50' right-of-way) and the northwestern right-of-way of Ash Street (right-of-way varies) and running thence southwesterly along the northwestern right-of-way of Ash Street South 25 degrees 07 minutes 42 seconds West a distance of 140.12 feet to an iron pin found; running thence South 46 degrees 57 minutes 52 seconds West a distance of 38.44 feet to an iron pin found; running thence South 46 degrees 19 minutes 28 seconds West a distance of 162.31 feet to an iron pin found; running thence South 52 degrees 36 minutes 50 seconds West a distance of 113.34 feet to an iron pin set; running thence South 52 degrees 36 minutes 50 seconds West a distance of 50.01 feet to an iron pin set; running thence South 52 degrees 36 minutes 50 seconds West a distance of 136.65 feet to an iron pin set; leaving Ash Street and running thence South 00 degrees 10 minutes 57 seconds West a distance of 602.17 feet to an iron pin found; running thence South 67 degrees 33 minutes 32 seconds West a distance of 192.45 feet to a R/W Monument Found; running thence South 29 degrees 45 minutes 42 seconds West a distance of 313.28 feet to an iron pin found; running thence North 86 degrees 35 minutes 21 seconds West a distance of 691.03 feet to an iron pin found; running thence North 03 degrees 24 minutes 39 seconds East a distance of 429.04 feet to an iron pin found; running thence North 86 degrees 35 minutes 21 seconds West a distance of 167.29 feet to an iron pin found; running thence North 00 degrees 57 minutes 16 seconds East a distance of 69.87 feet to an iron pin found; running thence North 17 degrees 01 minutes 49 seconds West a distance of 80.36 feet to an iron pin found; running thence South 75 degrees 38 minutes 38 seconds East a distance of 148.22 feet to a point; running thence South 86 degrees 44 minutes 44 seconds East a distance of 51.78 feet to a point; running thence South 72 degrees 57 minutes 20 seconds East a distance of 42.53 feet to a point; running thence South 86 degrees 40 minutes 59 seconds East a distance of 74.71 feet to a point; running thence North 47 degrees 23 minutes 34 seconds East a distance of 93.78 feet to a point; running thence North 57 degrees 08 minutes 04 seconds East a distance of 128.51 feet to a point; running thence South 89 degrees 45 minutes 55 seconds East a distance of 99.29 feet to a point; running thence South 64 degrees 55 minutes 27 seconds East a distance of 125.47 feet to a point; running thence along a curve to the left an arc distance of 117.55 feet (said arc being subtended by a chord having a chord bearing of South 61 degrees 24 minutes 35 seconds East, a chord distance of 116.93 feet and a radius of 327.81 feet) to an iron pin set; running thence North 15 degrees 06 minutes 41 seconds East a distance of 189.91 feet to an iron pin set; running thence along a curve to the left an arc distance of 98.87 feet (said arc being subtended by a chord having a chord bearing of North 88 degrees 55 minutes 31 seconds East, a chord distance of 97.56 feet and a radius of 175.00 feet) to an iron pin set; running thence North 17 degrees 15 minutes 38 seconds West a distance of 81.92 feet to an iron pin set; running thence North 57 degrees 17 minutes 28 seconds West a distance of 97.54 feet to an iron pin set; running thence North 01 degrees 28 minutes 21 seconds East a distance of 129.13 feet to an iron pin set;

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running thence South 88 degrees 31 minutes 39 seconds East a distance of 91.21 feet to an iron pin set; running thence North 01 degrees 28 minutes 21 seconds East a distance of 78.64 feet to an iron pin set; running thence South 89 degrees 39 minutes 51 seconds East a distance of 44.20 feet to an iron pin set; running thence North 03 degrees 57 minutes 16 seconds East a distance of 93.54 feet to an iron pin set; running thence North 88 degrees 35 minutes 41 seconds West a distance of 52.54 feet to an iron pin set; running thence North 01 degrees 24 minutes 19 seconds East a distance of 190.30 feet to an iron pin set on the southern right-of-way of Hidden Valley Drive; continuing thence along Hidden Valley Drive South 86 degrees 17 minutes 01 seconds East a distance of 90.29 feet to an iron pin set; continuing along Hidden Valley Drive an arc distance of 133.70 feet (said arc being subtended by a chord having a chord bearing of North 89 degrees 15 minutes 13 seconds East, a chord distance of 133.56 feet and a radius of 858.28 feet) to an iron pin set; continuing along said right-of-way North 84 degrees 47 minutes 28 seconds East a distance of 114.96 feet to an iron pin set; continuing along said right-of-way along a curve to the right an arc distance of 79.96 feet (said arc being subtended by a chord having a chord bearing of North 87 degrees 25 minutes 32 seconds East, a chord distance of 79.93 feet and a radius of 869.47 feet) to a point; continuing along said right-of-way South 89 degrees 56 minutes 23 seconds East a distance of 133.47 feet to an iron pin set; continuing along said right-of-way along a curve to the right an arc distance of 138.73 feet (said arc being subtended by a chord having a chord bearing of South 84 degrees 07 minutes 51 seconds East, a chord distance of 138.49 feet and a radius of 673.04 feet) to an iron pin found and the Point of Beginning; all as shown on plat of survey entitled "Survey For: Hidden Springs Subdivision Phase I, Section A" as prepared by Dixon-Ross Surveying, Inc., dated February 23, 2004.

LESS AND EXCEPT:

1. All Units now or hereinafter located on the Plats; and
2. Any portion of the above described property located within the rights-of-way of any public roads located within said property which have been dedicated to the City of Holly Springs and/or Cherokee County, Georgia.

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**EXHIBIT "C" - DESCRIPTION OF UNIT**

Each Unit shall consist of the space enclosed and bounded by the horizontal and vertical planes as follows:

(a) Horizontal Boundaries: The Upper and Lower boundaries extended to their planar intersections with the vertical boundaries of the Unit is as follows:

(i) Upper Boundary: There shall be no upper boundary.

(ii) Lower Boundary: There shall be no lower boundary.

(b) The vertical boundaries shall be (a) the exterior surface of all exterior walls, and the outer surfaces of all windows and doors, but shall not include any patio, shed, covered or uncovered terrace, balcony or deck or any enclosure or cover therefore, and (b) the centerline of all party walls, and (c) shall include all improvements contained within such area, including any plumbing and electrical fixtures servicing said Unit.

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**EXHIBIT "D" - ADDITIONAL PROPERTY  
Hidden Springs**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 273 and 274 of the 15<sup>th</sup> District, 2<sup>nd</sup> Section, City of Holly Springs, Cherokee County, Georgia and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, being at the intersection formed by the southern right-of-way of Hidden Valley Drive (50' right-of-way) and the northwestern right-of-way of Ash Street (right-of-way varies) and running thence northwesterly along the southern right of way of Hidden Valley Drive an arc distance of 138.73 feet (said arc being subtended by a chord having a chord bearing of North 84 degrees 07 minutes 51 seconds West, a chord distance of 138.49 feet and a radius of 673.04 feet) to an iron pin set; continuing along said right-of-way North 89 degrees 56 minutes 23 seconds West a distance of 133.47 feet to an iron pin set; continuing along said right-of-way along a curve to the left an arc distance of 79.96 feet (said arc being subtended by a chord having a chord bearing of South 87 degrees 25 minutes 32 seconds West, a chord distance of 79.93 feet and a radius of 869.47 feet) to a point; continuing along said right-of-way South 84 degrees 47 minutes 28 seconds West a distance of 114.96 feet to an iron pin set; continuing along said right of way an arc distance of 133.70 feet (said arc being subtended by a chord having a chord bearing of South 89 degrees 15 minutes 13 seconds West, a chord distance of 133.56 feet and a radius of 858.28 feet) to an iron pin set; continuing thence along said right-of-way North 86 degrees 17 minutes 01 seconds West a distance of 90.29 feet to an iron pin set and the True Point of Beginning; FROM SAID TRUE POINT OF BEGINNING; continue thence along the right-of-way of Hidden Valley Drive North 86 degrees 17 minutes 01 seconds West a distance of 192.14 feet to a point; continuing thence along said right-of-way an arc distance of 189.88 feet (said arc being subtended by a chord having a chord bearing of North 87 degrees 45 minutes 21 seconds West, a chord distance of 189.86 feet and a radius of 3694.96 feet) to an iron pin set; continue thence along said right-of-way North 89 degrees 13 minutes 41 seconds West a distance of 190.74 feet to a point; continuing thence along said right-of-way an arc distance of 44.82 feet (said arc being subtended by a chord having a chord bearing of North 88 degrees 09 minutes 16 seconds West, a chord distance of 44.82 feet and a radius of 1195.99 feet) to an iron pin set; continue thence along said right-of-way North 87 degrees 04 minutes 51 seconds West a distance of 113.20 feet to a point; continuing thence along said right-of-way an arc distance of 41.41 feet (said arc being subtended by a chord having a chord bearing of North 87 degrees 48 minutes 01 seconds West, a chord distance of 41.41 feet and a radius of 1648.70 feet) to an iron pin set; continue thence along said right-of-way North 88 degrees 31 minutes 11 seconds West a distance of 133.26 feet to a point; continuing thence along said right-of-way an arc distance of 137.18 feet (said arc being subtended by a chord having a chord bearing of South 89 degrees 14 minutes 12 seconds West, a chord distance of 137.13 feet and a radius of 1406.93 feet) to an iron pin located on the common Land Lot Corner of Land Lots 274, 275, 230 and 231; from said Land Lot Corner, running thence South 00 degrees 14 minutes 07 seconds East a distance of 571.38 feet to a point; running thence South 37 degrees 58 minutes 30 seconds East a distance of 65.21 feet to a point; running thence South 17 degrees 01 minutes 49 seconds East a distance of 191.77 feet to a point; running thence South 75 degrees 38 minutes 38 seconds East a distance of 148.22 feet to a point;

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running thence South 86 degrees 44 minutes 44 seconds East a distance of 51.78 feet to a point; running thence South 72 degrees 57 minutes 20 seconds East a distance of 42.53 feet to a point; running thence South 86 degrees 40 minutes 59 seconds East a distance of 74.71 feet to a point; running thence North 47 degrees 23 minutes 34 seconds East a distance of 93.78 feet to a point; running thence North 57 degrees 08 minutes 04 seconds East a distance of 128.51 feet to a point; running thence South 89 degrees 45 minutes 55 seconds East a distance of 99.29 feet to a point; running thence South 64 degrees 55 minutes 27 seconds East a distance of 125.47 feet to a point; running thence along a curve to the left an arc distance of 117.55 feet (said arc being subtended by a chord having a chord bearing of South 61 degrees 24 minutes 35 seconds East, a chord distance of 116.93 feet and a radius of 327.81 feet) to an iron pin set; running thence North 15 degrees 06 minutes 41 seconds East a distance of 189.91 feet to an iron pin set; running thence along a curve to the left an arc distance of 98.87 feet (said arc being subtended by a chord having a chord bearing of North 88 degrees 55 minutes 31 seconds East, a chord distance of 97.56 feet and a radius of 175.00 feet) to an iron pin set; running thence North 17 degrees 15 minutes 38 seconds West a distance of 81.92 feet to an iron pin set; running thence North 57 degrees 17 minutes 28 seconds West a distance of 97.54 feet to an iron pin set; running thence North 01 degrees 28 minutes 21 seconds East a distance of 129.13 feet to an iron pin set; running thence South 88 degrees 31 minutes 39 seconds East a distance of 91.21 feet to an iron pin set; running thence North 01 degrees 28 minutes 21 seconds East a distance of 78.64 feet to an iron pin set; running thence South 89 degrees 39 minutes 51 seconds East a distance of 44.20 feet to an iron pin set; running thence North 03 degrees 57 minutes 16 seconds East a distance of 93.54 feet to an iron pin set; running thence North 88 degrees 35 minutes 41 seconds West a distance of 52.54 feet to an iron pin set; running thence North 01 degrees 24 minutes 19 seconds East a distance of 190.30 feet to an iron pin set on the southern right-of-way of Hidden Valley Drive and the True Point of Beginning.

This is the same property consisting of 42.43 acres as shown on that certain survey entitled "Boundary Survey for Brooks Land, Inc., New South Federal Savings Bank, Commonwealth Land Title Insurance Company as prepared by Dixon-Ross Surveying, Inc., dated February 5, 2003 less and except the following:

1. Property described on Exhibit "A" of this Declaration.
2. 3.5 Acre Tract located in the Southwest corner of the property as described on said survey.

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## EXHIBIT "E" - RULES AND REGULATIONS

### RULES AND REGULATIONS OF THE TOWNHOMES AT HIDDEN SPRINGS

1. RULES AND REGULATIONS. These rules and regulations will be enforced as follows:

(a) Violations should be reported to the manager of the building, if there is one, otherwise to the Board of Directors.

(b) Violations will be called to the attention of the violating Owner by the manager of the building or by the Board of Directors.

(c) Disagreements concerning violations will be presented to and judged by the Board of Directors, which shall then take appropriate action.

2. OBSTRUCTIONS. Sidewalks, parking areas, entrances, driveways, and other passages must be kept open and shall not be obstructed in any manner.

3. CHILDREN. Children are not to play in public walks, parking areas, driveways or other public passages.

4. DESTRUCTION OF PROPERTY. Neither Owners nor their dependents, guests or tenants shall mark, mar, damage, destroy, deface or engrave any part of the Townhome Lot. Owners shall be responsible for any such damage by any such party or by mechanics and materialmen with whom they contract.

5. ROOF. Owners are not permitted on the roof for any purpose and shall be responsible for keeping their families, guests, employees and contractors off of the roof.

6. SOLICITATION. There shall be no solicitation by any person anywhere in the building for charity or for any cause whatsoever, unless specifically authorized in advance by the Board of Directors.

7. FOOD AND BEVERAGES. No food shall be cooked on the grounds except in the kitchens of the Townhome Units, outside grills and other authorized areas.

8. RADIO, TELEVISION AND OTHER ELECTRONIC DEVICES. It is required that all radios, televisions and other electronic devices be kept moderately tuned at all times. There shall be no aerials or antennas installed by individual Owners without consent of the Board of Directors.

9. UNIT USE. Townhome Units shall not be used for office, retail or professional purposes, except as provided for by the Declaration.



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10. BUILDING EMPLOYEES AND CONTRACTORS. No Owners, resident tenants, or members of their families or guests shall give orders or instructions to employees or contractors employed by the Association, but rather shall express their desires to the Association for their consideration.

11. CONDUCT. No person in a Townhome Unit or on the Townhome Lot shall engage in loud, boisterous, disorderly, profane, indecent, immoral or unlawful conduct.

12. EXTERIOR APPEARANCE. To maintain a uniform and pleasing appearance to the exterior of the building, no projections shall be attached to the outside walls nor shall an Owner utilize any type of screen or umbrella. There shall be no air conditioners or fans, any part of which is visible from the exterior of the building. All curtains, shades, blinds, and draperies over all exterior windows shall have either a white or beige appearance when viewed from the exterior of the building.

13. SIGNS. No sign, advertisement, notice or other lettering shall be exhibited, inscribed, painted or affixed by any Owner on any part of the outside or inside of a Townhome Unit without prior written consent of the Association. In addition, any signage must comply with the terms and conditions of this Declaration.

14. PETS. No animals, livestock, reptiles, birds or poultry of any kind shall be raised, bred or kept within any Unit, except that dogs, cats or other generally recognized household pets may be kept provided that they are not kept bred or maintained for any commercial purpose. A maximum of two (2) pets per household shall be allowed and provided that none of such pets are permitted to be a source of annoyance to any other resident or residents of any other Unit, and no known vicious animal shall be kept in any Unit. All pets shall be under leash at all times when walked or exercised outside the Unit. Owners shall be immediately responsible for the proper clean up and disposal of all waste created by their animals.

15. TRASH AND DEBRIS. No lumber, materials, bulk materials, refuse or trash shall be kept, stored, or allowed to accumulate on the property except building materials during the course of construction, maintenance, or repair by the Declarant of any approved structure. Trash, garbage or other waste shall not be kept except in sanitary containers and such shall not be permitted to remain in public view except on days of trash collection. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. If a central trash collection area is designated by the Association, then these areas will be under the control of the Association and all members will abide by the current regulations regarding the use of these trash enclosures.

16. ARCHITECTURAL CONTROL COMMITTEE. Nothing contained in these rules and regulations shall be construed to limit in any way the rights and powers of the Board of Directors and the Architectural Control Committee to approve or disapprove of the erection of buildings, fences, walls, or other structures or of changes or alterations to the Properties as more fully provided in the Declaration.

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17. RULE CHANGE. The Directors of the Association reserve the right to change or revoke existing rules and regulations and make such additional rules and regulations from time to time, as in their opinion shall be necessary or desirable for the safety and protection of the building and its occupants, and to promote cleanliness and good order of the Property and to assure the comfort and convenience of the Owners.

18. VIOLATIONS. In the event of the violation of the rules and regulations herein set forth or adopted in the future, the Association or any Owner shall have the following remedies against an Owner, lessee of an Owner, guest of an Owner or member of an Owner's family:

- (a) An action to recover damages.
- (b) As an alternate remedy, enforcement of the rules and regulations by an action for injunctive relief.
- (c) In the event that the Association or any Owner brings any of the above actions and shall prevail in said action, the Association or said Owner bringing said action shall be entitled to recover all court costs incurred in said action and reasonable attorney's fees, including, but not limited to, such fees incurred prior to institution of litigation or in litigation including trial and appellate review, and in bankruptcy or other administrative or judicial proceedings.
- (d) Enforce any remedies as provided in the Declaration.

Rec 7-27-2004  
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Deed Book **11664 Pg 409**  
Filed and Recorded 1/11/2012 2:05:01 PM  
28-2012-001360

Patty Baker  
Clerk of Superior Court Cherokee Cty, GA

[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: Weissman, Nowack, Curry & Wilco, P.C.  
One Alliance Center, 4<sup>th</sup> Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
Attn: Robin Phillips

STATE OF GEORGIA  
COUNTY OF CHEROKEE

CROSS REFERENCE: Deed Book 7127  
Page 401 *et seq.*

**FIRST AMENDMENT TO THE DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS FOR HIDDEN SPRINGS  
AND FOR SUBMISSION TO  
THE GEORGIA PROPERTY OWNERS' ASSOCIATION ACT ("POAA")**

This Amendment to the Declaration of Covenants, Restrictions and Easements for Hidden Springs (hereafter referred to as "Amendment") is made on the date first set below.

**WITNESSETH:**

**WHEREAS**, a Declaration of Covenants, Restrictions and Easements was recorded on June 4, 2004, in Deed Book 7127, Page 401, *et seq.*, Cherokee County, Georgia land records (hereinafter referred to as the "Declaration"); and

**WHEREAS**, Article XIII, Section 13.3 of the Declaration provides that the Declaration may be amended by Members holding at least two-thirds (2/3) of the total votes in the Association, provided however (1) that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee and (ii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must be approved by Declarant; and

**WHEREAS**, by proper notice and ballot mailed to all Members by the Board of Directors, this Amendment to the Declaration was approved by at least two-thirds (2/3) of the total votes in the Association; and

**WHEREAS**, this Amendment does not materially or adversely affect the security title and interest of any mortgagee; provided; however, if a court of competent jurisdiction determines that this Amendment does so without such mortgagee's consent, then this Amendments shall not be binding on the mortgagee so involved, unless it consents hereto; and if such consent is not forthcoming, then the

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

**CLOSING ATTORNEYS SHOULD CONTACT THE ASSOCIATION FOR ESTOPPEL CERTIFICATES REGARDING BOTH ASSESSMENTS/CHARGES DUE ON UNITS.**

provisions of the Declaration prior to this Amendment shall control with respect to the affected mortgagee; and

**WHEREAS**, the Declarant no longer has any right to appoint and/or remove officers and directors of the Association;

**NOW, THEREFORE**, the Declaration is hereby amended as follows:

1.

The language above the title of the document beginning with "Notwithstanding the establishment of Hidden Springs Townhomes HOA, Inc. and the submission of the Property..." is hereby deleted in its entirety.

2.

**Article I, DEFINITIONS is further amended by adding the following definitions to said Section:**

Section 1.14. "Act." "Act" shall mean the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie 1982), as such Act may be amended from time to time.

Section 1.15. "Association Legal Documents." "Association Legal Documents" means this Declaration and all exhibits hereto, the By-Laws, the Articles of Incorporation, the plats and all rules and regulations and architectural guidelines for the Association, all as may be supplemented or amended.

Section 1.16. "Common Expenses." "Common Expenses" means the expenses incurred or anticipated to be incurred for the general benefit of all Units, including, but not limited to, those expenses incurred for maintaining, repairing, replacing, and operating the Common Property.

Section 1.17. "Eligible Mortgage Holder." "Eligible Mortgage Holder" means a holder of a first Mortgage secured by a Unit who has submitted a request in writing to the Association to be deemed an Eligible Mortgage Holder. Such notice must include the mortgage holder's name and address and the Unit number or address of the property in the Community secured by such mortgage.

Section 1.18. "Occupant." "Occupant" means any person staying overnight in a Unit for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year.

Section 1.19. "Violator." "Violator" means any Owner who violates the Association's Legal Documents and any Owner's family member, guest or Occupant who violates such provisions; provided, however, if an Owner's family member, guest or Occupant violates the Association's Legal Documents, the Owner of the relevant Unit also shall be considered a Violator.

3.

**Article I, DEFINITIONS is further amended by adding to Section 1.9 the following language:**

The Survey for Hidden Springs Subdivision, Phase 1, Section A, dated February 23, 2004 was recorded in Plat Book 79, Page 153 *et seq.*, Cherokee County Georgia Deed Records, as may be amended or revised from time to time.

4.

**Article II, PROPERTY is hereby amended by adding the following sentences to the end of said Section 2.1 General that shall read as follows:**

All of the Property in the community shall be owned in fee simple and be subject to the provisions of this Declaration and the Georgia Property Owners' Association Act, O.C.G.A., Section 44-3-220, *et seq.* The Property subjected to this Declaration constitutes a residential property owners' development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, *et seq.* (Michie, 1982); as such act may be amended from time to time.

5.

**Article VI of the Declaration, ASSESSMENTS, is hereby deleted in its entirety and the following new Article VI, ASSESSMENTS is substituted therefore to incorporate the provisions of the Georgia Property Owners' Association Act:**

**ARTICLE VI**  
**ASSESSMENTS**

Section 6.1 Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. Assessments shall be used for any purpose the Board of Directors determines will benefit the Owners or the Development.

Section 6.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association all assessments and other charges levied pursuant to this Declaration and the By-Laws. Except as provided below, or elsewhere in the Act, the amount of all Common Expenses shall be assessed against all the Units equally.

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

Assessments shall be paid in such manner and on such dates as determined by the Board of Directors. No Owner may exempt him or herself from liability, or otherwise withhold payment of assessments, for any reason whatsoever.

Section 6.3 Delinquent Assessments. All assessments and charges not paid on or before the due date shall be delinquent, and the Owner shall be in default. In addition to the powers set forth below for collection of unpaid assessments and charges, the Association shall be entitled to exercise all other rights and remedies provided by law and in equity to satisfy an Owner's debt.

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

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

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

(c) the Board may accelerate and declare immediately due any unpaid installments of that Owner's assessments and charges. Upon acceleration, the Owner shall lose the privilege of paying such assessments and charges in installments, unless the Board otherwise reinstates such

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

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

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

If part payment of assessments or other charges is made, the amount received may be applied first to post-judgment attorneys' fees, costs and expenses, then to costs and attorneys' fees not reduced to a judgment, then to interest, then to late charges, then to delinquent assessments and then to current assessments. Late charges may be assessed on delinquencies that are created by the application of current payments to outstanding delinquent assessments or charges.

Section 6.4 Computation of Operating Budget and Assessment. To establish the annual assessment for a fiscal year, the Board of Directors shall prepare a budget covering the estimated costs of operating the Development, which may include a reserve contribution as provided below. The Board shall provide the budget to the Owners at least twenty-one (21) days before the due date of such assessment, or the first installment thereof. The budget and the assessment shall become effective unless, before the due date of such assessment, a majority of the total Association membership votes to disapprove them at a duly called membership meeting.

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

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

Section 6.5 Special Assessments. In addition to the all other assessments and charges provided for herein, the Board of Directors may levy a special assessment against all Owners for any purpose. Special assessments totaling more than, in the aggregate, an amount equal to the annual assessment in any fiscal year must first be approved by at least a majority of eligible Owners either voting by written consent or ballot, or at least a majority of eligible Owners present or represented by proxy voting on such assessment at a meeting duly called for such purpose.

Section 6.6 Specific Assessments. In addition to all other assessments and charges provided for herein, the Board of Directors may levy specific special assessments as provided for in this Declaration, including reasonable fines and costs incurred by the Association for self-help remedies, or pursuant to Section 44-3-225 (a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to do so shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to do so in the future.

Section 6.7 Capital Budget and Contribution. The Board of Directors may prepare an annual or multi-year capital reserve budget and may establish a capital reserve fund contribution based on such budget. Capital reserve budgets should take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

Section 6.8 Contribution Assessment Upon Transfer of Units. In addition to all other assessments and charges provided for herein, upon any conveyance or transfer of a Unit, other than to the spouse or heir of the Owner or the Owner of any other Unit, the purchaser or grantee thereof shall be assessed and be subject to a non-refundable, non-prorated capital contribution assessment ("Capital Contribution Assessment") in the amount of \$200.00. The Capital Contribution Assessment shall constitute a specific special assessment against such Unit, a continuing lien against such Unit, and a personal obligation of the Owner of such Unit.

Section 6.9 Foreclosure Administration Fee. It is recognized that foreclosures of mortgages on Units create substantial administrative and other burdens on the Association. These additional burdens on the Association include, but are not limited to, having to monitor the status of mortgages and legal periodicals to determine when foreclosures occur, searching the county land records to determine the names of the purchasers at foreclosure sales, contacting the foreclosure purchasers/owners regarding foreclosure-purchaser responsibilities and assessment obligations and updating Association records multiple times to deal with just a single Unit. Pursuant to this Declaration and Section 44-3-225(a) of the Act, the Association is authorized to assess individual Owners certain fees and expenses occasioned by and benefiting just those Owners or those Owners' Units. In accordance with these provisions, and in addition to annual assessments, special assessments, and other charges provided for in this Declaration, any person or entity or entity who acquires a Unit at a foreclosure sale of the mortgage on such Unit, or by deed in lieu of a foreclosure, will be required to pay the Association a Foreclosure Administration Fee of \$500.00 at the time the foreclosure deed or deed in lieu of foreclosure is recorded in the county land records. The Foreclosure Administration Fee shall constitute a specific special assessment against such Unit, a continuing lien against such Unit, and a personal obligation of the Owner of such Unit.

Section 6.10 Statement of Account. Any Owner, Mortgagee, or a person or entity having executed a contract for the purchase of a Unit, or a lender considering a loan to be secured by a Unit, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments and charges due and unpaid, including but not limited to any late charges, interest, fines, attorneys' fees or other charges against such Unit. The Association shall respond in writing within five (5) business days of receipt of the request for a statement; provided, however, the Association may require the payment of a reasonable fee, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Unit as of the date specified therein, if such statement is reasonably relied upon in connection with the issuance of any Mortgage on such Unit.

Section 6.11 Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the option of the Board of Directors, be: (1) distributed to the Owners; (2) credited to the next assessment chargeable to the Owners; or (3) added to the Association's capital reserve account.

5.

**Article XIII of the Declaration, AMENDMENTS is hereby amended by deleting said Article in its entirety and substituting in lieu thereof a new Article XIII, AMENDMENTS which shall read as follows in compliance with the Act:**

**ARTICLE XIII**  
**AMENDMENTS**

Section 13.1 Amendments by the Association.

(a) Member Approval Procedure. Except where a higher vote is required for action under any other provisions of this Declaration, the By-Laws or by the Act, this Declaration may be amended with the approval of Owners holding two-thirds (2/3) of the total Association vote. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be

effective until certified by the President and Secretary of the Association and recorded in the county land records.

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

(c) Validity of Amendments. No Person shall be permitted to bring any legal action to challenge the validity of an amendment to this Declaration or the By-Laws more than one (1) year after the recording thereof in the county land records.

6.

**Article XV of the Declaration, ENFORCEMENT, is hereby amended by deleting Section 15.2 in its entirety and substituting in lieu thereof a new Section 15.2 Self-Help, by adding a new Section 15.3, Suspension and Fining Procedure, and a new 15.4, Failure to Enforce which shall read as follows in compliance with the Act:**

Section 15.2 Self- Help. In addition to all other enforcement rights granted in this Article XV, the Board of Directors may elect to enforce any provision of the Association Legal Documents by self-help without the necessity for compliance with the Suspension and Fining Procedures described in Section 15.3.

By way of example and not limitation, the Association or its duly authorized agent shall have the authority to tow vehicles that are in violation of parking regulations and enter a Unit or any portion of the Common Property to abate or remove any structure, thing or condition that violates the Association's Legal Documents. Unless an emergency exists, before exercising self-help, the Association shall give the Violator at least two (2) days prior written notice. Such notice shall request that the Violator remove and abate the violation and restore the Unit to substantially the same condition that existed prior to the structure, thing or condition being placed on the Unit and causing the violation. Such removal, abatement and restoration shall be accomplished at the Violator's sole cost and expense. If the same violation occurs again on the same Unit, the Association may exercise self-help without any further notice to the Violator.

Section 15.3 Suspension and Fining Procedure. Except as provided in this Article XV, before imposing fines, suspending the right to use the Common Property, the right to vote, or the right to run for election to the Board of Directors, the Association shall give a written violation notice to the Violator as provided below.

(a) Violation Notice: The written violation notice to the Violator shall:

1. Identify the violation, suspension(s) and/or fine(s) being imposed; and
2. Advise the Violator of the right to request a violation hearing before the Board of Directors to contest the violation or request reconsideration of the suspension(s) or the fine(s).

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

(b) Violation Hearing: If the Violator submits a written request for a violation hearing within ten (10) days of the date of the violation notice described above, then the Board of Directors shall schedule and hold, in executive session, a violation hearing. If a Violator fails to timely



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

(c) No Violation Notice and Hearing Required: No violation notice or violation hearing shall be required to:

1. Impose late charges on delinquent assessments;
2. Suspend a violating Owner's voting rights if the Violator's Unit is shown on the Association's books and records to be more than thirty (30) days past due in any assessment or charge, in which case suspension of the violating Owner's right to vote shall be automatic and shall continue until the violation no longer exists or the Board of Directors otherwise reinstates such rights in writing;
3. Suspend a Violator's right to use the Common Property if the Violator's Unit is shown on the Association's books and records to be more than thirty (30) days past due in any assessment or charge, in which case suspension of the Violator's right to use the Common Property shall be automatic (which shall allow the Association to tow and/or boot a Violator's vehicle located on the Common Property without complying with the Suspension and Fining Procedures described above);
4. Suspend a violating Owner's right to run for election to the Board of Directors if the Violator's Unit is shown on the Association's books and records to be more than thirty (30) days past due in any assessment or charge, in which case suspension of the violating Owner's right to run for election to the Board of Directors shall be automatic and shall continue until the violation no longer exists or the Board of Directors otherwise reinstates such rights in writing;
5. Engage in self-help in an emergency;
6. Impose fines for each day of a continuing violation, in which case, each day the violation continues or occurs again constitutes a separate violation and fine(s) may be imposed on a per diem basis without any further notice to the Violator; or
7. Impose fines if the same violation occurs again on the same Unit, in which case fine(s) may be imposed on a per diem basis without any further notice to the Violator.

Section 15.4. Failure to Enforce. The Board of Directors has the sole discretion to decide which, if any, enforcement action to pursue against each Violator. The failure of the Board to enforce any provision of the Association Legal Documents shall not be deemed a waiver of the right of the Board to do so thereafter. No right of action shall exist against the Association for failure to enforce if the Board of Directors determines that:

- (a) the Association's position is not strong enough to justify taking enforcement action;
- (b) a particular violation is not of such a material nature as to be objectionable to a reasonable person;
- (c) a particular violation is not of such a material nature to justify the expense and resources to pursue or continue to pursue enforcement action;

(d) the aggrieved Owner or Occupant asserting a failure of enforcement has not independently pursued all available individual remedies under Georgia law; or

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

7.

Article XVI of the Declaration, MISCELLANEOUS PROVISIONS, is hereby amended by deleting Sections 16.1 Duration in its entirety and inserting in lieu thereof a new Section 16.1 Duration which shall read as follows in compliance with the Act:

Section 16.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the real property in the Development perpetually to the extent provided in the Act.

Except as stated herein, the terms and provisions of the Declaration shall remain unchanged.

IN WITNESS WHEREOF, the undersigned officers of the Hidden Springs Townhomes HOA, Inc. hereby certify that the above Amendment to the Declaration was duly adopted by the required percentage of the Association membership with all required notices duly given.

This 22 day of December, 2011.

HIDDEN SPRINGS TOWNHOMES HOA, INC.

By: Chris Poper [Seal]  
President

Attest: Celeste Stover [Seal]  
Secretary  
[CORPORATE SEAL]

SWORN TO AND SUBSCRIBED BEFORE ME  
this 22 day of December, 2011.

Peter Nichol  
Witness

D. Norwood  
Notary Public  
[NOTARY SEAL]



Deed Book **13850 Pg 64**  
Filed **05/20/2016 01:25 PM**  
**28-2016-016658**  
Patty Baker  
Clerk of Superior Court Cherokee Cty, GA

CLERK AFTER RECORDING  
RETURN DOCUMENTS TO:  
SELLERS & WARREN, P.C.  
101 WOODLAND WAY, STE 1A  
CANTON, GA 30114

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[SPACE ABOVE RESERVED FOR RECORDING DATA]

Return to: ~~Weissman, Nowack, Curry & Wilco, P.C.  
One Alliance Center, 4<sup>th</sup> Floor  
3500 Lenox Road  
Atlanta, Georgia 30326  
Attr: Rebecca F. Drube~~

STATE OF GEORGIA  
COUNTY OF CHEROKEE

CROSS REFERENCE: Deed Book 7127  
Page 401 *et seq.*

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, RESTRICTIONS  
AND EASEMENTS FOR HIDDEN SPRINGS**

This Amendment to the Declaration of Covenants, Restrictions and Easements for Hidden Springs (hereafter referred to as "Amendment") is made on the date first set below.

**WITNESSETH:**

**WHEREAS**, a Declaration of Covenants, Restrictions and Easements was recorded on June 4, 2004, in Deed Book 7127, Page 401, *et seq.*, Cherokee County, Georgia land records (hereinafter referred to as the "Declaration"); and

**WHEREAS**, Article XIII, Section 13.1 of the Declaration provides that the Declaration may be amended by the approval of Owners holding at least two-thirds (2/3) of the total votes in the Association; and

**WHEREAS**, this Amendment to the Declaration was approved by at least two-thirds (2/3) of the total votes in the Association; and

**WHEREAS**, this Amendment does not materially or adversely affect the security title and interest of any mortgagee; provided; however, if a court of competent jurisdiction determines that this Amendment does so without such mortgagee's consent, then this Amendment shall not be binding on the mortgagee so involved, unless it consents hereto; and if such consent is not forthcoming, then the provisions of the Declaration prior to this Amendment shall control with respect to the affected mortgagee; and

**WHEREAS**, the Declarant no longer has any right to appoint and/or remove officers and directors of the Association;

**NOW, THEREFORE**, the Declaration is hereby amended as follows:

1.

Article IV of the Declaration is hereby amended by deleting that Article in its entirety and replacing it with the following new Article IV, entitled "Annexation":

**ARTICLE IV  
Annexation**

Section 4.1 General. Subject to the consent of the owner thereof, the Association may annex real property other than that property originally submitted to the Declaration by the Declarant and make such additional property subject to the provisions of this Declaration and the jurisdiction of the Association. The Board shall have the authority, without the need for a membership vote, to annex any real property shown on the original plats for the Hidden Springs subdivision recorded in Plat Book 82, Page 163; Plat Book 82, Page 181; Plat Book 84, Pages 71-73; Plat Book 85, Pages 160-163; Plat Book 91, Pages 31-33; Plat Book 96, Pages 113-114; and Plat Book 104, Pages 122-123, all of the Cherokee County, Georgia Official Records (the "Original Property"). Except as otherwise specifically provided herein, annexation of any property other than the Original Property shall require the affirmative vote, written consent, or any combination of affirmative vote and written consent of a majority of the eligible members of the Association.

Section 4.2 Manner of Exercise of Board Annexation. As provided in Section 4.1 hereof, the Board shall have the authority, without the need for a membership vote, to annex all or any portion of the Original Property such that the same is subject to the provisions of the Declaration and the authority of the Association ("Board Annexation"). The Board Annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the land records of Cherokee County, Georgia. Any such Supplemental Declaration shall be signed by the President and Secretary of the Association, and by the owner of the property being annexed. Any such annexation shall be effective upon filing unless otherwise provided therein.

Section 4.3 Manner of Exercise of Ridge Mill Annexation. To the extent Ridge Mill Associates, LLC ("Ridge Mill Associates") or Craftmark Towns, LLC ("Craftmark Towns") own all or any portion of the Original Property, Ridge Mill Associates or Craftmark Towns, as applicable, shall have the unilateral right and authority to annex all or any portion of the Original Property or the property more particularly described on Exhibit "A" attached hereto and by this reference incorporated herein (the "Ridge Mill Additional Property"), with the express exception of any roads located therein, to the provisions of the Declaration and the authority of the Association ("Ridge Mill Annexation") for a period of five (5) years from the date hereof. The Ridge Mill Annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the land records of Cherokee County, Georgia. Any such Supplemental Declaration shall be executed on behalf of Ridge Mill Associates or Craftmark Towns, as applicable, as the owner of the property being annexed, without the need for a membership vote or the additional approval of the Board. The Board hereby expressly consents to the right and authority of Ridge Mill Associates and Craftmark Towns to accomplish the Ridge Mill Annexation as provided herein such that the entire property originally intended to be part of the Community shall be bound by the provisions of the Declaration and the authority of the Association. Any such annexation shall be effective upon filing unless otherwise provided therein. Ridge Mill Associates or Craftmark Towns, as applicable, shall provide the Association with a recorded copy of any such Supplemental Declaration within thirty (30) days of such filing in the Cherokee County, Georgia land records.

Upon the conveyance or transfer of any Lot/Unit annexed to the terms of the Declaration pursuant to this Section, other than to Craftmark Towns, the purchaser or grantee thereof shall be assessed and be liable for payment to the Association of the two hundred dollar (\$200.00) Capital Contribution Assessment specified in Section 6.8 of this Declaration.

2.

**Declaration Amendment 2: Did not gain 2/3<sup>rd</sup> required votes**

3.

**Declaration Amendment 3: Did not gain 2/3<sup>rd</sup> required votes**

4.

Article IX, Section 9.14 of the Declaration is hereby amended by deleting said Section 9.14 in its entirety and substituting in lieu thereof a new Section 9.14 which shall read as follows:

Section 9.14. Leasing.

In order to preserve the character of the Hidden Springs community as predominantly owner occupied and for other related beneficial purposes, the Leasing of Units in Hidden Springs is prohibited except as provided herein.

(A) Definitions.

(1) **"Authorized Corporate Occupant"** means an officer, director, shareholder or member of an Owner that is a corporation; a manager or member of an Owner that is a limited liability company; a partner of an Owner that is a partnership; or a trustee of an Owner that is a trust; provided the Owner receives no rent or other consideration for such occupancy. The name of each Authorized Corporate Occupant shall be designated in writing to the Board and may not be changed more frequently than once every 12 months without the Board's written consent. A person's designation as an Authorized Corporate Occupant shall terminate automatically upon the termination of such person's relationship with the entity holding record title to the Unit.

(2) **"Authorized Occupant"** means the Owner or a parent, child, or spouse of an Owner that is a natural person (collectively referred to as "Authorized Occupant");

(3) **"Effective Date"** means the date this Amendment is recorded in the Cherokee County, Georgia land records.

(4) **"Leasing"** means the occupancy of a Unit by any person(s) other than: (1) the Owner or a parent, child, or spouse of an Owner (collectively referred to as "Authorized Occupant"); (2) an Authorized Corporate Occupant; or (3) a roommate of an Authorized Occupant or Authorized Corporate Occupant, when the Authorized Occupant or Authorized Corporate Occupant also occupies the Unit as his or her primary residence, provided that the Authorized Occupant or Authorized Corporate Occupant can establish to the Board use of the Unit as his or her primary residence in accordance with any Board adopted standards for what is considered use of a Unit as a primary residence.

(B) Permitted Leasing. Leasing of Units is allowed only by: (1) an Owner who has received a written Leasing Permit from the Board of Directors as provided below; (2) an Owner who has received a Hardship Permit from the Board as provided below; or (3) the Association. Leasing Permits and Hardship Permits shall be valid only as to a specific Owner and Unit and shall not be transferable between either Units or Owners (including a subsequent Owner of a Unit where such permit was issued to the Owner's predecessor-in-title).

Owners who want to lease their Units may do so only if they have applied for and received from the Board of Directors either a Leasing Permit or a Hardship Permit. Such a permit will allow an Owner to lease his or her Unit, provided that such leasing is in strict accordance with the terms of the permit and this Paragraph. The Board of Directors shall have the authority to establish conditions as to the duration and use of such permits consistent with this Paragraph.

(1) Leasing Permits. A "Leasing Permit" shall be the prior written approval from the Board of Directors, in the form established by the Board, for an Owner to lease his or her Unit when the number of current, outstanding Leasing Permits issued, including Hardship Permits, is less than 18% of the Units.

An Owner's request for a Leasing Permit shall be approved if the number of current, outstanding Leasing Permits issued, including Hardship Permits, is less than 18% of the Units. If the total number of current Leasing Permits issued is equal to or more than 18% of the Units, then no additional Leasing Permits shall be issued (except for Hardship Permits) until that number falls below 18% of the Units. Owners who have been denied a Leasing Permit shall automatically be placed on a waiting list for a Leasing Permit and shall be issued a permit, if they so desire, when such number falls below 18% of the Units. The issuance of a Hardship Permit to an Owner shall not cause the Owner to be removed from the waiting list for a Leasing Permit. Notwithstanding anything to the contrary provided herein, the Board shall have the power to deny an Owner's request for a Leasing Permit if the Unit is shown on the Association's books and records to be more than 30 days past due in any assessment or charge or if the Owner is in violation of the Association Legal Documents.

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

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

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

(3) Expiration and Revocation of Permits. Leasing Permits and Hardship Permits are automatically revoked upon: (1) the sale or transfer of the Unit to a third party (excluding sales or transfers to an Owner's spouse); (2) the failure of an Owner to lease his or her Unit for 120 consecutive days at any time after the issuance of such permit; or (3) the occupancy of the Unit by the Owner. The Board also shall have the power to revoke any Leasing Permit or Hardship Permit issued to any Owner if the Unit is shown on the Association's books and records to be more than 30 days past due in any assessment or charge, if the Owner is in violation of the Association Legal Documents.

#### (C) General Leasing Provisions.

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

of the proposed lease. Within 10 days after executing a lease for a Unit, the Owner shall provide the Board with a copy of the executed lease.

(2) Lease Terms. Units may be leased only in their entirety; no rooms or fractions of Units may be leased without prior written Board approval. There shall be no subleasing of Units or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than one year, except with written Board approval.

(3) Lease Administration Fee. In addition to annual assessments, special assessments, Capital Contribution Assessments and other charges provided for under this Declaration, an Owner who is issued a Leasing Permit shall be required to pay to the Association a Leasing Administration Fee of \$150.00 at the time a lease is executed or an occupancy relationship is created hereunder. The Lease Administration Fee shall constitute a specific assessment as described in this Declaration. Notwithstanding anything to the contrary provided herein, an Owner who has been issued a Hardship Leasing Permit pursuant to Section 9.14(B)(2) shall not be required to pay the Lease Administration Fee.

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

(a) Compliance with Association Legal Documents. All terms defined in the Declaration of Covenants, Conditions, Restrictions and Easements for Hidden Springs are incorporated herein by this reference. The Owner and each Occupant shall comply with all provisions of the Association Legal Documents. The Owner and Occupants are responsible for violations by any guests of the Unit and may be sanctioned for any such violation.

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

(b) Use of Recreational Facilities and Common Area. The Owner transfers and assigns to the Occupant, for the term of the lease, all rights and privileges the Owner has to use any recreational facilities on or other portions of the Common Area.

(c) Liability for Assessments. When an Owner who is leasing his or her Unit fails to pay an assessment or any other charge to the Association when due, the delinquent Owner hereby consents to the assignment of any rent received from the Occupant during the period of the delinquency. In such case, upon request by the Board, the Occupant shall pay to the Association all unpaid assessments and other charges payable during and prior to the term of the lease and any other period of occupancy. However, the Occupant need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by the Occupant shall reduce, by the same amount, the Occupant's obligation to make monthly rental payments to the Owner. If the Occupant fails to comply with the Board's request to pay assessments or other charges, such failure shall be deemed a violation of the Declaration and, in addition to all other enforcement rights, the Occupant shall pay to the Association all amounts authorized under the Declaration as if the Occupant were the Owner of the Unit. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(D) Enforcement. If a Unit is leased or occupied in violation of the Association Legal Documents, or if the Owner, Occupant or guest violates the Association Legal Documents, such violation is deemed to be a default under the terms of any lease or occupancy and the Association may require the Owner to evict the Occupants. In addition to all other remedies permitted by this

Declaration, such default authorizes the Owner and/or the Association, as the Owner's delegate and attorney-in-fact, to terminate the lease and/or occupancy and to evict all Occupants, without liability, in accordance with Georgia law. In any such eviction action by the Association, the Association may terminate the Occupancy rights upon 15 days notice, notwithstanding any notice requirement in the lease or occupancy terms. Once the Association invokes its right to terminate the lease or occupancy and evict the Occupant(s), the Owner no longer has the right to extend or revive the terminated occupancy in any way.

5.

Except as stated herein, the terms and provisions of the Declaration shall remain unchanged.

IN WITNESS WHEREOF, the undersigned officers of the Hidden Springs Townhomes HOA, Inc. hereby certify that the above Amendment to the Declaration was duly adopted by the required percentage of the Association membership with all required notices duly given.

This 19th day of May, 2016.

HIDDEN SPRINGS TOWNHOMES HOA, INC.

By: [Signature] [Seal]  
President

Attest: [Signature] [Seal]  
Secretary  
[CORPORATE SEAL]

SWORN TO AND SUBSCRIBED BEFORE ME  
this 19th day of MAY, 2016.

[Signature]  
Witness

[Signature]  
Notary Public  
[NOTARY SEAL]

STACIE L. VOYLES  
NOTARY PUBLIC  
PICKENS COUNTY, GEORGIA  
MY COMM. EXPIRES  
JUNE 09, 2018

SEAL



EXHIBIT "A"

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lots 273 and 274 of the 15th District, 2nd Section of Cherokee County, Georgia, Being Lots 1, 2, 3, 4, 5, Hidden Springs, Phase 1, Section A, as per Plat recorded in Plat Book 85, pages 160, 161, 162 and 163, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference.

All that tract or parcel of land lying and being in Land Lot 274 of the 15th District, 2nd Section of Cherokee County, Georgia, Being Lots 6, 7, 8, 9 and 10, Hidden Springs, Phase 1, Section A, as per Plat recorded in Plat Book 85, pages 160, 161, 162 and 163, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference.

All that tract or parcel of land lying and being in Land Lot 274 of the 15th District, 2nd Section of Cherokee County, Georgia, Being Lots 240, 241; 242, 243, 244, Hidden Springs, Phase 1, Section B, as per Plat recorded in Plat Book 91, pages 31, 32 and 33, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference.

All that tract or parcel of land lying and being in Land Lot 274 of the 15th District, 2nd Section of Cherokee County, Georgia, Being Lots 32, 33, 34, 35; Lots 40, 41, 42, 43; Lots 44, 45, 46, 47; Lots 48, 49, 50, 51, 52, 53; Hidden Springs, Phase 2, Section A, as per Plat recorded in Plat Book 96, pages 113 and 114, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference.

Also included herein is all the Open Space containing 2.540 acres of Hidden Springs, Phase 2, Section A, as per Plat recorded in Plat Book 96, pages 113 and 114, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference. Said area is identified by Tax Parcel number 15N14J-169A.

All that tract or parcel of land lying and being in Land Lot 274 of the 15th District, 2nd Section of Cherokee County, Georgia, Being Lots 110, 111, 112; 113, 114, 115; 116, 117; Lots 118, 119, 120, 121, 122; Lots 123, 124, 125, 126, 127; Lots 128, 129, 130, 131, 132; Lots 133, 134, 135; 136, 137, 138, 139; Lots 140, 141, 142, 143, 144, 145; Lots 146, 147, 148, 149, 150, 151; Lot 194; Lots 195, 196, 197, 198, 199, 200, 201, 202; Lots 203, 204, 205, 206, 207, 208, 209; Lots 210, 211, 212, 213, 214, 215, 216, 217; Lots 218, 219, 220, 221, 222; Lots 223, 224, 225, 226, 227, 228; Lots 229, 230, 231, 232, 233; Lots 234, 235, 236, 237, 238, 239, Hidden Springs, Phase 2, Section B, as per Plat recorded in Plat Book 104, pages 122 and 123, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference.

Also included herein is all the Open Space containing 3.850 acres of Hidden Springs, Phase 2, Section B, as per Plat recorded in Plat Book 104, pages 122 and 123, Cherokee County, Georgia Records. Said plat is incorporated herein and made a part of hereof by reference. Said area is identified by Tax Parcel number 15N14J-239A.