



CLERK OF SUPERIOR COURT
207 DEKALB COUNTY COURTHOUSE
556 NORTH MCDONOUGH STREET
DECATUR, GEORGIA 30030

Debra DeBerry
CLERK OF SUPERIOR COURT

404-371-2836

CERTIFICATION

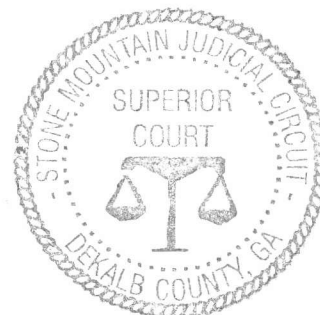
THIS IS TO CERTIFY THAT THE WITHIN IS A TRUE AND
CORRECT COPY OF THE ORIGINAL DOCUMENT IN

Deed BK 12935 PG 674-696

THAT IS RECORDED AND ON FILE IN THE CLERKS OFFICE

THIS 19th DAY OF January 20 16

Phyllis E. Turner
DEPUTY CLERK



Deed Book 12935 Pg 674
Filed and Recorded Feb-05-2002 02:15pm
2002-0020988

Linda Carter

Linda Carter
Clerk of Superior Court Dekalb Cty. Ga.
I HAVE THE HONOR TO HAVE THE DEED FOR THE DEED TO BE RECORDED IN DEKALB COUNTY, GEORGIA

Top portion for recording purposes

After Recording Return to:
MOORE INGRAM JOHNSON & STEELE, LLP
Attn: Susan S. Stuart
192 Anderson Street
Marietta, Georgia 30060

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
ROGERS CROSSING SUBDIVISION**

**STATE OF GEORGIA
COUNTY OF DEKALB**

THIS DECLARATION, made this 29 day of JANUARY, 2002, by Rogers Lake Partners, LLC (hereinafter referred to as "Declarant") and Tampa Investment Group, Inc. (hereinafter referred to as "Other Owner").

WITNESSETH

WHEREAS, Declarant and Other Owner are the owners of the subdivision known as Rogers Crossing Subdivision, being a subdivision of all those certain lots, tracts or parcels of land situated, lying and being in Land Lots 131, and 158 of the 16th District, Dekalb County, Georgia, and being more fully described on Exhibit "A" attached hereto and made a part hereof by reference (the "Property"); and

WHEREAS, Declarant and Other Owner desire to provide for the preservation and enhancement of the property values in Rogers Crossing Subdivision, and for the maintenance of property and improvements thereon, and to this end desires to subject the property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Property; and

WHEREAS, Declarant and Other Owner has deemed it desirable, for the efficient preservation of the values in Rogers Crossing Subdivision, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering the common area and



WHEREAS, Declarant has caused to be incorporated under the laws of the State of Georgia the Rogers Crossing HOA, Inc., a non-profit corporation, for the purpose of exercising the aforesaid functions.

ARTICLE I

DEFINITIONS

Section 7. "Declaration" shall mean the covenants, conditions, restrictions and easements and all other provisions herein set forth in this entire document, as may from time to time be amended.

Section 8. "Declarant" shall mean and refer to Rogers Lake Partners, LLC, a Georgia limited liability company, or any successor in title or any successor in interest to Rogers Lake Partners, LLC. to all or any portion of the Property then subject to this Declaration, provided in the instrument of conveyance to any such successor in title or interest it is stated that the rights of Declarant are conveyed therewith or if in any subsequent recorded instrument the then current Declarant conveys Declarant's rights to such successor-in-title.

Section 9. "Lot" shall mean and refer to residential lots, as well as any future lots subject to the within covenants, conditions, restrictions and easements by the Declarant in Rogers Crossing Subdivision or any expansion thereof by Declarant.

Section 10. "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any lot which is part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

Section 11. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 12. "Property" shall mean and refer to that certain real property described on the plat hereinabove referenced and any other property added to the Declaration.

Section 13. "Structure" shall mean and refer to:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, gazebo, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, tennis court, fence, curbing, paving, wall, tree, shrub, sign, signboard, mailbox, driveway, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill ditch, diversion dam or other thing, object or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) any change in grade at any point on a Lot of more than six (6) inches, whether or not subsection (ii) of this Section 12 applies to such change.

ARTICLE II ARCHITECTURAL CONTROL COMMITTEE

Section 1. Purpose, Powers and Duties of the Architectural Control Committee.



(a) The purpose of the Architectural Control Committee is to assure that the installation, construction, or alteration of any Structure on any Lot is in accordance with the standards determined by the Architectural Control Committee. To the extent necessary to carry out such purpose, the Architectural Control Committee shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any structure on any Lot.

(b) To preserve the architectural appearance of the neighborhood, no construction or placement of improvements of any nature whatsoever shall be commenced or maintained by any owner, his family, tenants, visitors, guests, servants, and agents with respect to the exterior of any house or with respect to any other portion of any lot or other parcel of land, including without limitation, the construction or installation of sidewalks, driveways, decks, patios, swimming pools, tennis courts, greenhouses, playhouses, garages, guest or servants' quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made, unless and until the plans and specifications showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to the harmony of external design, location, and appearance in relation to surrounding structures and topography by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the neighborhood. If same are not approved or disapproved within thirty (30) days from date submitted, then same shall be approved by default.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Lot which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to this Declaration and shall pass automatically to an Owner's successor-in-title to the Lot.

Section 2. Voting Rights. The association shall have two classes of voting membership:

Class A: Every person who is an Owner, with the exception of the Declarant, shall be a Class A member and shall be entitled to one vote for each Lot owned. When more than one Person is a Class A member by virtue of an ownership interest in the same Lot, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. In the event of disagreement among such persons and in an attempt by two or more of them to cast the vote of such Lot, such persons shall not be recognized and the vote of such Lot



shall not be counted. The membership of Class A members shall automatically terminate upon the member's sale of his Lot. However, no termination of Class A membership shall affect such member's obligation to pay assessments, as hereinafter provided for, due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

Class B: The Class B member(s) shall be the Declarant and Declarant shall be entitled to three (3) votes for each Lot owned by Declarant or by a builder who holds a Lot for resale. A builder who holds Lots for resale shall not have voting rights as Declarant shall control such votes. At such time as any portion of the Additional Property is added to this Declaration, the Class B member votes shall increase according to the number of Lots included therein. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) The date on which seventy five percent (75%) of the Lots located on the Property and any Property which has been added to this Declaration by Declarant have been sold to individuals who reside in dwellings located on said Lots. In the event the Class B membership has ceased pursuant to this provision, and the Declarant adds Additional Property which causes the number of Lots sold to individuals who reside in dwellings located on said Lots to be less than seventy five percent (75%) of the Lots located on the Property, and any Additional Property which has been added to the Declaration, then the Class B membership shall be revived, and the Class B member shall again have three (3) votes for each Lot owned.
- (b) 7 years from the date of this Declaration.

ARTICLE IV PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Subject to the provisions herein, every member of the Association shall have a right and easement of use and enjoyment in and to the Common Area [including, without limitation, the right of pedestrian (but not vehicular) access, ingress and egress to and from his Lot over those portions of the Common Area from time to time designated for such purposes], which right and easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following:

- (a) the right of the Association to charge a reasonable admission and other fees for the use of any recreational facility which may in the future be situated upon the Common Area.



(b) the right of the Association to suspend the voting rights and right to use of the Common Area by an Owner or his designee for any period during which any assessment against his Lot remains unpaid, and for a period of not to exceed sixty (60) days for any infraction of its published rules and regulations.

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

(d) 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 signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded.

(e) the easements reserved in Article VII of this Declaration.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his right or use and enjoyment in and to the Common Area and the improvements thereon to the members of his family, his tenants, guests and invitees, subject to such regulations and fees as may be established from time to time by the Association.

Section 3. No Partition. There shall be no judicial partition of the Property or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any such judicial partition unless the Property has been removed from the provisions of this Declaration.

ARTICLE V COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.



Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the Owners of the Lots and the costs and expenses incident to the operation of the Association, including without limitation the maintenance and repair of the Common Area and improvements thereon, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Common Area, payment of all taxes, insurance premiums and all costs and expenses incidental to the operation and administration of the Association, and establishment and maintenance of a reasonable reserve fund or funds.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One hundred and seventy five dollars (\$175.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.



Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot on the date that such Lot is conveyed to an Owner. Anything contained herein to the contrary notwithstanding, Declarant and any builder shall not be responsible for assessments on Lots not containing an occupied residence. Declarant shall, however, fund any deficit which may exist between assessments and the annual budget or pay the annual assessment and any special assessments due for as long as there is a Class B member of the Association. Declarant's obligation hereunder shall constitute a lien against all real property owned by Declarant and subject to this Declaration. The due dates shall be established by the Declarant until there is no longer a Class B member and then by the Board. The Association shall, upon demand, and for a reasonable charge, not to exceed Ten Dollars (\$10.00), furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance. If the Association fails to respond to any such request within ten (10) days after receipt of such request, any lien then outstanding shall be deemed to have been extinguished. All such requests shall be sent to the Association in the same manner as provided for notices in Section 6 hereof.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum. In such case, the Association may accelerate, at its option, the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to purchase any lot at any sale and convey the same for the purpose of protecting its lien. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of action on lien.

Section 9. Subordination of Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became

due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Area; and (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens except as otherwise set forth herein.

Section 11. Effect of Delinquency on Class A Members. Notwithstanding all of the foregoing rights of the Association, the Association shall have the further right to prohibit a delinquent Class A member, such delinquency being as herein defined, from using in any manner the Common Area.

ARTICLE VI

MAINTENANCE

Section 1. Association's Responsibility. Except as otherwise provided for herein, the Association shall maintain and keep in good repair all portions of the Common Area. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of (i) all roads, driveways, walks, parking areas, if any, and buildings and other improvements, if any, situated within the Common Area, (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are a part of the Common Area, and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area.

ARTICLE VII EASEMENTS

Section 1. Utility Easements. There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, gas, telephones, electricity, television cable or communication lines and systems. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Lots, to inspect and to perform the duties of maintenance and repair of the Common Area and the Lots, as provided herein. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by a separate recordable document, Declarant or the

Association shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 2. Easement for Declarant. Declarant hereby reserves for itself, its successors and assigns, the following easements and rights-of-way in, on, over, under and through any part of the Property owned by Declarant and the Common Area for so long as Declarant owns any Lot primarily for the purpose of sale:

- (a) For the erection, installation, construction and maintenance of wires, lines and conduits, and necessary to proper attachments in connection with the transmission of electricity, gas, water, telephone, community antennae, television cables and other utilities;
- (b) For the construction of improvements on the Lots;
- (c) For the installation, construction and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;
- (d) For the use of the Common Area and any sales office, model units and parking spaces in connection with its efforts to market Lots;
- (e) For the maintenance of such other facilities and equipment as in the sole discretion of Declarant may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

Section 3. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including any management company retained by the Association, to enter upon the Common Area and the Lots to perform their respective duties.

ARTICLE VIII GENERAL COVENANTS AND RESTRICTIONS

The following covenants and restrictions shall apply to all Lots and to all Structures erected or placed thereon:

Section 1. Residential Use. All Lots shall be restricted exclusively to single-family residential use. The use of a portion of a dwelling as an office by an Owner shall not be considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. The use of a dwelling 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 considered to be a violation of this covenant if such use does not create regular customer, client or employee traffic. Nothing herein shall be construed to prohibit or prevent Declarant or any builder



of residences on the Property from using any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development and sale of Lots and/or new homes on Lots.

Section 2. Common Area. The Common Area shall be used by the Owners and their agents, servants, tenants, family members, invitees and licensees for such other purposes as may be authorized by the Association.

Section 3. Debris. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of an Owner's Lot so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property.

Section 4. Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot except for the initial construction of residences and development of the Property.

Section 5. Signs.

(a) No signs whatsoever shall be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign, provided, however, that in no event shall any such sign be larger than six (6) square feet in area; and

(iii) directional signs for vehicular or pedestrian safety;

(iv) entry signs used to identify subdivision, marketing signs used to advertise subdivision by Declarant and in conjunction therewith brochure holders.

(b) Following the consummation of the sale of any Lot, the sign located thereon shall be removed immediately.

Section 6. Fences. No chain link or cyclone fences may be placed on the Property. No fences shall be erected further forward toward the street on which a residence fronts than the rear-most portion of said residence. All fences must be approved by the Architectural Control Committee as set forth in Article II herein.

Section 7. Recreational Vehicles, Trailers, etc. No recreational vehicles, trailers, campers, trucks (except pickups and vans), travel buses or any such equipment shall be parked on any Lot. No inoperative vehicle shall be parked on any Lot for any period of time in excess of fourteen (14) days. No owners or occupants of any lot or parcel of land shall repair or restore any vehicle of any



kind upon any lot or upon any parcel of land, except for emergency repairs, and then only to the extent necessary to enable the movement thereon to a proper repair facility.

Section 8. Recreational Equipment. No recreational and playground equipment shall be placed or installed on any Lot which is visible from the street abutting such Lot without prior written approval of the Architectural Control Committee.

Section 9. Accessory Structures. A detached accessory structure may be placed on a Lot to be used for a playhouse or tool shed. Such accessory structures shall not exceed ten (10) feet in height, shall conform in exterior design and quality to the dwelling on the same Lot, and shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot. Such accessory structures shall also be located with such side and rear setback lines as may be required hereby or by applicable zoning law. There shall be no outside lighting except as may be approved by the Architectural Control Committee. Any accessory structure must be approved, in advance, in writing by the Architectural Control Committee.

Section 10. Improvement of Lots. All construction of dwellings, accessory structures and all other improvements in Rogers Crossing Subdivision shall be undertaken and completed in accordance with the following conditions:

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

(b) Concrete block or cinder block shall not be used as a building material for the exposed exterior surface of any dwelling or accessory structure constructed or placed on any Lot.

(c) Only one mailbox shall be located on any Lot, which mailbox shall be selected to be identical in quality and design of surrounding dwellings and mailboxes and shall be placed and maintained to complement the dwelling to which it is appurtenant to the extent such mailbox is permitted to be located and maintained by the United States Postal Service, its successors and assigns. Any deviation from the standard mailbox and supporting structure must be approved by the Architectural Control Committee.

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

(e) No exposed above-ground tanks for the storage of fuel or water or any other substance shall be located on any Lot other than apparatus relating to solar energy, the location and design of which must first be approved by the Architectural Control Committee.



(f) Adequate off-street parking shall be provided for each Lot. Except for house guests staying two (2) weeks or less, no more than one car shall be parked in the driveway of a Lot.

(g) All garages must have doors, and each garage door must be coordinated in design and color with the dwelling to which it is appurtenant. Both garages must be occupied by Owner's motor vehicles before a third vehicle is allowed to be parked in the driveway.

(h) Any construction on a Lot shall be at the risk of the Owner of such Lot and the Owner of such Lot shall be responsible for any damage to any curbing or street resulting from construction on such Lot; repairs of such damage must be made within thirty (30) days after completion of such construction.

(i) Any change in paint color to any structure must be approved by the Architectural Control Committee.

Section 11. Animals. No animals, including birds, insects and reptiles, may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No animals shall be boarded outside of the dwelling structure.

Section 12. Accessory Structures Installed by Declarant. Entry signs, fences, walls and landscaping installed by Declarant on the Property shall be and are hereby dedicated to the use and benefit of all owners, and shall not be removed or altered without a two-third (2/3) vote of the Association Class A members.

Section 13. Miscellaneous Fixtures. To provide a neat, attractive and harmonious appearance throughout the neighborhood, no awnings, shades or window boxes shall be attached to, or hung or used on the exterior of, any window or door of any house; and no railings, fences, walls, antennae or satellite dishes shall be installed or constructed upon any lot or parcel of land without the prior written consent of the Architectural Control Committee. Further, no foil or other reflective material shall be used on any windows or sunscreens, blinds, shades or for any other purpose, nor shall any window mounted heating, air-conditioning or fan units be permitted. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed or maintained upon any lot or parcel of land, nor shall any clothing, rugs or other items be hung on any railing, fence, hedge or wall.

ARTICLE IX ANNEXATION

Section 1. Submission of Additional Property. Declarant shall have the option and right from time to time, without the necessity of consent by the Association, the Board or the Owners, but subject to Section 2 of this Article, to submit all or portions of the Additional Property to this Declaration and thereby to cause the Additional Property, or such portions thereof, to become



part of the Property. This option may be exercised by the Declarant in accordance with the conditions and limitations set out in Section 2 of this Article, which are the only conditions and limitations on such right.

Section 2. Conditions of Annexation. Any Annexation as permitted by Section 1 of this Article shall be in accordance with the following terms and conditions:

(a) The option to submit portions of the Annexation Property may be exercised at any time and from time to time until seven (7) years from the date this Declaration is recorded; provided, however, that the Owners of Lots to which two-thirds of the Class A votes in the Association appertain, exclusive of any vote or votes appurtenant to Lots then owned by Declarant, may consent to the extension of such option by vote taken not more than one (1) year prior to the date upon which such option will expire.

(b) The legal description of the Additional Property is set forth in Exhibit "B". Portions of the Additional Property may be added at different times, and there are no limitations fixing the boundaries of those portions or regulating the order in which any such portions may become part of the Property.

(c) All Lots created on portions of the Additional Property which are added to the Property will be restricted exclusively to residential use, in accordance with Article VI of this Declaration.

(d) The option reserved by Section 1 of this Article may be exercised by the Declarant alone (without the consent of the Association or any Owner) by the execution by the Declarant of an amendment to this Declaration which shall be filed for record in the Office of the Clerk of the Superior Court of Dekalb County, Georgia, together with a plat of that portion of the Additional Property which is to become part of the Property by reason of such amendment. Such plat shall indicate the boundaries of that portion of the Additional Property which is to become part of the Property, the boundaries of all Lots to be located therein, and an identifying number for each such Lot. Any such amendment shall expressly submit that portion of the Additional Property which is to become part of the Property from time to time, and upon the exercise, if any, of such option, the provisions of this Declaration shall be understood and construed as embracing all of the Property, including the initial phase and such portions of the Additional Property as have become part of the Property by annexation in this manner.

(e) In addition to the procedure outlined in sub-paragraph (d) above, the option reserved by Section 1 of this Article may be exercised with respect to any portions of the Additional Property, notwithstanding that such Additional Property may be owned by persons, including any individual, individuals, corporations, partnerships or any other type of entity, other than Declarant. Declarant shall exercise this option by an amendment to this Declaration which shall be filed for record in the Office of the Clerk of



the Superior Court of Dekalb County, Georgia, together with a plat of that portion of the Additional Property which is to become part of the Property by reason of such amendment. Such plat shall indicate the boundaries of that portion of the Additional Property which is to become part of the Property, the boundaries of all Lots to be located thereon, and an identifying number for each such Lot. Any such amendment shall contain a statement consenting to the annexation of any such Additional Property, together with a reference to a Declaration, (citing the specific Deed Book and Page in which such Declaration is recorded) executed by the owner or owners thereof submitting such Additional Property to this Declaration. Upon the exercise of the foregoing procedure, the provisions of this Declaration shall be understood and construed as embracing all of the Property, including the initial phase and such portions of the Additional Property as have become part of the Property by annexation in this manner.

(f) From and after the date of annexation of any portion of the Additional Property, each Lot so added to the Property and the Owners thereof, shall have the same vote, shall share the same obligations and responsibilities, and shall have the same rights and privileges accorded every other Lot previously comprising part of the Property. Upon annexation of each portion of the Property, as herein provided, the Association shall be deemed to have assumed, automatically, and without the necessity of consent by the Association, the Board or any individual Owners, the covenants to maintain the Common Property and the other obligations imposed by this Declaration, as amended from time to time, with respect to that portion of this Additional Property which is then the subject of annexation.

(g) It is understood that if Rogers Crossing Subdivision is approved for funding of individual Lot loans by the Federal Housing Administration and/or the Veterans Administration, any variance from the plan of Annexation initially approved by them may jeopardize future funding unless such variance is approved prior to implementation.

(h) Each Owner, by acceptance of a deed to a Lot in the Property, and the Association, shall be deemed to have approved annexation in the manner provided in this Article IX.

Section 3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex Additional Property pursuant to this Article for the purpose of removing any portion of Rogers Crossing Subdivision then owned by Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for Rogers Crossing Subdivision, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for Rogers Crossing Subdivision.



ARTICLE XI
WATERFRONT PROPERTY

Section 1. On Lots adjacent to lakes, ponds, rivers, streams, creeks or other water bodies or courses:

- (a) No boat canal shall be dug or excavated therein.
- (b) No bulkheading, barge, docks, piling, float or other marine structure shall be erected adjacent thereto or thereupon.
- (c) No refuse of any kind shall be placed on or disposed of therefrom into the adjacent waters.

Section 2. On lakes, ponds, rivers, streams, creeks or other water bodies or courses comprising any part of the Common Area, (i) no boat shall be moored so as to obstruct navigation; (ii) no power boat shall be allowed; and (iii) no boat of length greater than fifteen (15) feet, except canoes, shall be launched or used. Additionally, no boat or canoe shall be allowed to remain in the water while the same is not in use.

Section 3. The lakes which are depicted on the Plats of the Property and which are part of the Common Area are and shall be maintained only as lakes and, to this end, the Association shall not cause or permit to be caused any act or acts to the contrary.

Section 4. On Lots which either abut or are located partially within the lake now located upon the Property, Declarant hereby expressly reserves unto Declarant and to the Association, the following rights and easements:

- (a) A perpetual non-exclusive easement for the benefit of only such parties as are expressly named immediately above over that portion of the Property from time to time covered with the waters of such lake and also the embankment thereof within thirty (30) feet of such water line for ordinary and customary lake maintenance and/or landscaping.
- (b) A perpetual non-exclusive easement over that portion of the Property now or hereafter covered by the lake for purpose of soil erosion and sediment control from other portions of the Property, which shall include, without limitation, the right to allow runoff of sediment, dirt, rock and other materials to flow from other portions of the Property and to have no responsibility to Owners of the Lots abutting the lake for water clarity or siltation to the lake.
- (c) Nothing herein shall be deemed to give any rights for the use of Lots adjacent



to lakes to individuals other than the Owners of such Lot, except for the rights specifically provided for herein.

Section 5. The Owners of a Lot adjacent to a lake, pond, river, stream, creek or other water body or course expressly acknowledges, by acceptance of a deed thereto, that such Lot may be subject to different treatment by the Architectural Control Committee than other Lots in order to enhance the appearance of the entire Property.

ARTICLE XI GENERAL PROVISIONS

Section 1. Enforcement.

(a) The Association, the Architectural Control Committee, the Declarant or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges nor or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) The Architectural Control Committee shall have the right of abatement in all cases where an Owner of a Lot shall fail to take reasonable steps to remedy a violation or breach of any restriction contained in this Declaration within twenty (20) days after the mailing of written notice of such violation or breach. The right of abatement means the right of the Architectural Control Committee, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation or breach exists, and to take such action or actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation or breach, all without being deemed to have committed a trespass or wrongful act by reason of such entry and such actions.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance, is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a period of twenty (20) years from the date this Declaration is recorded, at



the end of which period such covenants and restrictions shall be automatically extended for successive periods of ten (10) years each, unless at least two-thirds (2/3) of the Owners at the time of the expiration of the initial period, or of any extension period, shall sign an instrument in which said covenants and restrictions are modified in whole or in part, which instrument is filed of record in the appropriate county.

Section 5. Rights and Obligations. Each grantee of the Declarant and Owners, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits, privileges of every character hereby imposed shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his Lot or at such other address as hereinafter provided. Notices to the Association or Board shall be in writing and shall be addressed to the President of the Association at his/her address which presently is:

Rogers Lake Partners, LLC
1279 Johnson Ferry Road
Suite 200
Marietta, Georgia 30068

or at such different address or addresses as reflect their proper address. Any Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail or when delivered in person.

Section 7. Intentionally Omitted.

Section 8. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant:

(a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith,

(b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration,



(c) If such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Lots subject to this Declaration, or

(d) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, the Federal Housing Administration or a reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five (75%) percent of the Owners of Lots; provided, however, such amendment by the Owners shall not be effective unless also signed by Declarant, if Declarant is the owner of any real property then subject to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Lot or the Common Area affected thereby unless such holder shall consent in writing thereto. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.

(e) Notwithstanding the foregoing, or any other provision of this Declaration, for so long as there is a Class B member, the following matters shall require the approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration.

Section 9. Fines. The Board of Directors may impose fines or other sanctions, for violations of this Declaration, said fines to be collected as provided herein for the collection of assessments.



IN WITNESS WHEREOF, Rogers Lake Partners, LLC and Other Owner have caused this Declaration to be executed in its name and by its duly authorized officers and its seal affixed on the day and year first above written.

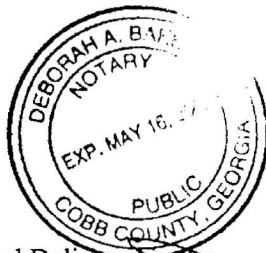
Signed, Sealed and Delivered in the presence of:

"Declarant"
Rogers Lake Partners, LLC

Susan S. Stuart
Witness

B. D. J. (SEAL)
By:
Title: MANAGER

Deborah A. Baker
Notary Public
[Notary Seal]



Signed, Sealed and Delivered in the presence of:

"Other Owner"
Tampa Investment Group, Inc.

[Signature]
Witness

[Signature] (SEAL)
By:
Title:

Mary Ann Dadde 1/29/02
Notary Public
[Notary Seal]



EXHIBIT "A"
Legal Description of Property

All that tract or parcel of land lying and being in Land Lots 131 and 158 of the 16th District, DeKalb County, Georgia, as per plat of survey prepared for **Rogers Crossing, Phase One** by Clark Design Group, P.C., Douglas R. Bentley, Georgia Registered Land Surveyor No. 2535, dated March 5, 2001, recorded in **Plat Book 122, Page 43**, Records of DeKalb County, Georgia. Said plat is incorporated herein for a more complete delineation of caption property.



EXHIBIT "B"

Tract One

All that tract or parcel of land lying and being in Land Lots 131 and 158 of the 16th District of DeKalb County, Georgia, being 54.572 acres and designated as Tract 1 as per plat of survey for Rogers Lake Partners, LLC, dated January 17, 2000, last revision May 10, 2000, prepared by Clark Design Group, P.C., Douglas R. Bentley, Georgia Registered Land Surveyor No. 2535, and being more particularly described as follows:

TO FIND THE TRUE BEGINNING commence at 1" open top pipe found at the common corner of Land Lots 131, 132, 125 and 126, said District; thence proceed south $87^{\circ} 05' 03''$ east as measured along the southerly land lot line of Land Lot 131, said District, for a distance of 1470.19 feet to a $\frac{1}{2}$ " rebar and corner; thence proceed north $03^{\circ} 02' 02''$ east for a distance of 554.85 feet to a $\frac{1}{2}$ " rebar found and the TRUE POINT OF BEGINNING. Thence running north $02^{\circ} 29' 37''$ east for a distance of 1286.01 feet to a 2" open top pipe found and corner; thence running north $67^{\circ} 42' 31''$ east for a distance of 1276.93 feet to a point and corner located on the southwesterly right of way of Rogers Lake Road (40 foot right of way); thence running south $13^{\circ} 07' 30''$ east as measured along the southwesterly right of way of Rogers Lake Road for a distance of 210.00 feet to a point; thence running in a southeasterly direction as measured along the southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 300.82 feet, said arc being subtended by a chord bearing south $03^{\circ} 19' 55''$ east for a chord distance of 299.36 feet, and having a radius of 880.00 feet, to a point; thence running south $06^{\circ} 27' 39''$ west as measured along the westerly right of way of Rogers Lake Road for a distance of 184.98 feet to a point; thence running in a southeasterly direction as measured along the southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 119.34 feet, said arc being subtended by a chord bearing south $05^{\circ} 17' 15''$ east for a chord distance of 118.50 feet, and having a radius of 291.00 feet, to a point; thence running in a southeasterly direction as measured along the southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 257.71 feet, said arc being subtended by a chord bearing south $36^{\circ} 18' 03''$ east for a chord distance of 252.89 feet, and having a radius of 383.23 feet, to a point; thence running in a southeasterly direction as measured along the southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 203.96 feet, said arc being subtended by a chord bearing south $59^{\circ} 18' 12''$ east for a chord distance of 203.83 feet, and having a radius of 1614.17 feet, to a point; thence running south $62^{\circ} 54' 58''$ east as measured along the southwesterly right of way of Rogers Lake Road for a distance of 87.05 feet to a point; thence running in a southeasterly direction as measured along the southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 138.85 feet, said arc being subtended by a chord bearing south $47^{\circ} 35' 10''$ east for a chord distance of 137.13 feet, and having a radius of 253.70 feet, to a point; thence running in a southeasterly direction as measured along the southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 56.66 feet, said arc being subtended by a chord bearing south $22^{\circ} 59' 59''$ east for a chord distance of 56.43 feet, and having a radius of 180.00 feet, to a point; thence running in a southeasterly direction as measured along the



southwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 294.26 feet, said arc being subtended by a chord bearing south 01° 33' 44" east for a chord distance of 291.96 feet, and having a radius of 678.75 feet, to a point; thence running south 10° 51' 26" west as measured along the westerly right of way of Rogers Lake Road for a distance of 128.08 feet to a point; thence running in a southwesterly direction as measured along the northwesterly right of way of Rogers Lake Road, and following the curvature thereof, an arc distance of 141.25 feet, said arc being subtended by a chord bearing south 13° 51' 27" west for a chord distance of 141.18 feet, and having a radius of 1280.00 feet to a ½" rebar and corner; thence running north 87° 16' 35" west for a distance of 719.16 feet to a ½" rebar found; thence running north 87° 21' 25" west for a distance of 1051.22 feet to a ½" rebar found and the POINT OF BEGINNING.

Tract Two

All that tract or parcel of land lying and being in Land Lot 131 of the 16th District of DeKalb County, Georgia, being 52.858 acres and designated as Tract 2 as per plat of survey for Rogers Lake Partners, LLC, dated January 17, 2000, last revision May 10, 2000, prepared by Clark Design Group, P.C., Douglas R. Bentley, Georgia Registered Land Surveyor No. 2535, and being more particularly described as follows:

BEGINNING at 1" open top pipe found at the common corner of Land Lots 131, 132, 125 and 126, said District; thence running north 02° 17' 38" east as measured along the westerly land lot line of Land Lot 131, said District, for a distance of 1202.09 feet to a 1¼" open top pipe found and corner; thence running north 80° 25' 50" east for a distance of 996.19 feet to an iron pin found and corner; thence running north 00° 57' 44" west for a distance of 548.26 feet to a ½" rebar found and corner; thence running north 81° 43' 40" east for a distance of 548.78 feet to a point and corner; thence running south 02° 40' 01" west for a distance of 230.04 feet to a 2" open top pipe found; thence running south 02° 29' 37" west for a distance of 1286.01 feet to a ½" rebar found; thence running south 03° 02' 02" west for a distance of 554.85 feet to a ½" rebar and corner located on the southerly land lot line of Land Lot 131, said District; thence running north 87° 05' 03" west as measured along the southerly land lot line of Land Lot 131, said District, for a distance of 1470.19 feet to a 1" open top pipe found and the POINT OF BEGINNING.

LESS AND EXCEPT:

All that tract or parcel of land lying and being in Land Lots 131 and 158 of the 16th District, DeKalb County, Georgia, as per plat of survey prepared for **Rogers Crossing, Phase One** by Clark Design Group, P.C., Douglas R. Bentley, Georgia Registered Land Surveyor No. 2535 dated March 5, 2001, recorded in **Plat Book 122, Page 43**, Records of DeKalb County, Georgia. Said plat is incorporated herein for a more complete delineation of caption property.

Linda Carter
Clerk of Superior Court DeKalb Cty., Ga.

Linda Carter

Deed Book 129335 Pg 696

