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STATE OF GEORGIA  
COUNTY OF MORGAN

AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS

FOR

RIVER'S END

This Amended and Restated Declaration of Protective Covenants is made this 10 day of March, 2018 (this "Declaration"), by River's End LLC, an Illinois limited liability company duly authorized to do business in the State of Georgia (hereinafter referred to as "Declarant").

Declarant is the owner of real property located in Morgan County, Georgia, which is more particularly described on Exhibit A attached hereto and incorporated by reference herein (hereinafter referred to as "Property") and as may be referred to hereinafter as the "Subdivision" (as defined in Section 1.30). Declarant is the successor and assign of Weyerhaeuser Real Estate Company ("Weyerhaeuser"), which imposed upon the Property, the Declaration of Protective Covenants for River's End at Lake Oconee dated December 21, 2006 and filed in the Office of the Clerk of the Superior Court, Morgan County, on December 27, 2006, at BK: 418 PG: 790-814, as modified by that certain First Amendment to Declaration of Protective Covenants for River's End at Lake Oconee dated November 9, 2010 and filed in the Public Records on November 9, 2010, at BK: 483 PG: 943-944 and that certain Supplemental Declaration of Protective Covenants for River's End at Lake Oconee dated January 22, 2013 and filed in the Public Records on January 23, 2013, at BK: 510 PG: 423-424 (collectively, the "Original Declaration"), and assigned to Declarant all right, title, interest, power and privileges under the Original Declaration through an "Assignment of Rights Pursuant to Declaration of Protective Covenants for River's End at Lake Oconee" dated September 27, 2017 and filed in the Public Records, Morgan County, on October 2, 2017 at BK: 597 PG: 94-98 (the "Assignment"). Declarant, therefore, has full power and authority to amend and restate the Original Declaration.

This Declaration hereby amends and restates the Original Declaration in its entirety and imposes upon the Property (as defined in Article I below) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Property and establishes a reasonable procedure for the overall development, administration, maintenance and preservation of the Property and hereby changes the name which the Property shall be known by and referred to from "River's End at Lake Oconee" to "River's End." In furtherance of such plan, this Declaration provides that River's End Home Owner's Association shall own, operate and maintain Common Areas and administer and enforce the provisions of this Declaration, the By-Laws, and the Design Guidelines (as these terms are defined below).

Declarant hereby declares that the Property described in Exhibit A and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I below), shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants and conditions, which shall run with the title to the real property subjected to this Declaration and be binding upon all parties having any right, title or interest in any portion of the Property, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Property, irrespective of whether any deed lists or refers to said restrictions or this Declaration.

This document does not and is not intended to create a condominium within the meaning of O.C.G.A. §44-3-70, *et seq.* nor a property owners' development within the meaning of O.C.G.A. §44-3-220.

This Declaration is intended to create a property owners association governed by the provisions of O.C.G.A. § 44-3-220, *et. seq.*

## Article I

### DEFINITIONS

The terms in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Architectural Review Board: or "ARB": The body responsible for administration of the Design Guidelines and review of all applications for construction and modifications on any Lot.

1.2 "Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility (such as the areas adjacent to public roads in the Subdivision) pursuant to the terms of this Declaration, any Supplemental Declaration or any applicable covenants, contracts or agreements.

1.3 "Articles of Incorporation" or "Articles": The Articles of Incorporation of River's End Home Owner's Association as filed with the Secretary of State of the State of Georgia.

1.4 "Association": River's End Home Owner's Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

1.5 "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided by the By-Laws and generally serving the same role as the board of directors under Georgia corporate law.

1.6 "Builder": Any Person which purchases one or more Lots for the purpose of constructing or placing improvements thereon for later sale to consumers or purchases one or more parcels of land within the Property for further resale in the ordinary course of such Person's business.

1.7 "By-Laws": The By-Laws of River's End Home Owner's Association, Inc., as may be amended from time to time.

1.8 "Common Area": All real and personal property, including easements, which the Declarant and/or the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including, without limitation, those areas designated as "Common Areas" on the Plat of Subdivision.

1.9 "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws and the Articles of Incorporation.

1.10 "Community-Wide Standard": The standard of conduct, maintenance or other activity generally prevailing throughout the Property. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Board.

1.11 "Declarant": River's End LLC, an Illinois limited liability company, duly authorized to do business in the State of Georgia, as successor and assign of Weyerhaeuser, or any subsequent successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibit A for the purpose of development and/or sale.

1.12 "Design Guidelines": The design and construction guidelines and application and review procedures applicable to the Property promulgated and administered pursuant to Article 3.

1.13 "General Assessment": Assessments levied on all Lots subject to assessment under Article 10 to fund Common Expenses for the general benefit of all Lots.

1.14 "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, any Supplemental Declaration, the Design Guidelines and rules of the Association, or any of the above, as each may be amended from time to time.

1.15 "Improvement": Any Structure (as defined in Section 1.29) or other object which the placement of upon any Lot may affect the appearance of the Lot including, but not limited to, any Residential Structure, detached garage, building, barn, pool house, porch, shed, greenhouse, bathhouse, coop, patio (covered or uncovered), swimming pool, fence, solar equipment, walkway, driveway, tree, landscaping, lighting, site grading, curbing, paving, wall, sign, monument, statue,

birdbath, lighthouse, windmill, fountain or other decorative item, recreational amenity or any other temporary or permanent improvement on a Lot, including alterations thereto.

1.16 "Lot": A portion of the Property, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use and occupancy as a single family residence. The term shall refer to the land, if any, which is part of the Lot as well as any Improvements thereon and shall also include any easement area benefiting such Lot which is located between any lake and the boundary of such Lot.

1.17 "Majority": Those votes by the Owners or Members, as the context may indicate, totaling more than 50% of the total number of Owners or Members eligible to vote.

1.18 "Member": A Person subject to membership in the Association pursuant to Section 6.2.

1.19 "Mortgage": A mortgage, deed of trust, deed to secure debt, or any other form of security instrument affecting title to any Lot.

1.20 "Mortgagee": A beneficiary or holder of a Mortgage.

1.21 "Owner": One or more Persons who hold the record title to any Lot, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.22 "Person": A natural person, corporation, partnership, trustee, or any other legal entity.

1.23 "Plat of Subdivision": That certain survey prepared by Dennis Huff, Georgia RLS #2337 dated July 12, 2006, recorded in PB: 39 PG: 24-25, as the same may be amended, modified, supplemented or re-recorded from time to time.

1.24 "Property": The real property comprising each of the Lots referenced and identified on the first page of this Declaration, together with such right of way for roads, easements, Common Area or other property identified on the Plat of Subdivision referenced herein, and together with such additional property as is subjected to this Declaration in accordance with Article 7 hereof.

1.25 "Public Records": The Office of the Clerk of the Superior Court of Morgan County, Georgia.

1.26 "Residential Structure": Any house or other building situated upon the Property which is designed and intended for use and occupancy as a residence by a single person or family, including, without limitation, barns with living quarters and guest houses.

1.27 "Special Assessment": Assessments defined and established in accordance with Section 10.3.

1.28 "Specific Assessment": Assessments defined and established in accordance with Section 10.4.

1.29 "Structure": Any Improvement other than fences, walls, docks, trees or other landscaping, paving or curbs, none of which are intended to be subject to the setback restrictions of this Declaration.

1.30 "Subdivision": The Property as divided into individual Lots pursuant to the Plat of Subdivision, as the same may be modified or re-subdivided from time to time.

1.31 "Supplemental Declaration": An instrument filed in the Public Records which subjects additional property to this Declaration and/or additional restrictions and obligations on the land described in such instrument.

## Article II

### USE RESTRICTIONS AND RULES

2.1 *General*. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Lot. The Association may, from time to time, adopt such rules and regulations applicable to the Lots which shall be distributed to all Owners and occupants thereof prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless they are overruled, canceled or modified in a regular or special meeting by a majority of the Owners entitled to vote thereon.

2.2 *Residential Use*. The Property governed by this Declaration shall be used only for single family residential and recreational purposes. This includes, but is not limited to, the erection of one detached main Residential Structure per Lot, together with any barn, guest house and other ancillary Structure as may be approved by the ARB. No business, trade, commercial activity, sales office or other business shall be operated or maintained on any Lot; provided, however, that it is expressly permissible for an Owner to conduct business activities within the Residential Structure on the Lot so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Residential Structure; (ii) the business activity conforms to all zoning requirements; (iii) the business activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Property; and (iv) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

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

2.3 *Setback Requirements*. It is the intention of the Declarant that the ARB allow the construction of Improvements to be erected on any Lot in the Subdivision in such a location on each Lot as will more fully enhance the natural harmony and aesthetic appeal of the Subdivision.

However, no Structure including any Residential Structure, ancillary Structure or outbuilding constructed or placed on a Lot, shall be located nearer any Lot line as indicated by the setback lines or easement lines set forth on the recorded surveys of the Property referred to in Exhibit A or in any Supplemental Declaration, or as required by the Morgan County Zoning Ordinance in effect on the date such Structure is placed on a Lot, whichever distance is greater, and specific construction setback requirements are hereby established as follows: No Structure shall be situated less than (a) 150 feet from right-of-way of all roads, (b) 50 feet from each side Lot line and (c) 75 feet from the back Lot line. Lots abutting the Apalachee River will have a setback of 150 feet from the high water mark, unless otherwise controlled by Georgia Power Company.

For good cause shown and upon a prior written request therefor, the ARB shall have the right, but not the obligation, to vary any setback set forth herein or on any recorded survey if the ARB renders a written opinion that such variance would have no substantial adverse impact on the value of any adjoining Lot. All requests for a variance of these setback requirements shall be submitted in writing to the ARB in accordance with the provisions set forth in Article III of this Declaration.

#### 2.4 *Structures / Improvements.*

A. The ARB, recognizing that the quantity of square footage does not alone necessarily determine the design and construction quality or monetary value of a Residential Structure, has set modest and reasonable square footage requirements for Residential Structures but shall not be bound solely by such square footage requirements. Rather, the primary criteria governing the nature of such Improvements to be constructed in the Subdivision shall be those of good taste, high quality, both as to workmanship and materials, and harmony and suitability of such Improvements to their environment and surroundings, as determined by the ARB in its sole discretion.

B. No mobile or modular home, temporary house, shack or tent shall be erected or placed on any portion of the Property or Lots nor shall any type of "recreational vehicle" (as defined in Section 2.10.B.) used for residential purposes be located thereon. No Lot shall be used for a church, school, kindergarten or child care purposes. All Residential Structures erected or placed on any Lot shall contain not less than two thousand four hundred (2400) square feet of above-grade, enclosed, heated and cooled living space, and all Residential Structure shall contain not less than one thousand eight hundred (1800) square feet of above grade, enclosed, heated and cooled living space on the main living floor. All Structures and other Improvements must be completely built and constructed on the Lot in accordance with all the provisions of this Declaration and as particularly set forth in Article III hereof.

C. Any Improvement located or constructed on a Lot shall be designed and constructed in an architectural style and of materials and colors which are compatible with the main Residential Structure on the Lot.

D. The exterior of any Residential Structure or other approved Improvement shall be constructed only of materials and in colors outlined in the River's End Design Guidelines and which have been approved in writing by the ARB. Any retaining wall or similar Improvement placed on a Lot shall not rise above the finished grade elevation of the earth embankment so

retained, reinforced or stabilized. The exposed part of said retaining wall or similar structure shall be made of brick, natural stone or such other material which has been veneered with brick or natural stone.

*2.5 Reduction in Size or Subdivision of Lots.* No Lot or any portion of the Property governed by this Declaration shall be reduced in size, nor its boundary lines changed, nor shall application for same be made to the applicable governmental entity, except with the written consent of the Declarant. No Lot shall be subdivided in any fashion which (a) results in a new Lot containing less than ten (10) acres, (b) fails to comply with the then-existing Morgan County Zoning and Land Use Ordinance, or (c) requires new roads. Notwithstanding the foregoing, adjacent Lot Owners shall have the right to mutually agree to modify the boundary lines of their Lots in order to correct the ownership of their land in the event of encroachment of one Lot Owner onto another. Furthermore, and notwithstanding anything in this Section 2.5 or any other provision of this Declaration to the contrary, for such period of time that the Declarant owns any portion of the Property, the Declarant shall have the unrestricted right to change any Lot lines and/or Lot sizes (including the establishment of Lots which are less than ten (10) acres) if deemed necessary by the Declarant.

*2.6 Signs.* No sign of any kind shall be erected or placed on any Lot without the prior written consent of the Association except:

- A. such signs as may be required by legal proceedings;
- B. not more than one professional security sign of such size as deemed reasonable the Association in its sole discretion; and
- C. not more than one sign advertising the Lot for sale, said sign to be no larger than 24" x 36". Such sign must be displayed parallel to the front Lot line so as not to interfere with grass cutting along the right-of-ways.

Unless in compliance with this Section, no signs shall be posted or erected by any person or entity within any portion of the Property or Lots governed by this Declaration, including any Common Area, Lot or upon or within any Structure or dwelling located thereon if such sign would be visible from the exterior of such Structure or dwelling as determined in the Association's sole discretion, or within any easement area benefiting any portion of the Property. The Association reserves the right to restrict the size, color, letter and placement of all signs. Any violation of this provision shall be subject to a penalty of \$100.00 per day for each day during which such violation exists and the Association shall have the right to assess said charges against the Lot and Owner and collect same as a Specific Assessment.

*2.7 Lot Grounds and Premises.* The grounds and Improvements on each Lot (whether vacant or occupied) shall be maintained in a neat and attractive condition at all times. This includes, but is not limited to, regular mowing of all lawns and paddock areas, bush hogging of natural areas, controlling weeds in all landscaped bedding areas, trimming along fence lines and around all trees, and keeping same free from any trash, debris, or other unsightly items on said Lot. It is anticipated that, due to the large size of the Lots, the majority of many Lots will remain in a wooded condition, but any cleared areas of the home site shall be sodded or seeded and

mulched within thirty (30) days of the last clearing activity and shall be maintained in a first class, high level of maintenance. Wooded areas between the home site and any road shall be kept mowed or bush hogged as needed to control unsightly underbrush and scrub growth. In addition, all areas of the Lot which fall between any Residential Structures and the road the Residential Structure faces, shall be maintained in an attractive condition, with unsightly underbrush and scrub growth controlled. The foregoing requirements are not intended to preclude legitimate screening but to ensure that Lots are properly maintained. Except for the home site on each Lot, there shall be no cutting or removal of any trees eight (8) inches or larger in diameter at ground level, from the Lot, without prior written approval of the ARB. Vegetable gardens shall be screened from view from all streets and adjacent Lots. No Owner shall obstruct, alter or interfere with the flow or natural course of the waters of any river, creek, stream, lake or pond on or about the Property without written consent and approval by the ARB, as well as any governmental entity having jurisdiction over the same. Upon failure of any Owner to maintain the Lot or any Improvements thereon in a manner consistent with the foregoing requirements, the Association may, after ten (10) days written notice to the Owner, enter upon the Lot to perform the necessary work to restore the Lot or any Improvements to a condition that is acceptable to the Association and in keeping with the Community-Wide Standards. All costs of said activity, together with such interest thereon as set by the Board of the Association, may be assessed against the Lot and Owner and collected as a Specific Assessment.

2.8 *Fences.* No fence, wall or other Improvement shall be constructed, erected or placed upon any Lot unless the Owner has obtained written approval thereof in advance from the ARB. Under no circumstances shall any fence made solely of chain link, barbed wire, woven wire, vinyl, or plastic be permitted. Uniform four board fencing, constructed in accordance with the Design Guidelines and painted a flat black will be standard in the Subdivision. Some types of "no Climb" fence material may be allowed if painted black and with prior written approval of the ARB, and alternative types of fencing which are suitable for the intended purpose may be erected with prior written approval of the ARB.

2.9 *Animals and Pets.* The Owner's personal horses (no more than one (1) horse per cleared fenced acre), dogs, cats and other common household pets may be maintained and kept on the Lot in a reasonable number and manner as determined in the sole discretion of the Association. Additional animals, including exotic and non-domesticated pets, may only be maintained within the Subdivision if approved in writing by the Association. All animals housed on a Lot must be maintained in good condition and health and no animals of any kind may be kept or maintained on any Lot or tract without a person(s) in full-time residence on that Lot or tract. No kennel, breeding facility, training or boarding of any animals shall be permitted on any Lot. All pets shall be reasonably controlled by the owner whenever outside the boundaries of the Owner's Lot and shall be kept in such a manner as to not become a nuisance by barking or other noises or other actions. The owner of the animal shall be responsible for all of the animals' actions. Barns and pastures shall be neatly maintained, and all animal waste and stall shavings and bedding shall be disposed of in an appropriate manner such that waste products and odors do not emanate beyond said Owner's Lot's boundaries. Waste products, including shavings and bedding may not be dumped on property easements, trails, buffer areas, Common Areas, or undeveloped Lots.



No vicious or dangerous animals may be kept on any Lot. All dogs and other animals must be fenced or otherwise contained on their owner's Lot. When not on private property, all dogs must be leashed or otherwise controlled by their handlers in a reasonable manner. The term "vicious" shall mean any animal: (i) with a propensity, tendency or disposition to attack unprovoked, to cause injury, or to otherwise endanger the safety of human beings or domestic animals; (ii) that attacks a human being or domestic animals without provocation; (iii) that is owned or harbored primarily or in part for the purpose of fighting or that is trained for fighting; (iv) whose behavior or temperament constitutes a risk of injury to a person or another animal; or (v) that evidences an abnormal inclination to attack persons or other animals. In the event of any dispute as to what constitutes a "vicious" animal, the Association's determination shall be final and binding.

#### 2.10 *Vehicles.*

A. No vehicle shall be parked overnight on any street, road or Common Area located upon the Property governed by this Declaration. No stripped, partially wrecked or junked motor vehicle or part thereof shall be permitted to be parked or kept on any street, road or Lot.

B. Pickup trucks and recreational vehicles shall be permitted to be parked or stored on any Lot provided they are maintained in a running condition and are shielded, or sufficiently screened from view so as not to be visible by or from any other Lot or road by fencing or vegetation. The term "recreational vehicle" as used herein shall include, without limitation, motor homes, boats, trailers, other towed vehicles, motorcycles, mini-bikes, scooters, golf carts, ATVs, UTVs, go carts and campers, but school buses, utility/construction vans, trucks other than pickup trucks and commercial trucks and vehicles of over one (1) ton capacity and similar equipment, shall not be deemed recreational vehicles and may not be stored on any Lot at any time.

2.11 *Occupants Bound.* All provisions of this Declaration and any rules and regulations adopted by the Association, use restrictions or Design Guidelines, governing the conduct of Owners and establishing sanctions against Owners and the Lots governed hereby shall also apply to all occupants of said property even though said occupants are not specifically mentioned herein. If a fine is first levied against an occupant is not paid in a timely fashion, the fine may then be levied against the Owner.

2.12 *Nuisances.* It shall be the responsibility of each Owner and any occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on any Lot. No Lot shall be used for the storage of any property or thing that will cause the Lot to be in an unclean or untidy condition or that would be obnoxious to the eye; nor shall any substance, thing or material be kept which will emit foul or obnoxious odors or which will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of the surrounding property. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any person within the Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Property. Without limiting the generality of the foregoing, no horn, whistle, siren, bell, amplifier or other sound device, except

such devices as may be used exclusively for security purposes shall be located, installed or maintained upon the exterior of any Lot unless required by law.

2.13 *Oil / Mining or Other Drilling Operations.* No oil, natural gas, minerals or other substances shall be drilled, refined, quarried or mined by any means or method whatsoever upon or under any Lot or other Property covered by this Declaration and no derrick or structure designed for use in connection with drilling or boring for oil, natural gas or mining operations shall be erected, maintained or permitted on any Lot or other Property governed hereby.

2.14 *Antennas / Satellite Dishes / Solar Panels / Other Household Equipment.* All antennas, satellite dishes or other devices for the reception of radio, television, or short wave signals shall be located on any Lot so that such equipment is not visible from the road fronting the Residential Structure and may be governed by rules and regulations regarding same adopted by the Association; provided, however, that no such device shall be larger than thirty-six (36) inches in diameter. Care shall be taken to prevent or minimize the visibility of any such equipment from any other Lot. Solar panels or other equipment associated with solar activity must be placed so as to be completely undetectable from any road, Common Area, or neighboring Lot and their design and placement must be approved by the ARB. The use of solar roof shingles or tiles is encouraged, however, like any roofing material, these will be subject to approval by the ARB. Garbage cans, fuel tanks or similar receptacles, utility meters, woodpiles, well pumps, utility transformers, swimming pool pumps, filters, HVAC units, clotheslines, dog pens and all related equipment and service items shall be located or screened so as to be concealed from view. Plans for items of the types described above delineating the design, size, appearance and location must be approved by the ARB prior to their construction. Service areas of individual homes must be carefully planned to screen from view the aforesaid items, as well as any other mechanical equipment or items of storage servicing a Lot.

2.15 *Garbage, Dumping, Burning.* All garbage cans or other containers shall be located or screened so as to be concealed from view of any other Lot or road and all rubbish, trash and garbage shall be regularly removed from each Lot and not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other vegetation, debris, rubbish, trash or garbage, petroleum products, fertilizers or other potentially hazardous or toxic substances on any developed or undeveloped Lot, or in any drainage ditch, stream, pond or lake within the Property. The outside burning of wood, leaves, trash, garbage or household refuse shall be permitted, but only in strict accordance with rules and procedures therefor established pursuant to applicable laws, codes and ordinances.

2.16 *Guns.* The discharge of firearms on any Lot or the Property governed by this Declaration is prohibited. The term "firearms" includes, without limitation, "B-B" guns, pellet guns, and firearms of all types.

2.17 *Mailboxes, Driveway Paving, Entrance Markers, Statues.* All Lots shall have paved driveways constructed of asphalt or concrete. No mailbox, driveway paving or entrance marker, gate or pier shall be placed on any Lot without prior written approval of the ARB. No monuments, statues, lighthouses, windmills, fountains, or other decorative structures shall be erected or placed in a location visible from any road or other Lot, in the front of any Residential Structure without written approval of the ARB.

2.18 *Garages.* The primary Residential Structure constructed on a Lot must have a garage which must be no less than two (2) car in size. Carports are not allowed. For the purpose of this Declaration, a garage is a fully enclosed structure with full height walls and doors and a carport is an open Structure lacking full height walls and doors and is therefore not fully enclosed. All garages must have doors which close over the bays and the garage doors shall not orient towards the street. Garage doors shall be located either facing the side or rear of the Lot and shall not face nor be perpendicular to the front door of the Residential Structure of which the garage is a part. All garage doors must be equipped with automatic garage door openers. All garage doors must be kept down or closed except when persons or vehicles are immediately entering or exiting said garage. Any garage that is not an integral part of the Residential Structure or attached to the Residential Structure via a covered walk must be located to the rear of the Residential Structure.

### Article III

#### ARCHITECTURAL STANDARDS

3.1 *General.* No Improvement shall be placed, erected, or installed upon, or permitted to remain upon, any Lot except in complete compliance with this Declaration and unless and until approval of the Improvement, its location, and materials, has been granted, in writing, by the ARB. Such approval shall be in accordance with this Declaration and the Design Guidelines and shall take into consideration the principles set forth in Section 2.4, the suitability of the overall design, quality of workmanship and materials, and the harmony of the external design as it relates to its location, surrounding structures, topography, and finish grade elevation, and the impact of the Improvement on the view from adjacent or neighboring portions of the Property, as well as conformity with general character and standards of the Subdivision. Any Owner may remodel, paint or redecorate the interior of any Structure on his Lot without approval. However, modifications to the exterior of any Structure on the Lot shall be made in compliance with the provisions of this Declaration. This Article shall not apply to Improvements in the Common Area by or on behalf of the Association.

3.2 *Residential Structures.* All Residential Structure erected on any Lot shall be designed and built in accordance with written plans and specifications which have been approved by a licensed architect or other qualified building designer and shall be constructed completely on the premises of any Lot, without pre-assembly of any portion thereof off-premises.

3.3 *Architectural Review Board.* An Architectural Review Board (also referred to herein as the "ARB") has been established and appointed by the Declarant to administer and enforce the covenants and restrictions of this Declaration for the protection and general benefit of the Declarant and all Owners. The ARB is responsible for regulating the external design and appearance of the Property and the external design, appearance, and location of any Improvements thereon in such a manner as to preserve and enhance property values and the Property itself. The ARB has the responsibility of ensuring that any proposed construction, exterior alteration, or installation submitted to the ARB for approval as to whether such construction, alteration, or installation, is in conformity with this Declaration and the Design Guidelines, and is in harmony in external design and general quality with the established standards of the Property as to the location of Improvements with respect to topography, finished ground elevation, and surrounding Structures. Responsibility for administration of the Design Guidelines and review of all applications for

construction and modifications shall be handled by the ARB, the members of which need not be members of the Association or representatives of members and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include reasonable costs incurred in connection with having the application reviewed by architects, landscape architects, engineers or similar professionals. The ARB shall consist of at least three (3), but not more than five (5), persons and shall have exclusive jurisdiction over all original construction and any modifications on any portion of the Property. Until one hundred percent (100%) of the Property has been developed and conveyed to Owners other than the Declarant or upon the Declarant's written notice to the Association and ARB of its resignation there from, the Declarant herewith retains the right to appoint all members of the ARB who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to such time except by a written instrument in recordable form executed by the Declarant. Upon the expiration of such right, the Board of the Association shall appoint the members of the ARB who shall thereafter serve and may be removed in the Board's discretion.

3.4 *Design Guidelines.* The ARB shall prepare initial Design Guidelines for all Improvements located on any Lot in order to maintain a harmonious and consistent appearance and level of quality of construction throughout the Subdivision. The ARB shall adopt such Design Guidelines and thereafter have the sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of Improvements previously approved, once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines and the ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive. The ARB shall make the Design Guidelines available to Owners and Builders who seek to engage in the development or construction on Lots governed by this Declaration.

3.5 *Procedures.* Plans and specifications for all proposed Improvements (including landscaping) upon the Lots must be submitted in writing to the ARB, which is hereby vested with the full power and authority to approve or disapprove the same in whole or in part, or require the modification of the same as it may, in its discretion deem proper. No clearing, construction, landscaping, or erection of any Improvements of any kind may be undertaken without its prior approval. The ARB shall have the right to refuse to approve any building plans, specifications, site plans, or grading plans which are not suitable or desirable in its sole opinion for any reason, including purely aesthetic reasons. In so passing upon building plans, specifications, site plans or grading plans, the ARB shall take into consideration the suitability of the proposed Structure and any other Improvements, the harmony of the Structure in its location with its surroundings, and the effect of the Structure as planned on the outlook from adjacent or neighboring portions of the subject Property. After final plans and specifications have been approved by the ARB, no changes may be made to said plans or specifications without the prior written consent of the ARB. All construction must be completed within 9 months of commencing, unless an extension has been granted by the ARB for good cause. All disturbed areas on the Lot, including without limitation the areas near the foundation and the septic tank and drain field, shall be seeded or sodded for grass, shrubbery, or other ornamental planted materials and covered with straw or other material to prevent erosion. The land adjacent to the foundation shall be graded and backfilled to the

foundation with a slope of not less than 1 inch of height for each 1 foot of lateral distance from the foundation to the existing grade of the Lot. All landscaping materials consisting primarily of plants and shrubs must be installed according to the approved landscape plan within ninety (90) days of the completion of construction of the main dwelling. The ARB shall have the authority to require any Owner or its contractor to deposit with the Association refundable and non-refundable security for (a) repair of road and other property damage and (b) the timely completion of any Improvements in accordance with the requirements of this Declaration.

Building plans and specifications submitted to the ARB shall consist of not less than the following:

A. *Site and Grading Plan.* Site plan showing location and orientation of all proposed and existing Improvements on the Lot including buildings (to scale) on the site, with all setbacks indicated. Plan must include the location of driveways, service courts, open space, any future proposed building additions, parking, and all siltation and erosion control measures.

B. *Foundation Plan.*

C. *Floor Plan.*

D. *Elevation Plans.* All sides of all exterior walls on all proposed Structures and alterations to existing Structures, such as the Structure shall appear after all backfilling is complete.

E. *Specifications.* Materials specifications and any requested samples for all details affecting the exterior appearances of all proposed Structures and alterations to existing Structures, include roofing, masonry, siding, and driveway/parking material must be submitted with plan application. Color samples planned for each/all materials elements of the Structure plans including exterior walls, trim, and any other exterior accents must be included. Paint samples must be 1 sq. ft.

F. *Landscape and Irrigation Plan.*

3.6 *No Waiver of Future Approvals.* Approval of proposals, plans and specifications for Improvements to any Lot of modifications thereto shall not be deemed to constitute a waiver of the right to withhold approval as to similar proposals, plans and specifications, drawings or other matter subsequently or additionally submitted for approval to the ARB.

3.7 *Variances.* The ARB may authorize variances from compliance with any of the Design Guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Only in accordance rules and regulations will such variances be granted, when unique circumstances dictate and no variance shall: (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ARB from denying a variance in other circumstance. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit or the terms of any financing shall not be considered a hardship warranting a variance.

3.8 *Limitation of Liability.* Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the ARB shall not bear any responsibility

for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Association, the ARB or member thereof shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot or Structure thereon. In all such matters, the ARB, the Board and any member thereof shall be defended and indemnified by the Association as provided in this Declaration.

### 3.9 *Enforcement.*

A. Any Structure or Improvement placed or made in violation of this Declaration shall be deemed to be non-conforming. Upon written request from the ARB or the Board, the Owner shall at his own cost and expense, remove such Structure or Improvement from the Lot and/or Property governed by this Declaration and restore said Lot and/or Property to substantially the same condition as existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Board or ARB shall have the right to enter upon the Lot or Property, remove the violation, and restore the Lot or Property to substantially the same condition as previously existed. All costs, together with interest at the maximum rate then allowed by law, may be assessed against the Lot and collected as a Specific Assessment.

B. Unless otherwise specified in writing, all approvals granted hereunder shall be conditioned upon completion of all elements of the approved work unless approval to modify any application has been submitted. In the event that any person or entity fails to commence and diligently pursue completion all approved work, the Board or the ARB shall be authorized after notice to the Owner and an opportunity to be heard with respect thereto, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred in connection therewith against the Lot and the Owner as a Specific Assessment.

C. Neither the Association, the ARB nor the Board, any committee or member thereof, or their officers or directors, shall be held liable to any Person or entity for exercising the rights granted by this Article.

D. In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Board or ARB with respect thereto.

## Article IV

### EASEMENTS

#### 4.1 *Utilities.*

A. There are hereby reserved to the Declarant, and after Declarant no longer owns any Lots located on the Property, to the Association, easements ten (10) feet in width on the front, rear, and each side Lot line of all Lots governed by this Declaration and an easement ten (10) feet in width adjacent to the right-of-way of all roads depicted on the above-referenced plats on the Property governed by this Declaration for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing drainage lines, drainage ditches, storm sewers, sanitary sewers, water lines, cable television systems, electricity, security

systems, and all other utilities including, but not limited to, water, sewer, telephone, and electricity and utility meters; and an easement for access thereto as necessary to exercise the easements described above provided however, that all of said utilities are required to be located completely underground. There is herewith granted to any local water supplier, electric company, telephone company or cable television company an easement across the Property and across any Lot for ingress, egress, installation, reading, replacing, repairing and maintaining such utility lines, meters and boxes, as applicable.

B. There is herewith reserved for the benefit of the Association an easement and the right to cut or fill a slope no greater than 2 to 1 within the boundaries of all streets or roads on Property governed by this Declaration in order to maintain drainage there from. Drainage flow shall not be obstructed nor diverted from drainage ditches, storm sewers and/or utility easements designated herein or upon the above-referenced plats.

C. There is hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit A of this Declaration or has the right to annex property pursuant to Section 7 hereof, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibit A or in any Supplemental Declaration.

D. Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Property, or at any other time, (i) to release all or any portion of the Property from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

*4.2 Easement for Slope Control, Drainage and Waterway Maintenance.* The Declarant, for itself and the Association, and their respective representatives, successors and assigns, contractors and agents, hereby establishes and reserves a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon each Lot of the purposes of:

- A. controlling soil erosion, including grading and planting with vegetation any areas of the Lot which are or may be subject to soil erosion;
- B. drainage of natural or man-made water flow and water areas from any portion of the Property;
- C. changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Lot;
- D. dredging, enlarging, reducing or maintaining any water areas or waterways within the Property; and
- E. installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Property.

*4.3 Easements for Maintenance and Flood Water.*

A. The Declarant reserves the right for itself and its successors, assigns and designees the non-exclusive right and easement, but not the obligation, to enter upon any lakes, ponds, streams and wetlands located within the Area of Common Responsibility to (a) construct, maintain and repair any bulkhead, wall, dam, or other structure retaining water; and (b) remove trash and other debris there from and fulfill the maintenance responsibilities as provided in this Declaration. The Declarant's rights and easements provided in this Section shall be transferred to the Association at such time as the Declarant shall cease to own any property subject to the Declaration, or such earlier time as Declarant may elect, in its sole discretion, to transfer such rights by a written instrument. The Declarant, the Association and their designees shall have an access easement over and across any of the Property abutting or containing any portion of any lake, pond, stream or wetland to the extent reasonably necessary to exercise their rights under this Section.

B. There is further reserved herein for the benefit of the Declarant, the Association and their successors, assigns and designees, a perpetual, non-exclusive right and easement of access and encroachment over the Common Area and Lots (but not the Structures thereon) adjacent to or within 20 feet of lake beds, ponds, streams and wetlands in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) fill, drain, dredge, deepen, clean, fertilize, dye and generally maintain the lakes, ponds, streams and wetlands within the Area of Common Responsibility; (c) maintain and landscape the slopes and banks pertaining to such lakes, ponds, streams and wetlands; and (d) enter upon and across such portions of Property for the purpose of exercising its rights under this Section. All persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

C. Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Property, or at any other title, (a) to release all or any portion of the Property from the burden, effect and encumbrance of any of the easements granted or reserved under this Section; or (b) to define the limits of any such easements,

*4.4 Liability for Use of Easements.* No Owner shall have any claim or cause of action against the Declarant, its successors or assigns, or against the Association arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Property, except in cases of willful or wanton misconduct.

## Article V

### PROPERTY RIGHTS

5.1 *Common Area.* Every Owner shall have a right and nonexclusive easement of use, access and enjoyment in and to the Common Area, subject to:

A. This Declaration and any other applicable covenants;



- B. Any restrictions or limitations contained in any deed conveying such property to the Association;
- C. The right of the Association, acting through the Board, to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- D. The right of the Association, acting through the Board, to suspend the right of an Owner to use recreation facilities within the Common Area (i) for any period during which any charge against such Owner's Lot remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of continuing violation of the Declaration, the By-Laws or rules of the Association, after notice and a hearing pursuant to the By-Laws;
- E. The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Declaration;
- F. The right of the Association, acting through the Board, to impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreation facility situated upon the Common Area; and
- G. The right of the Association, acting through the Board, to mortgage, pledge or hypothecate any or all its real or personal property as security for money borrowed or debts incurred.

Subject to the foregoing, any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot or Residential Structure thereon shall be deemed to have assigned all such rights to the lessee of such Lot or Residential Structure.

## Article VI

### MEMBERSHIP AND VOTING RIGHTS

6.1 *Function of Association.* The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board or the membership may adopt. The Association, through the ARB, shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of Georgia.

6.2 *Mandatory Membership.* Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3B and in the By-Laws, and all such co-

Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

### 6.3 Voting.

A. Each Member shall have one equal vote for each Lot owned, provided, there shall be only one vote per Lot. Notwithstanding the above, the Owner of two contiguous Lots, as shown on the survey referenced above, on which one Residential Structure is constructed which crosses the boundary line separating the Lots, shall have only one vote for said Lots.

B. Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, each Lot shall be entitled to one vote, provided however that no vote shall be exercised on behalf of any Lot if any monetary assessment for said Lot is unpaid. In the event a Lot is owned by more than one Person or by an entity, the vote for said Lot shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absence such advice, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

## Article VII

### ANNEXATION AND WITHDRAWAL OF PROPERTY

#### 7.1 Annexation Without Approval of Membership.

A. Until all Lots described on Exhibit A have been sold by the Declarant or 30 years after the recording of this Declaration in the Public Records, whichever is earlier, Declarant may from time to time unilaterally subject more property to the provisions of this Declaration. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described on Exhibit A and such transfer is memorialized in a written, recorded instrument executed by Declarant.

B. Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of any Owner, but shall require the consent of the owner of such additional property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

C. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any additional property whatsoever.

7.2 *Annexation with Approval of Membership.* The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property upon the affirmative vote of a majority of the Owners at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 7.1.

A. Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public records. Any such Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 *Withdrawal of Property.* The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to Section 7.1 for the purpose of removing any portion of the Property from coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

7.4 *Additional Covenants and Easements.* The Declarant may unilaterally subject any portion of the Property to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner of such property, if other than Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5 *Amendment.* This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any Lots described on Exhibit A, or has the right to annex property pursuant to Section 7.1.

## Article VIII

### RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

8.1 *Common Area.* The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all Improvements thereon (including, without limitation, landscaping, furnishings, equipment and other personal property of the Association used in connection with the Common Areas), and shall keep it in good, clean, attractive and sanitary condition, order, and repair, pursuant to this Declaration and the By-Laws and consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

8.2 *Personal Property and Real Property for Common Use.* The Association, through action of its Board, may acquire, hold and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the Property, personal property and leasehold and other property interests. Such property shall be accepted by the Association so long as the Improvements located on such property, if any, conform with all applicable county standards, as such standards were in effect at the time such Improvements were constructed. Such property shall thereafter be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such

property to the Association. Upon written request of the Declarant, the Association shall reconvey to the Declarant any unimproved portions of the Property originally conveyed by the Declarant to the Association for no consideration, to the extent conveyed by the Declarant in error or needed by the Declarant to make adjustments in property lines.

### 8.3 *Enforcement.*

A. The Association may impose sanctions for violations of this Declaration, the By-Laws, or Association rules in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the rights to vote and/or to use any recreational or other facilities within the Common Area. In addition, in accordance with the By-Laws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Lot of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, if the Association prevails it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

B. The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right to enforce such provision under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

C. The Association, by contract or other agreement, may enforce county and city ordinances, if applicable, and permit local governments to enforce ordinances on the Property for the benefit of the Association and its Members.

8.4 *Implied Rights: Board Authority.* The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

### 8.5 *Indemnification.*

A. The Association shall indemnify every officer, director and committee member against all damages and expenses, including attorney's fees, reasonably incurred in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and Georgia law.

B. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability

with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall be exclusive of any other rights to which any present or former officer, director or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

8.6 *Dedication of Common Area.* The Association shall have the right to dedicate portions of the Common Area to Morgan County, Georgia or to any other local, state or federal governmental or quasi-governmental entity.

8.7 *Security.* The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property or roads safer than they otherwise might be. The Association shall not be considered to be an insurer or guarantor of security within the Property or upon the roads nor shall it be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all other occupants of its Lot that the Association and its Board of Directors are not insurers and that each such Person using the Property assumes all risks of personal injury and loss or damage to property, including the Lots and any Improvement or personal property located on the Lots, resulting from acts of third parties.

## Article IX

### MAINTENANCE

#### 9.1 *Association's Responsibility.*

A. The Association shall have the right, but not the obligation, to maintain and keep in good repair the Area of Common Responsibility, which may include, but need not be limited to:

- i. Common Area;
- ii. All landscaping, Structures and Improvements, including boat ramps, docks, sidewalks, bike and pedestrian pathways/trails situated upon the Common Area; All landscaping, pedestrian pathways/trails, structures and Improvements within public rights-of-way within or abutting the Property as deemed necessary in the discretion of the Board;
- iii. Such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

iv. Other property which it does not own, including without limitation, property dedicated to the public or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

B. The Association may maintain property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association. Such property and facilities shall remain a part of the Area of Common responsibility and be maintained by the Association until such time as the Declarant revokes such privilege of use and enjoyment by written notice to the Association.

C. There are hereby reserved to the Association easements over the Property as necessary to enable the Association to fulfill such responsibilities.

D. Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the Owner of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the Owner thereof

9.2 *Owner's Responsibility.* Each Owner shall maintain his Lot and all Structures and other Improvements thereon in a manner consistent with the Community-Wide Standard and all applicable covenants. In addition to any other enforcement rights, if an Owners fails properly to perform his maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 10.4. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except where entry is required due to an emergency situation.

## Article X

### ASSESSMENTS

#### 10.1 *Creation of Assessments.*

A. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. Each Owner by accepting a deed or entering into a contract for the sale of any portion of the Property is deemed to covenant and agree to pay these assessments.

B. All assessments, together with interest at a rate to be set by the Board (subject to the maximum interest rate limitations of Georgia law), late charges in such amount as the Board may establish by resolution, costs and reasonable attorney's fees, shall be a charge and a continuing lien upon each Lot against which the assessment is made until paid, as more particularly described in Section 10.5. Each such assessment, together with interest, late charges, costs and reasonable attorney's fees shall also be the personal obligation of the Person who was

the Owner of such lot at the time the assessment arose. Upon transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

C. The Association shall, upon request, furnish to Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

D. Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payments of assessments or working capital contributions at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment shall be due and payable in advance of the first day of each calendar year. If any Owner is delinquent in paying any assessments or other charge levied on his Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the 15th day following the due date unless otherwise specified by Board resolution.

E. No Owner may exempt himself from liability for assessments by non-use of the Common Area, abandonment of his Lot, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform such function required of it, or for inconvenience or discomfort arising from the making of repairs or Improvements, or from any other action it takes.

F. The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials or a combination of services and materials with other entities for payment of Common Expenses.

#### 10.2 *Computation of General Assessment.*

A. At least 30 days before the beginning of each calendar year, the Board shall prepare a budget of the estimated Common Expenses for the next calendar year, including a capital contribution to establish a reserve fund in accordance with a budget separately prepared.

B. The assessment rate shall be set at a level which is reasonably expected to produce a total income for the Association equal to the total budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years.

C. The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following calendar year to each Owner at least 30 days prior to the beginning of the calendar year for which it is to be effective. Until after the Declarant has sold all of the Lots or after the Declarant has relinquished control of the Association in writing, whichever first occurs, the Declarant shall have the sole right to establish the budget and the assessment and such budget and assessment shall become effective and there shall be no obligation to call a meeting of the Association or of the Board for the purpose of considering the budget.

D. After the Declarant no longer controls the Association, a meeting of the members of the Association shall be required to adopt a budget and assessment for each calendar year and assessments pursuant to any proposed budget shall not become effective until after such meeting is held and the new budget approved, by majority vote of the members present or by proxy at a general or special meeting of the members, provided that such assessments shall be retroactive to the original effective date stated in the budget when the budget is approved. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the next year. The Board shall send a copy of the budget to each Owner at least 30 days prior to its becoming effective. The budget shall become effective unless disapproved in accordance with the above procedure.

10.3 *Special Assessments.* In addition to other authorized assessments, the Association, by majority vote of the members present or by proxy at a general or special meeting of the members, may levy "Special Assessments" from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Subject to Section 10.7, any such Special Assessments shall be levied against the entire membership comprising all of the Lots governed by this Declaration. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the calendar year in which the Special Assessment is approved.

10.4 *Specific Assessments.* The Association, by and through its Board, shall have the power to levy "Specific Assessments" against a particular Lot to cover the cost incurred in bringing the Lot into compliance with the terms of this Declaration, the By-Laws or rules, or for such costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws before levying any Specific Assessment under this section.

10.5 *Lien for Assessments.*

A. The Association shall have a lien against each Lot to secure payment of delinquent General Assessments, Special Assessments and Specific Assessments, as well as interest, late charges (subject to the limitations of Georgia law), and all costs of collection (including attorney's fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments and other levies which by law would be superior and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith for value. Such lien, when delinquent, may be enforced by suit, judgment and judicial or nonjudicial foreclosure.



B. The Association may bid for the Lot, at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied upon it; and (c) each other Lot shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot had it not be acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

C. The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, the sale or transfer of any Lot pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessment on such Lot due prior to such acquisition of title.

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

10.7 *Date of Commencement of Assessments.* The obligation to pay assessments shall commence as to each Lot on the first day of ownership of the Lot by a Person other than the Declarant, prorated for said calendar year. Notwithstanding any other provision of this Declaration to the contrary, in no event shall ownership by the Declarant of any Lot, including any additional area or areas added in the future, be construed as imposing upon the Declarant the duty or obligation of paying any dues, assessments, or other charges to the Association for such Lot or area.

10.8 *Exempt Property.* The following property shall be exempt from payment of General Assessments, Special Assessments and Specific Assessments:

- A. All Common Areas included in the Area of Common Responsibility; and
- B. Any property dedicated to and accepted by any governmental authority or public utility.
- C. Any property titled in the name of the Association.

## Article XI

### MORTGAGEE PROVISIONS

All covenants and other provisions herein shall be deemed to be subject to and subordinate to all mortgages and deeds to secure debt now or hereafter executed and recorded upon any Lot or portion of the Property governed by this Declaration and nothing contained herein shall be construed as giving any Owner or other party priority over any mortgage or

deeds to secure debt or cause any diminution to such Owner of insurance proceeds or condemnation awards for losses to or taking of any of said Property; provided, however, that if any Lot or other Property governed by this Declaration is sold by or under foreclosure of any mortgage or foreclosure provisions of any deed to secure debt, any purchaser at such sale and his successors and assigns shall hold such Lot or other Property so purchased subject to all of the covenants and provisions of this Declaration.

## Article XII

### GENERAL PROVISIONS

#### 12.1 *Duration.*

A. Unless otherwise limited by Georgia law, this Declaration shall have perpetual duration. If Georgia law hereafter limits the period during which covenants may run with the land, then, unless terminated as provided herein or, if such termination method is not consistent with Georgia law, in such other manner as required by Georgia law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 20 years each. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

B. Unless otherwise provided by Georgia law, this Declaration may be terminated within the first 30 years after the date of recording by an instrument signed by the Owners of at least 90% of the total Lots within the Property, which instrument must be recorded in the Public Records; provided that, regardless of the provisions of Georgia law, this Declaration may not be terminated without the prior consent of the Declarant if the Declarant owns any portion of the Property. After 20 years from the date of recording, this Declaration may be terminated only by an instrument signed by the Owners owning at least 75% of the Lots and constituting at least 75% of the total number of Owners and by the Declarant, if the Declarant owns any portion of the Property, and the instrument must comply with the requirements of O.C.G.A. § 44-5-60(d) and be recorded in the Public Records. Nothing in the Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

12.2 *Amendment.* For such period of time as the Declarant shall own any of the Property, this Declaration shall not be amended without the prior written consent of the Declarant, and during said period of time the Declarant shall have the unrestricted right to amend this Declaration solely in its discretion without the involvement of the Owners of any Lots or the members of the Association. Thereafter, this Declaration may be amended only by the affirmative vote or written consent or any combination thereof of 75% of the record title holders of the Lots governed hereby, and no such amendment shall permit membership in the Association to be optional, it being the intent and requirement of this Declaration that all Owners governed by this Declaration shall be required to be members of the Association and subject to all rules, regulations and procedures adopted thereby.

12.3 *Validity and Effective Date.* This Declaration and any amendment thereto shall become effective upon the date same is filed for record in the Public Records. Any procedural challenge to an amendment must be made within six month of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

12.4 *Notices.* Any notice specified in this Declaration shall be deemed to be given upon personal delivery to the recipient thereof or upon deposit in the United States Mail, postage prepaid, to the Association at the address specified below and to any Owner or Occupant of any Lot when addressed to the address listed for said Owner on the local County tax records, the applicable telephone directory, or such other address as said Owner or Occupant shall provide to the Association from time to time in accordance with this section of the Declaration. The address of the Association at the present time is:

c/o River's End, LLC  
319½ W. State Street, Suite E  
Geneva, Illinois 60134

With a copy to:

Burke, Warren, MacKay & Serritella, P.C.  
330 N. Wabash, 21<sup>st</sup> Floor  
Chicago, Illinois 60611  
Attention: John P. Stephens

12.5 *Severability.* Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

12.6 *Compliance.* Every Owner and occupant of any Lot shall comply with the provisions of this Declaration and the rules and regulations adopted by the Association. Failure to comply shall be grounds for an action by the Association, or in a proper case, by any aggrieved Owner to recover sums due for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association.

12.7 *Zoning Regulations and Other Governmental Orders.* Every Lot and the Property governed by this Declaration shall also be subject to and governed by all zoning ordinances and other governmental regulations of the local county and the State of Georgia, and in the event of any conflict between the provisions of this Declaration and such zoning regulations and other laws of the local county and state, the more restrictive provisions shall apply and control.

*[Signature page follows]*

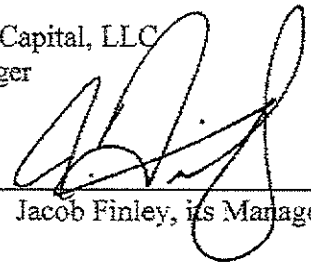
IN WITNESS WHEREOF, this Declaration of Protective Covenants has been executed by the duly elected and authorized officers of River's End, LLC on the date and year first above written.


Signed, sealed and delivered  
in the presence of:

RIVER'S END, LLC,  
an Illinois liability company

By: Karis Capital, LLC  
Its: Manager

  
\_\_\_\_\_  
Witness

By:   
\_\_\_\_\_  
Jacob Finley, its Manager

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



