

ARTICLE	TABLE OF CONTENTS	PAGE
I	DEFINITIONS.....	1
II	LOTS	4
	Section 1. Lots Hereby Subjected to this Declaration.....	4
	Section 2. Additional Lots Hereafter Subjected to this Declaration	4
	Section 3. Withdrawal of Property	5
	Section 4. All Lots Bear the Burdens and Enjoy the Benefits of this Declaration	5
	Section 5. Easements Over the Lots	5
III	THE ASSOCIATION	6
	Section 1. The Association	6
	Section 2. Membership	6
	Section 3. Classes of Membership; Voting Rights	6
	Section 4. Suspension of Membership Rights.	7
	Section 5. Meetings of the Membership.....	7
	Section 6. Association Acts Through Its Board of Directors	7
	Section 7. Professional Management	7
IV	ASSESSMENTS	8
	Section 1. Creation of Lien and Personal Obligation.....	8
	Section 2. Purposes of Assessments	8
	Section 3. Determination of Annual Assessment and Shares Thereof	8
	Section 4. Special Assessments	9
	Section 5. Specific Assessments.....	9
	Section 6. Special Assessment for Working Capital Reserve.....	10
	Section 7. Effect of Non-Payment of Assessments; Remedies of the Association..	10
	Section 8. Budget Deficits during Declarant Control Period.....	10
	Section 9. Failure to Assess	
	Section 10. Builder's Purchase.....	11
V	ARCHITECTURAL CONTROL AND RESTRICTIONS	11
	Section 1. Architectural Control and Restrictions	11
	Section 2. Architectural Review.....	11
	Section 3. Guidelines and Procedures	12
	Section 4. Specific Guidelines and Restrictions	13
	Section 5. Prohibited Activities	15
	Section 6. Nuisances	15
	Section 7. Trash.....	15
	Section 8. Animals	15
	Section 9. Temporary Structures	15
	Section 10. Subdivision of Lots	15
	Section 11. Outbuildings	15
	Section 12. Erosion and Siltation	16

Section 13. Construction Period.....	16
Section 14. No Waiver of Future Approvals.....	16
Section 15. Variance	16
Section 16. Limitation of Liability	17
Section 17. Enforcement	17
 VI MAINTENANCE OF LOTS AND LANDSCAPING.....	 18
 VII AMENDMENT	 18
 VIII MORTGAGEE PROVISIONS	 19
Section 1. Notice of Action	19
Section 2. Audit.....	19
Section 3. Failure of Mortgagee to Respond	20
 IX MISCELLANEOUS	 20
Section 1. Failure of Enforcement.....	20
Section 2. No Waivers.....	20
Section 3. Duration	20
Section 4. Notices	20
Section 5. Severability.....	21
Section 6. Judicial Proceedings	21
Section 7. Successors to Declarant	21

DECLARATIONS OF
COVENANTS, RESTRICTIONS AND EASEMENTS
FOR SWEETWATER CREEK SUBDIVISION
CHEROKEE COUNTY, GEORGIA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made by Bobo, Bobo, Lord & Fitts Inc., a Georgia corporation (hereinafter referred to as the "Declarant")

WITNESSETH:

WHEREAS, Declarant is the Owner of the following real property:

All that tract of parcel of land lying and being in Land Lot 37, 107 & 108 of the 21st District, Cherokee County, Georgia, as shown on the final plat for Sweetwater Creek Subdivision recorded in Plat Book 74 , Page 23 , Cherokee., County records, less and except any portions thereof dedicated to Cherokee County, Georgia (hereinafter referred to as the "Property"); and

WHEREAS, Declarant intends to develop a single family residential community on the property described herein and to be known as Sweetwater Creek Subdivision; and

WHEREAS, in order to protect and enhance the value of the Lots in the community, it is desirable to create an Association to administer and enforce the covenants and restrictions imposed by this Declaration on the Lots and the Property, and to collect, hold and disburse the charges and assessments provided for in the Declaration; and

WHEREAS, it is intended that ever Owner of any of the Lots automatically, and by reason of such ownership in this Declaration, become a Member of the Association and be subject to its rules and regulations and the assessments and charges made by the Association;

NOW THEREFORE, Declarant does hereby submit the Property described in Exhibit "A" to the provisions of the Declaration.

ARTICLE I

DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article, such definitions being cumulative of those set forth elsewhere in this Declaration

"Additional Property" shall mean any and all real property which may be added to the Property and made subject to this Declaration pursuant to Article II hereof. A description of the Additional Property is set forth on Exhibit "B" attached hereto and made a part hereof

"Annual Assessment" shall have the meaning specified in the Article entitled "Assessments", and shall constitute the assessment which pursuant to the provisions of such Article, shall be levied by the Association against the-Lots each year for the purpose of raising the funds necessary to pay the "Annual Expenses" (as that term is defined in such Article)

"Articles of Incorporation" shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time

"Architectural Review Board" or "ARB", shall mean those individuals appointed to have jurisdiction over construction on or within any portion of the Property and responsibility for administration of the Design Guidelines and Standards, as more fully described in Article 5 hereof

"Association" shall mean Creek Homeowners Association, Sweetwater Inc., a Georgia nonprofit

"Board of Directors" shall mean the Board of Directors of the Association

"Builder" shall mean any person who purchases one (1) or more Lots for the purpose of constructing improvements for later sale to consumers or who purchases one (1) or more parcels of land within the Property for further subdivision, development and/or resale in the ordinary course of such Person's business. Any Person occupying or leasing a Lot for residential purposes shall cease to be considered a Builder with respect to such Lot immediately upon occupancy of the Lot for residential purposes, notwithstanding that such Person originally purchased the Lot for the purpose of constructing improvements for later sale to consumers;

"Bylaws" shall mean the Bylaws of the Association, as the same may be amended from time to time.

"County Clerk" shall mean the Clerk of the Cherokee County Superior Court.

"Declarant" shall mean Bobo, Bobo, Lord and Fitts, Inc. a Georgia Corporation and shall include any successor or assign who shall acquire any portion of the Property for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided, however, that there shall be only one "Declarant" hereunder at any one time.

"Declaration" shall mean this Declaration of Covenants, Restrictions and Easements, as the same may be hereafter amended in accordance with the terms hereof

"Design Guidelines and Standards" shall mean the design and construction guidelines and standards and the application and review procedures applicable to all or any portion of the Property promulgated and administered pursuant to Article V hereof

"Development Period" shall mean the period of time during which the Declarant owns any property that is subject to this Declaration or has the unilateral right to subject Additional Property to this Declaration pursuant to Article II. The Declarant may, but shall not be obligated to unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instalment with the County Clerk.

"First Mortgage" shall mean a deed or other document by means of which title to any Lot is conveyed or encumbered to secure a debt of first priority.

"Improved Lot" shall mean a Lot (i) upon which there is located a structure for which a certificate of occupancy has been issued by the applicable governmental authority, and (ii) which has been sold to a Person Who is not the Declarant.

"Lot" shall mean each portion of the Property which has been subdivided for use as a detached residence for a single-family as shown on the Plat.

"Member" shall be a Person subject to membership in the Association pursuant to Article 3 hereof

- *"NPDES"* shall mean the authorization to discharge under the National Pollutant Discharge Elimination System Act (NPDES) for storm water discharges, and the permit issued - by the State of Georgia Department of Natural Resources, Environmental Protection Division, required for new and existing storm water point sources within the State of Georgia in compliance with the provisions of the Georgia Water Quality Control Act (Georgia Laws 1965, p.416, as amended), hereinafter called the "Clean Water Act" and the rules and regulations promulgated to each of these acts.

"Owner" shall mean any Person who is or shall be a record owner by purchase, transfer, assignment or foreclosure of a fee or undivided fee interest in a Lot; provided, however, that any Person who holds such interest merely as security for the performance of an obligation shall not be an Owner.

"Person" shall mean a natural person, corporation, trust, partnership or any other legal entity.

"Plat", shall mean, collectively, that certain Final Plat for Sweetwater Creek Subdivision prepared by Landmarx, dated May 27, 2003 in Plat Book 74, Page 23, Cherokee County, Georgia Records, and all plats that are hereafter recorded in Plat Book records of Cherokee County, Georgia pursuant to the provisions of this Declaration.

"Property" shall have the meaning ascribed to it hereinabove.

"Unimproved Lot" shall mean a Lot which is not an Improved Lot.

ARTICLE II

LOTS

Section 1. Lots Hereby Subjected to this Declaration. The Declarant, for itself and its successors and assigns, does hereby submit the Property and the Lots to this Declaration. Every Owner, by taking record title to a Lot, agrees to all the terms and provisions of this Declaration. Each of the Lots is subject to all the burdens and enjoys all the benefits made applicable hereunder.

The Property shall hereafter be held, transferred, sold conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots, including, but not limited to, the lien provisions set forth herein. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots shall be a permanent charge thereon, and shall run with the Lots

Section 2. Additional Lots Hereafter Subjected to this Declaration . The Declarant may, at any time, and from time to time, prior to years from the date hereof, subject additional Lots to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration by:

(A) executing and recording with the County Clerk an amendment to this Declaration describing the additional Lots and stating that this Declaration is thereby extended to, and shall thereafter apply to, such additional Lots; and

(B) recording with the County Clerk a plat of Survey showing the additional Lots being thereby subjected to this Declaration

From and after the subjecting of such additional Lots to this Declaration, such additional Lots shall be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots, including, without limitation, all lien and assessment provision set forth in this Declaration; from and after the subjecting of such additional Lots to this Declaration, all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to Lots shall be a permanent charge thereon, and shall run with such additional Lots.

In addition to the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration, Declarant shall further have the right at its election, without the consent of any Owner or Owners, to subject any such additional Lots to additional controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens by filing an additional declaration with the County

Clerk covering only such additional Lots. The Association shall have the right and authority to enforce all controls, covenants, conditions, restrictions, easements, and developments contained in such additional declaration. Any such additional declaration may supplement, create exceptions to or otherwise modify the terms of this declaration as it applies to Additional Property.

No approval from any Member of the Association, or from anyone else whomsoever, shall be required for the Declarant to subject additional property to this Declaration.

Section 3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the property from the coverage of this Declaration, provided such withdrawal is not contrary to the overall, uniform scheme of development for the Property. Such amendment shall not require the consent of any person other than the Owner of the property to be withdrawn, if same is not the Declarant.

Section 4. All Lots Bear the Burdens and Enjoy the Benefits of this Declaration Every Owner, by taking record title to a Lot, agrees to all of the terms and provisions of this Declaration. Each of the Lots is subject to all the burdens, and enjoys all the benefits, made applicable hereunder.

Section 5. Easements Over the Lots. The Lots shall be subjected to, and the Declarant does hereby grant to the appropriate grantees thereof, the following easements;

(A) Each Lot shall be subject to all easements, borders, buffers, and the like which are shown and depicted on the Plat as affecting the burdening such Lot

(B) Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.

(C) Each Lot shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go upon such Lot under such circumstances and for such purposes as are described elsewhere in this Declaration.

(D) Each Lot shall have a one foot easement as measured from the common boundary between any Lots on each adjoining lot for purposes of driveways or fence encroachments which may be erected in said easement areas, unless such encroachment was due to a willful act of the Lot Owner

(E) [Lots Number ___ shall be subject a perpetual easement in favor of the Association for the maintenance, repair and landscaping of any/the detention facility which is or will be located on said Lots. The easement rights to which the aforesaid Lots shall be so subject

shall include the right of contractors engaged by the Association to enter upon said Lots from time to time as necessary in order to perform such repair and maintenance work, including, without limitation, regular landscaping and maintenance of all land within the easement area and the dredging and removal of silt from said facility. The Association shall be responsible for the maintenance and management of the detention facility as shown on the Subdivision Plat (and not the individual lot owners) unless the county assumes such responsibility.]

(F) [Lots Number ___ and ___ shall be subject to a perpetual easement in favor of the Association for maintenance, repair and landscaping of the entrance monuments which are or will be located on said Lots and the repair and replacement of any water pipes and electrical lines which are a part thereof. The Owners of these Lots shall not remove, camouflage, damage or otherwise alter in any way said entrance sign(s) and landscaping. These same Lots shall also be subject to a temporary easement for real estate sales signs which shall be exercisable by any and all persons who the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of residences upon the Lots, irrespective of whether such person are affiliated with the Declarant. Such temporary easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate upon the expiration or termination of the Development Period.]

ARTICLE

THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the County Clerk, Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws

The Association is and shall be responsible for the maintenance of [any/the] detention facility, pavilion, perimeter landscaping and fencing and the private roads, if any, as well as the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as are required of the Association hereunder or as the Board of Directors shall deem to be in the best interest of the members of the Association.

Section 2. Membership. Every Owner is and shall be a Member of the Association. In no event shall such Membership be severed from the Ownership of such Lot

Section 3. Classes of Membership, Voting Rights. The Association shall have two classes of voting Membership: Class A and Class B.

(A) Class A. The Class A Members shall be all those Persons holding an interest required for Membership in the Association, as specified in this Article, except for those Persons who are Class B Members. Until such time as the Class A Members shall be entitled to full voting privileges, as hereinafter specified, the Class A Membership shall be a non-voting Membership except as to such matters and in such events as are hereinafter specified.

The Class A Members shall be entitled to full voting privileges on the earlier of the following dates to occur: (i) the date which the Declarant/nay so designate by notice in a writing delivered to the Association, (ii) the date on which 95% of the Lots are Improved Lots, or (iii) 5 years from the date hereof. Until the earliest of these dates occurs, the Class A Members shall be entitled to vote only on matters for which it is herein specifically provided, or for which it is provided by law, that approval of each and every class of Membership of the Association is required. When entitled to vote, Class A Members shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for Membership.

(B) Class B. Declarant shall be the only Class B Member. Class B Membership shall be a full voting Membership and, during its existence, the Class B Member shall be entitled to vote on all matters and in all events. At such time as the Class A Members shall be entitled to full voting privileges, as provide in paragraph (a) hereof, the Class B Membership shall automatically terminate and cease to exist, and the Class B Member shall be and become a Class A Member insofar as it may then hold any interest required for Membership.

From and after the date at which the Class B Membership automatically terminates and ceases to exist, such Membership shall not be renewed or reinstated.

Section 4. Suspension of Membership Rights. The Membership rights of any Member of the Association, including the right to vote, may be suspended by the Board of Directors pursuant to the authority granted in the Bylaws. Any such suspension shall not effect such Member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the Member's Lot in favor of the Association.

Section 5. Meetings of the Membership. All matters concerning the meetings of Members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to Members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in this Declaration, or in the Articles of Incorporation or the Bylaws, or by law.

Section 6. Association Acts Through Its Board of Directors. Whenever approval of or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Board of Directors of the Association, unless it is specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the Members of the Association must vote. No Member of the Board of Directors of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B Member) shall be personally liable to any Owner of any Lot for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 7. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of

the Association, or any part thereof; as the Board of Directors deems to be in the best interests of the Association.

ARTICLE IV

ASSESSMENTS

Section 1. Creation of Lien and Personal Obligation. Each Owner, by acceptance of a deed or other conveyance for a Lot, covenants and agrees to pay to the Association all assessments and charges which are levied by the Association against the Lots(s) owned by such person in accordance with the terms and provisions of this Declaration.

All sums lawfully assessed by the Association against any Lot and the Owner thereof; together with interest thereon and the costs of collection thereof; shall, from the time the sums become due and payable, be the personal obligation of the Owner of such Lot and constitute a continuing lien in favor of the Association on such Lot prior and superior to all other liens whatsoever except: (1) liens for ad valorem taxes on the Lot; (2) the lien of any first priority mortgage covering the Lot and the lien of any mortgage recorded prior to the recording of this Declaration; and (3) the lien of any secondary purchase money mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the mortgage is the seller of the Lot. The covenant to pay assessments herein stated is and shall be a covenant running with land.

Section 2. Purposes of Assessments. The assessments levied by the Association pursuant to this Article shall be used to pay the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant to the Act, this Declaration, the Articles of Incorporation and the Bylaws (such costs and expenses being herein referred to as the "Annual Expenses"). Without limiting the generality of the foregoing, the Annual Expenses shall include the costs of: payment of all costs and expenses incurred by the Association in connection with the maintenance of [any/the detention facility, pavilion, perimeter landscaping and fencing and the private roads, if any,] and the Association's other operations; payment of the premiums for all fidelity bonds which shall be obtained by the Association; the payment of the fees of such management firms as the Board of Directors shall employ; payment of fees for the provision of such professional services as the Board of Directors shall determine to be required by the Association, including but not limited to legal, accounting and architectural services; and such other purposes as the Board of Directors shall deem necessary or desirable to promote the health, safety and welfare of the Association and its Members.

Section 3. Determination of Annual Assessment and Shares Thereof. Prior to the commencement of each fiscal year of the Association or at any time it deems best (said fiscal year being specified in the Bylaws), the Board of Directors shall estimate the total amount of the Annual Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Board of Directors shall thereupon adopt a budget for the Association's expenditures and reserves based upon such estimate and providing for the total

annual assessment to be levied against the Members of the Association for such fiscal year (the total assessment which shall be so determined and levied for any fiscal year is herein referred to as the "Annual Assessment"). The assessments provided for herein shall commence as to a Lot on the date that a Lot becomes an Improved Lot, with all Improved Lots being assessed equally. The Board of Directors shall send a copy of the budget so adopted by it, together with a written notice of the amount of the Annual assessment so determined for such fiscal year and the amount of such Annual Assessment which shall be levied against each Lot, to the Owner of every Lot prior to the commencement of the fiscal year during which such Annual Assessment is to be paid. The amount of such Annual Assessment which shall be levied against each Lot shall be due and payable to the Association in such installments as the Board of Directors shall determine and shall be paid to the Association when due without further notice, First year assessment shall be \$40.00 being prorated in quarter year increments based on closing date, then payable each January thereafter.

Special Assessments. It to^ar any reason, including non-payment of any assessments to the Association by the persons liable therefore, the budget adopted by the Board of Directors for any fiscal year shall prove to be inadequate to defray the Annual Expenses for such fiscal year, or if the Board of Directors shall determine that it is in the best interest of the Association to levy a special assessment to pay the costs of any capital improvements or capital repairs, the Board of Directors shall have the authority to levy a special assessment against the Lots and the Owners thereof to raise such needed funds. Any special assessment levied by the Board of Directors pursuant to the provisions of this section shall be payable at such times and in such installments as to the Board of Directors shall determine. Each Lot shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provisions for this section. -

Section 5. Specific Assessments. The Board of Directors may levy specific assessments against individual Owners (i) for the purpose of paying for the costs of any construction, reconstruction, repair or replacement of any damaged component of the detention facility, pavilion, perimeter landscaping and fencing and the private roads, or of any monument, or other thing maintained by the Association, which is occasioned by the acts of individual Owners(s) and not the result of ordinary wear and tear or (ii) for the payment of fines, penalties or other charges imposed against an individual Owner relative to such Owner's failure to comply with the terms and provisions of this Declaration, the Bylaws, or any rules or regulations promulgated hereunder; provided that Declarant shall not be obligated to pay any specific individual assessment. Failure of the Board to exercise its authority under this section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this section in the future with respect to any expenses

44 The Board may also specifically assess Owners for the following Association expenses: (a) expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received; and (b) expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

Upon the establishment of a specific assessment under this section, the Board shall send written notice of the amount and due date of such specific assessment to the affected Owner(s) at least thirty (30) days prior to the date such specific assessment is due.

Section 6. Special Assessment for Working Capital Reserve. Upon the first transfer of title to an Improved Lot, there shall be levied against such Improved Lot and paid to the Association a special assessment against such Improved Lot as set from time to time by the Declarant or Board of Directors of the Association. Such amount shall not exceed the amount of the Annual Assessment which shall have been levied against Improved Lots for the calendar year in which such transfer of title shall take place. The Association shall use all special assessment payments which shall be so received by it pursuant to this section to establish a working capital reserve fund for use in connection with its regular operations.

Section 7. Effect of Non-Payment of Assessments; Remedies of the Association

(A) In the event that any Member of the Association shall fail to pay, within ten (10) days after the date the same is due and payable, any annual or special assessment, or any installment of any annual or special assessment which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared by the Board of Directors to be immediately due and payable in full to the Association. All such amounts so declared by the Board of Directors to be due and payable in full to the Association shall be secured by the lien of the Association on every Lot owned by the delinquent Member, which lien shall bind such Lot or Lots in the hands of the then Owner, and his heirs, devisees, successors, and assigns. In addition to the lien rights, the personal obligation of the then Owner to pay such assessments shall remain his personal obligation and shall also pass to his successors in title. Such Owner shall nevertheless remain as fully obligated as before to pay to the Association any and all amounts which said Owner was obligated to pay immediately preceding the transfer; and such Owner and such successors in title shall be jointly and severally liable with respect thereto, notwithstanding any agreement between such Owner and successors in title creating any indemnification of the Owner or any relationship of principal and surety as between themselves.

(B) All amounts which the Board of Directors shall declare to be due and payable pursuant to this section shall bear interest from the date of delinquency at the lower of the rate of ten (10%) percent per annum or the highest rate permitted by law, and the Association may bring legal action against the Member of the Association personally obligated to pay the same, or foreclose its lien on the Lot or Lots of such Member, in either of which events such Member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

Section 8. Budget Deficits during Declarant Control Period. Declarant may advance funds to the Association sufficient to satisfy the deficit, if any, in any fiscal year between the actual operating expenses of the Association (exclusive of any allocation for capital reserves) and the annual and special assessments for such fiscal year. Such advances shall be evidenced by promissory notes from the Association in favor of the Declarant and shall be paid back to Declarant if and to the extent that sufficient funds are generated by assessments in future.

years until such time as Declarant no longer has the authority to appoint the directors and officers of the Association.

Section 9. Failure to Assess. The failure of the Board to fix the assessment amounts or to deliver to each Owner the assessment notice shall not be deemed a waiver, modification or release of any Owner of the obligation to pay assessments. In such event, each Owner shall continue to pay assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

Section 10. Builder's Purchase. Notwithstanding any other provisions of this Declaration, unless required as a matter of law, no Builder who has purchased Lots from the Declarant for the purpose of erecting a dwelling thereon shall be, at any time, subject to the assessments described in this Article, provided, however, such assessments shall be prorated for the year as of the date that the Lot becomes an Improved Lot. However, a Builder who has purchased a Lot or Lots and has violated erosion control provisions and is subject to a lien to the Declarant or the Association by virtue of damages and fines caused by such failure to comply with Article V, Section 12, shall not be exempt from the liens or assessments created under such provision.

ARTICLE V

ARCHITECTURAL CONTROL AND RESTRICTIONS

Section 1. Architectural Control and Restrictions. All Lots shall be subject to such architectural control and restrictions as are contained in this Article.

All dwellings constructed on any portion of the Property shall be designed by and built in accordance with the plans and specifications of a licensed architect or other qualified building designer.

This Article shall not apply to the activities of the Declarant.

Section 2. Architectural Review. Responsibility for administration of the Design Guidelines and Standards and review of all applications for construction and modifications under this Article shall be handled by the Architectural Review Board ("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 the reasonable costs incurred by the ARB in having any application reviewed by architects, engineers or other professionals.

The ARB shall have exclusive jurisdiction over all construction on any portion of the Property. Until one hundred percent (100%) of the Lots are Improved Lots and initial

construction on each Lot has been completed in accordance with the Design Guidelines and Standards, the Declarant 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 that time, except in a written instrument in recordable form executed by Declarant. Upon the expiration of surrender of such right, the Board shall appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion. The ARB may hire specialists to assist it in decision making as provided in this Section, however no specialist hired shall be a Member of the Association.

Section 3. Guidelines and Procedures

(A) Design Guidelines. The Declarant shall prepare the initial Design Guidelines and Standards for the Property. The Design Guidelines and Standards may contain general provisions applicable to all of the Property, as well as specific provisions which may vary according to land use and from one portion of the Property to another depending on the location, unique characteristics, and intended use. The Design Guidelines and Standards are intended to provide guidance to Owners and Builders regarding matters of particular concern to the reviewing bodies in considering applications hereunder. The Design Guidelines and Standards are not the exclusive basis for decisions of the reviewing bodies and compliance with Design Guidelines and Standards does not guarantee approval of any application.

The ARB shall adopt the Design Guidelines and Standards at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines and Standards shall be prospective only and shall not require modifications to or removal of structures 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 Standards. The ARB is expressly authorized to amend the Design Guidelines and Standards to remove requirements previously imposed or otherwise to make the Design Guidelines and Standards less restrictive. The ARB shall make the Design Guidelines and Standards available to Owners and Builders who seek to engage in development or construction within the Property.

(B) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARB for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines and Standards. In reviewing each submission, the ARB may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations. Decisions may be based solely on aesthetic consideration. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

The approval or disapproval of an application shall be governed by the Design Guidelines and Standards. No approval, whether expressly granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines and Standards unless a variance has been

granted in writing by the ARB. Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

Section 4. Specific Guidelines and Restrictions

(A) Exterior Structures and Improvements. No exterior structures or improvements shall be placed, erected, installed or made upon any Lot except in compliance with this Article. As used in this section, the term "Exterior Structures and Improvements" shall include the following: staking, clearing, excavation, grading and other site work; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; modifications to the interior of screened porches, patios and similar portions of a Lot which are visible from outside the structures on the Lot; installation, placement or replacement of mailboxes, basketball hoops, swing sets and similar sports and play equipment, garbage cans, wood piles, swimming pools, gazebos or playhouses, hot tubs, wells, solar panels, antennas, satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; hedges walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; and plating or removal of landscaping materials.

(B) In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the ARB shall have the right, in its sole discretion, to prohibit or restrict these items within the Property. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the ARB. The ARB may, but is not required to, adopt specific guidelines as part of the Design Guidelines and Standards or rules and regulations which address the following items

(i) Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB, except (1) such signs as may be required by legal proceedings; (2) not more than one (1) professional security sign of such size deemed reasonable by the ARB in its sole discretion; and (3) not more than one (1) "for sale" sign. The Declarant and the ARB reserve the right to prohibit signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the marketing and development of the Property.

(ii) Landscaping. Within thirty (30) days after issuance of a certificate of occupancy of a completed home, all of the yard of such Lot visible from the street must be landscaped in accordance with the approved plans, unless a delay is approved in writing by the ARB. No Person shall alter the topography or landscaping so as to change the drainage or water flow therefrom.

(iii) Trees. No healthy living trees having a diameter of four (4) inches or more measured from a point two (2) feet above the ground, and no flowering tree, shrub,

evergreen, or natural ground cover, shall be removed after the Lot is an Improved Lot, unless such removal is approved by the ARB.

(iv) Lighting. Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Lot; (2) one (1) approved decorative post light; (3) pathway lighting; (4) street lights in conformity with an established street lighting program for the Property; (5) seasonal decorative lights; or (6) front house illumination of model homes.

(v) Utility Lines. Overhead utility lines, including lines for cable television, are not permitted, except for temporary lines as required during construction and lines installed by or at the request of the Declarant.

(vi) Mailboxes. A mailbox conforming to requirements approved by the ARB shall be installed on each Lot. No changes or additions shall be made to the original mailbox or its design, materials or location without obtaining prior written approval from the ARB.

(vii) Antennas; Aerials; Satellite Dishes. The Owner of each Lot shall have the right to install, maintain and use on such Lot one antenna, aerial, or satellite dish to receive video programming that is (i) not larger than one meter in diameter, (ii) blends With the color of the roof or wall where it is installed, and (iii) is installed on the Lot's rooftop terrace. No other exterior antennas, aerials, satellite dishes or other reception device shall be constructed, installed, placed or affixed unless approved in accordance with the architectural control provisions contained in the previous Article. Installation of an antenna deviating from the above provision shall be approved pursuant to the Architectural Control provisions if reasonably necessary to permit the reception of an acceptable quality signal. HAM radios, two way radios, and other hobby or professional radio communication transmission equipment are prohibited.

Declarant of the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus of any size for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property.

(viii) Clotheslines. No clothesline shall be erected on any portion of any Lot.

(ix) Window Air-Conditioners. No air-conditioner shall be installed in any window of any building located on any Lot, nor shall any air-conditioner be installed on any building located on any Lot so that the same protrudes through any exterior wall of such building.

(x) Vehicles; Trailers; Boats; Automobiles. No boat, trailer, mobile home, camper, bus, truck, utility trailer or commercial-type vehicle (including but not limited to any type of vehicle with advertising or lettering) shall be permitted to be parked on any street or Lot unless the same is entirely confined within a garage located on such Lot and the door of such garage is kept in a closed position. No automobile may be parked upon any Lot unless the same

is parked on a pavement area located on such Lot for such purpose, and the same is in operating condition and has affixed thereto a then current license tag and, if applicable, operating sticker. Garage doors shall be kept in the closed position except when in normal use for passage of vehicular or pedestrian access.

Section 5. Prohibited Activities. No noxious or offensive activity shall be conducted on any Lot. Each Owner of any Lot, his family, tenants, guests and invitees, shall refrain from any act or use of his property which could reasonably cause embarrassment, discomfort, annoyance or nuisance to any other resident or residents of any other Lot. Storage or placement of furniture, fixtures, appliances, machinery, bicycles, towels, equipment or other goods or chattels not in active use on any Lot which is visible from outside the Lot (including rooftop terraces) is prohibited except as specifically permitted in this Declaration.

Section 6. Nuisances. No nuisance shall be permitted to exist upon any Lot. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on any Lot, or any portion thereof

Section 7. Trash. No portion of any Lot shall be used as a dumping ground for rubbish, trash, or garbage, nor shall any trash or garbage be permitted to accumulate upon any Lot, provided that composting of waste is specifically permitted hereunder. Garbage containers and compost piles shall be buried or screened on each Lot so that the same shall not be visible from the street or from any part of any other Lot.

Section 8. Animals. No Lot shall be used for the keeping or breeding of livestock animals or poultry of any kind, except that a reasonable number of household pets may be kept, provided that they are neither kept for breeding nor maintained for any commercial purpose, and provided that none of such pets are permitted to be a source of annoyance to any other resident or residents of any other Lot.

Section 9. Temporary Structures. Subject to the right of the Declarant to promote the sale of Lots, no structure of a temporary character, including, without limitation, any trailer, tent, shack, garage or other building, shall be permitted on any Lot at any time, whether temporarily or permanently, except with the prior written consent of the Declarant (or Board of Directors after the Board takes over architectural control); provided, however, that temporary structures may be erected or placed upon a Lot for use in connection with the repair or construction of structures upon such Lot.

Section 10. Subdivision of Lots. No Lot may be further subdivided into any smaller Lot.

Section 11. Outbuildings. Any outbuilding or storage building must be approved before construction. Such buildings are to be built of similar material as the house on the Lot and painted the same color. Approved storage buildings or outbuildings are to be sited at rear of the house, may not be sited beyond rear building set back line and may not be over one story in

height. If any area under a deck attached to a home is used for storage (such as for garden equipments, etc.) such area and storage must be screened from view of other Lots and any street.

Section 12. Erosion and Siltation. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ARB of plans and specifications for the prevention and control of such erosion and siltation. Any Builder constructing residences on any Lot shall comply with all national and state requirements for erosion control including those under the "NPDES" as defined herein. Any Builder who accepts a deed to any Lot, by such acceptance, specifically agrees to indemnify and hold harmless Declarant and the Association from any and all costs, damages, fines, expense, and costs of defense, including reasonable attorneys fees actually incurred by Declarant or the Association, caused directly or indirectly, in whole or in part, by failure of proper erosion control measures, permits, samplings and measurements being taken in reference to such Lot or Lots or any breach or failure to comply with the NPDES. The Declarant, during the time Declarant retains the right to appoint and remove members of the ARB, shall have a lien against any property owned by such Builder to the extent of any liability under this indemnification. Such lien shall be enforceable as a charge against the Lot or Lots owned by such Builder, and maybe collected, in addition to any other remedy at law, as a special assessment pursuant to this Declaration.

Section 13. Construction Period. After commencement of construction, each Owner shall diligently continue construction so as to complete such construction in a timely manner. The initial construction of all structures must be completed within one (1) year after commencement of construction, unless extended by the ARB in its sole discretion. All other construction shall be completed within the time limits established by the ARB at the time the project is approved. For the purposes of this Section, the term "commencement of construction" shall mean that (a) all plans for such construction have been approved by the ARB; (b) a building permit has been issued for the Lot by the appropriate jurisdiction; and (c) construction of a structure has physically commenced beyond site preparation. Completion of a structure shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the Lot.

Section 14. No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

Section 15. Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 16. Limitation of Liability. The Design Guidelines and Standards, as well as the requirements and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property only. Review and approval of any application pursuant to this Article is made on the basis of aesthetics considerations only and neither the Declarant, the Association, nor the ARB shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARB, nor any member of any of the foregoing, 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. In all matters, the ARB and its members shall be defended and indemnified by the Association as provided in this Declaration.

Section 17. Enforcement. The Declarant, any member of the ARB, the Board, or the representatives of each, shall have the right, during reasonable hours and after reasonable notice, to enter upon any Lot to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request by the ARB, the Owner shall, at its own cost and expense, remove such structure or improvement and restore the Lot to substantially the same condition as existed prior to the nonconforming work. Should any Owner fail to remove and restore the property as required, any authorized agent of Declarant, the ARB, or the Board shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant and the ARB by any means of enforcement described in this Declaration. All costs, together with the interest at the maximum rate then allowed by law may be assessed against the benefited Lot and collected as a specific assessment pursuant to this Declaration.

Unless otherwise specified in writing by the ARB, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a specific assessment pursuant to this Declaration

Neither the ARB, the Association, the Declarant, nor any of their members, officers, or directors, shall be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provision of this Article or the Design Guidelines and Standards may be excluded by the ARB from the Property, subject to the notice and hearing procedures contained in the By-Laws

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 ARB.

ARTICLE VI

MAINTENANCE OF LOTS AND LANDSCAPING

The Owner of each Lot shall be obligated to keep and maintain all portions of his Lot, other than those that are the responsibility of the Association, in a neat, sanitary and attractive condition which is satisfactory to the Board of Directors. In the event that the Owner of any Lot shall fail to maintain all portions of such Lot in a condition which is satisfactory to the Board of Directors, the Board of Directors shall have the right, exercisable by it or through its agents or employees, and after giving to the Owner of such Lot at least fourteen (14) days' notice and an opportunity to correct the unsatisfactory condition, to enter upon such Lot and correct the unsatisfactory condition, including, without limitation, cutting the grass, weeds, and other vegetation, and removing dead trees, shrubs and other plants . The Owner of the Lot upon which such maintenance work is performed by the Association (or its agents or employees) shall be personally liable to the Association for all direct and indirect costs as may be incurred by the Association in connection with the performance of such maintenance work, and the liability for such costs shall be secured by all the liens, and shall be subject to the same means of collection, as are the other assessments and charges provided for in this Declaration. In addition, all such costs shall be paid to the Association by such Owner at the same time as the next due Annual Assessment payment, or at such other time, and in such installments, as the Board of Directors shall determine.

ARTICLE VII

AMENDMENT

Except as set forth below, the terms, provisions, covenants and restrictions of this Declaration may be amended only upon approval of 2/3 of the Lot Owners (other than Declarant) and the approval of the Declarant, if during the Development Period. The approval of any such amendment by the Members of the Association shall be given by each such Member either casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such Member signing a written approval of such amendment after the date on which such meeting was held. Notwithstanding the foregoing, the Board of Directors, with the written consent of the Declarant, and without the vote of the Members, may amend this Declaration for the sole purpose of electing to be governed by the provisions of the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq.

This Declaration may also be amended unilaterally by Declarant if: (a) such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rules or regulation or judicial determination which shall be in conflict therewith, (b) such amendment is necessary to enable any reputable title insurance company to

issue title insurance coverage with respect to the Lots, (c) such amendment is required by an institutional or 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, (d) such amendment is necessary to enable any governmental agency or private insurance company, including but not limited to the U.S. Department of Housing and Urban Development and the U.S. Department of Veterans Affairs, to insure or guarantee mortgage loans on the lots, provided, however, that any such amendment shall not adversely affect the title to any Owner's Lot unless such Lot Owner shall consent thereto in writing, or (e) such amendment does not materially adversely affect the substantive rights of any Owners hereunder nor adversely affect title to any Lot without the consent of the affected Owner.

Any such amendment shall become effective upon the recording with the County Clerk of the instrument evidencing such change unless a later effective date is specified therein. The matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate. Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in the Superior Court in the county where the Property is located within one year of the date of recordation of such amendment with the County Clerk.

Every Owner, by taking record title to a Lot, and each holder of a mortgage upon any portion of any Lot, by acceptance of such mortgage, hereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided herein.

ARTICLE VIE

MORTGAGEE PROVISIONS

Section 1. Notice of Action. An institutional holder, insurer, or guarantor of, a first Mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the Lot Number, therefore becoming an "eligible holder"), will be entitled to timely written notice of: (a) any condemnation loss of any casualty loss which affects a material portion of Fox Hills Subdivision or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder; (b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of the encumbered Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days; any lapse, cancellation, or material modification of any insurance policy maintained by the Association

Section 2. Audit. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a

copy of audited financial statements of the Association within ninety (90) days of the date of the request.

Section 3. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE IX

MISCELLANEOUS

Section 1. Failure of Enforcement. In the event that the Association shall fail to enforce the compliance with any provisions of this Declaration by the Owner of any Lot, then the Owner of any other Lot shall have the right to file an action in the Superior Court of the county where the Property is located for an order from such Court requiring that the Association enforce such compliance; provided, however, in no event shall the Board of Directors, or any officer of the Association, or any of the agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. No Waivers. In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provision or agreements et forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

Section 3. Duration. This Declaration, and all of the terms, easements, provisions, liens, charges, restrictions and covenants set forth herein, shall run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from and after the date this Declaration is recorded, after which time such covenants and restrictions shall be automatically extended for successive periods of twenty (20) years until the recordation of an instrument of termination within two (2) years of the expiration of the initial twenty-year (20) period or any extension thereof, such instrument having been executed by a minimum of fifty-one percent (51%) of the record Owners of the Lots

Section 4. Notices. Any notice required or permitted to be sent to any Member of the Association or any Owner of a Lot pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the Member or Owner to whom it is intended, at the address which such Member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the Association, at the address of the Lot

owned by such Member or Owner. The date of service shall be the date of mailing. Any notice required or permitted to be sent to the Declarant or the Association shall be served by sending such notice by registered or certified mail, return receipt requested, to the address of its respective registered agent on file with Secretary of the State of Georgia. The date of service shall be the date shown on the return receipt. Rejection or other refusal to accept shall be deemed to be receipt of the notice sent.

Section 5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 6. Judicial Proceedings. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any Person or Persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots, to enforce any liens created by this Declaration. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Lot Owners. This section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including the foreclosure of liens); (b) the collections of assessments; (c) proceeding involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 7. Successors to Declarant. In no event shall any person or other entity succeeding to the interest of the Declarant by operation of law or through purchase of the Declarant's interest in all or any portion of the Property at foreclosures, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant.

[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed by its duly authorized officers on the day and year set forth below.

Signed, sealed and delivered this
18 day of November, 20(2,3)
in the presence of:

Elizabeth A. Longshore
Unofficial Witness

Billie R. Cantor
Notary Public
My Commission Expires
[AFFIX NOTARIAL SEAL]

Ole R. Comex
Notary Public
Cherokee County, Georgia
My Commission Expires January 14, 2007

[DECLARANT']

By: Alan Bobo
Bobo, Bobo, Lord & Fitts Inc.
Title: President

RETURN TO:

Dyer & Rusbridge, P.C.
291 E. Main Street
Canton, GA 30114

Cross-reference:
Deed Book 6722, Page 377

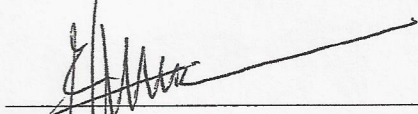
STATE OF GEORGIA
COUNTY OF CHEROKEE

TRANSFER AND ASSIGNMENT OF DECLARANT'S RIGHTS

For value received, **BOBO, BOBO, LORD AND FITTS, INC.** ("Declarant" under the Declarations of Covenants, Restrictions and Easements for Sweetwater Creek Subdivision, Cherokee County, Georgia), hereby sells, assigns, transfers, sets over and conveys unto **SWEETWATER CREEK HOMEOWNERS ASSOCIATION, INC.**, and its successors or assigns, all its rights, title and interest in that certain Declarations of Covenants, Restrictions and Easements for Sweetwater Creek Subdivision, Cherokee County, Georgia, dated November 18, 2003, and recorded in Deed Book 6722, Page 377, Cherokee County, Georgia records, including all its rights as Declarant. By transferring the aforementioned Declarant's rights, **BOBO, BOBO, LORD AND FITTS, INC.** hereby appoints **SWEETWATER CREEK HOMEOWNERS ASSOCIATION, INC.** as successor Declarant under the Declarations of Covenants, Restrictions and Easements for Sweetwater Creek Subdivision, Cherokee County, Georgia.

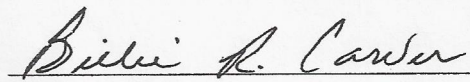
WITNESS our hand and seal this 22nd day of November, 2013.

Signed, sealed in the presence of:

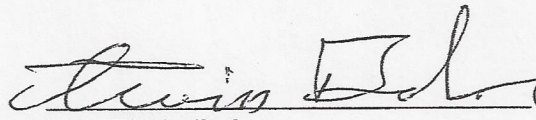


Witness

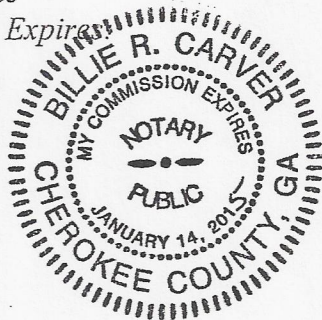
BOBO, BOBO, LORD AND FITTS, INC.



Notary Public
Commission Expires

 (SEAL)

By: Elwin Bobo
Its: Authorized Agent



utilized as a group home, halfway house, or other use involving the care, supervision, or rehabilitation of persons not related to the owners of the Lot other than their foster children.”

IN WITNESS WHEREOF, the Declarant, together with the undersigned Property Owners of lots subject to the Declaration have executed this Amendment to the Declaration the date and year first written above.

Declarant:

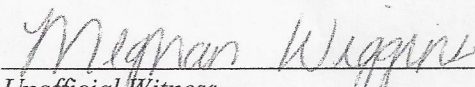
**SWEETWATER CREEK HOMEOWNERS
ASSOCIATION, INC.**



By: ED WAGGAMAN, CEO

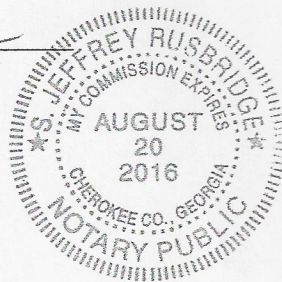

Attest: SHARON DUDEK, SEC

Signed, sealed and delivered in
the presence of:

[Corporate Seal]


Unofficial Witness


Notary Public
My Commission Expires:



Upon recording return to:
Dyer & Rusbridge, P.C.
291 East Main Street
Canton, Georgia 30114

Cross Reference:
Deed Book 6722, Page 377
Deed Book 12677, Page 149

**AMENDMENT TO DECLARATIONS OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
SWEETWATER CREEK SUBDIVISION**

THIS AMENDMENT is made and entered into this 14th day of March, 2014, by **SWEETWATER CREEK HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation** (hereinafter called "Declarant").

WITNESSETH:

WHEREAS, Declarant has heretofore filed for record that certain Declaration of Covenants, Conditions, Restrictions and Easements for Sweetwater Creek Subdivision (hereinafter referred to as the "Declaration"), dated November 18, 2003, recorded February 11, 2004, at Deed Book 6722, Page 377, Cherokee County, Georgia Records;

WHEREAS, pursuant to the provisions of Article VII of the Declaration, the Declaration may be amended by the Board of Directors of Sweetwater Creek Homeowners Association, Inc., with the written consent of the Declarant, and without the vote of the Members, for the purpose of electing to be governed by the provisions of the Georgia Property Owners' Association Act; and

WHEREAS, Sweetwater Creek Homeowners Association, Inc. is the Declarant pursuant to the Transfer and Assignment of Declarant's Rights dated November 22, 2013, recorded November 25, 2013, at Deed Book 12677, Page 149, Cherokee County, Georgia Records;

NOW, THEREFORE, Declarant does hereby amend the Declaration to add the following Article X to the Declaration:

"ARTICLE X

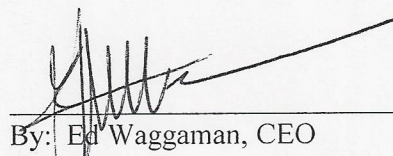
**ELECTION TO BE GOVERNED BY THE
GEORGIA PROPERTY OWNERS' ASSOCIATION ACT**

The Board of Directors hereby elects, pursuant to Article VII hereof, to be governed by the provisions of the Georgia Property Owners' Association Act, O.C.G.A. § 44-3-220, et seq. ("the Act"). If any provision of this Declaration conflicts with any provision(s) of the Act, the provision(s) of the Act shall control, and the remaining provisions of this Declaration shall remain in full force and effect."

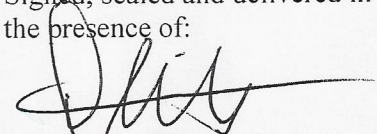
IN WITNESS WHEREOF, the Board of Directors of Declarant has executed this Amendment to the Declaration the date and year first written above.

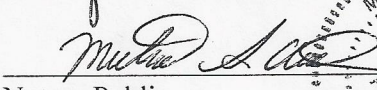
Declarant:

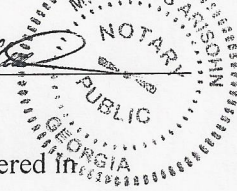
**SWEETWATER CREEK HOMEOWNERS
ASSOCIATION, INC.**


By: Ed Waggaman, CEO

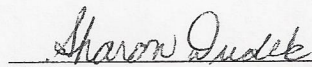
Signed, sealed and delivered in
the presence of:

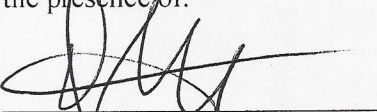

Unofficial Witness

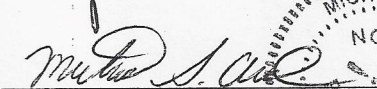

Notary Public

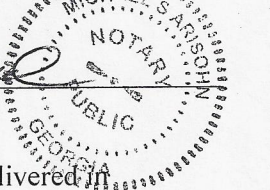


Signed, sealed and delivered in
the presence of:



By: Sharon Dudek, COO

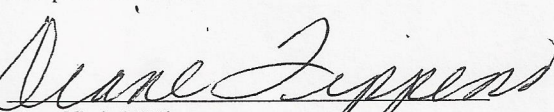

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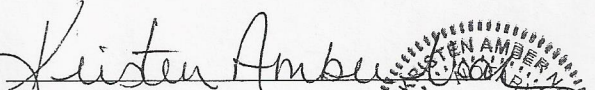

Notary Public




Signed, sealed and delivered in
the presence of:

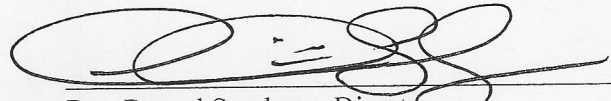

By: Kathy James, CFO


Unofficial Witness


Notary Public



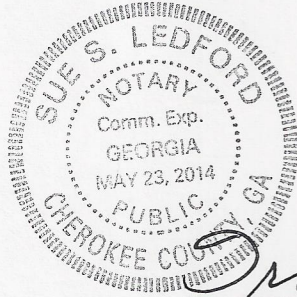
Signed, sealed and delivered in the presence of:


By: Drexel Stephens, Director

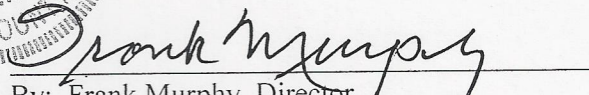
Gisa Garrison
Unofficial Witness

SEAL

Sue S. Ledford
Notary Public



Signed, sealed and delivered in the presence of:


By: Frank Murphy, Director

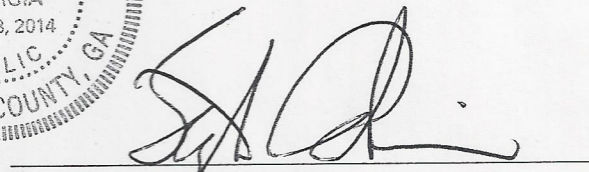
Gisa Garrison
Unofficial Witness

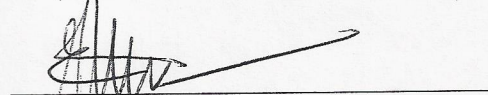
SEAL

Sue S. Ledford
Notary Public



Signed, sealed and delivered in the presence of:


By: Steve Achin, Director


Unofficial Witness

Kristin Lancaster
Notary Public

Kristin Lancaster
Notary Public – Cherokee County
State of Georgia
My Commission Expires on April 5, 2016

SEAL

Deed Book 12797 Pg 386
Filed and Recorded 3/28/2014 2:28:18 PM
28-2014-007780

Upon recording return to:
Dyer & Rusbridge, P.C.
291 East Main Street
Canton, Georgia 30114

Patty Baker
Clerk of Superior Court Cherokee Cty, GA

Cross Reference:
Deed Book 6722, Page 377

AMENDMENT TO DECLARATIONS OF COVENANTS,
RESTRICTIONS AND EASEMENTS FOR
SWEETWATER CREEK SUBDIVISION

THIS AMENDMENT is made and entered into this 21st day of March, 2014, by SWEETWATER CREEK HOMEOWNERS ASSOCIATION, INC., a Georgia non-profit corporation (hereinafter called "Declarant").

WITNESSETH:

WHEREAS, Declarant has heretofore filed for record that certain Declaration of Covenants, Conditions, Restrictions and Easements for Sweetwater Creek Subdivision (hereinafter referred to as the "Declaration"), dated November 18, 2003, recorded February 11, 2004, at Deed Book 6722, Page 377, Cherokee County, Georgia Records;

WHEREAS, pursuant to the provisions of Article VII of the Declaration, the Declaration may be amended by a vote of two-thirds (2/3) of the Lot Owners other than Declarant; and

WHEREAS, the undersigned Property Owners represent at least two-thirds (2/3) of the Lot Owners;

NOW, THEREFORE, Declarant together with the undersigned Lot Owners, do hereby agree that the Declaration is hereby amended to add the following to Article V of the Declaration:

"Section 5a. Exclusive Residential Non-Business Use. Lots may be used only for single family residential purposes and for ancillary business or home office uses. A business or home office use shall be considered ancillary, so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the activity conforms to all applicable zoning requirements; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, employees, contractors, or other invitees, or parking of more than one (1) business vehicle on the Lot; and (d) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined by the sole discretion of the Board.

No other business, trade, or similar activity shall be conducted upon a Lot. 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 work, occupation, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to, or does generate a profit, or (c) a license is required. No residence upon a Lot shall be