

STATE OF GEORGIA
COUNTY OF PIKE
DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR
ASHLEY GLEN SUBDIVISION

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The below information is provided as a service. Any discrepancy between these documents and the ones on file with Pike County are void. The official recorded documents are the ruling documents. The original official documents were signed on July 14, 2005 and recorded on July 15, 2005 in Deed Book 591 page 242-279.

The following outline will assist you in finding a specific section. An outline is provided below to speed your review or search. Click on the section you want to review or review the whole document below.

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[DECLARATION](#)

<p><u>ARTICLE I, DEFINITIONS</u></p> <p><u>ARTICLE II, PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO</u></p> <p><u>ARTICLE III, MEMBERSHIP AND VOTING RIGHTS</u></p> <p><u>ARTICLE IV, PROPERTY RIGHTS</u></p> <p><u>ARTICLE V, COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS</u></p> <p><u>ARTICLE VI, CONSTRUCTION</u></p> <p><u>ARTICLE VII, ARCHITECTURAL CONTROL</u></p> <p><u>ARTICLE VIII, MAINTENANCE</u></p> <p><u>ARTICLE IX, EASEMENTS</u></p> <p><u>ARTICLE X, GENERAL USE RESTRICTIONS APPLICABLE TO THE SUBDIVISION</u></p> <p><u>ARTICLE XI, INSURANCE</u></p> <p><u>ARTICLE XII, CONDEMNATION</u></p> <p><u>ARTICLE XIII, MORTGAGE PROVISIONS</u></p> <p><u>ARTICLE XIV, GENERAL PROVISIONS</u></p> <p><u>FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION</u> Dated August 19, 2005</p> <p><u>SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION</u> Dated October 6, 2005</p>

THIS DECLARATION (this Declaration) made and entered into on this ____ day of July, 2005, by REALMARK EQUITIES, LLC, a Georgia limited liability company, together with its legal representatives, successors and assigns, being hereinafter collectively referred to as Declarant.

WITNESSETH:

WHEREAS, Declarant is the owner of the Property (as such term is hereinafter defined):

WHEREAS, Declarant desires to provide for (i) the proper development and improvement of the Property as a single family residential subdivision know as Ashley Glen Subdivision, (ii) the enhancement of the property values therein and (iii) for the further purpose of preserving and protecting the natural, scenic beauty and landscape and open condition of certain portions of the Property and towards that end, Declarant further desires Declarant subject the Property, together with such additions as may hereafter by made thereto (as hereinafter provided) to the easements, covenants and restrictions, charges and liens as hereinafter provided:

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values in said community, to create an agency to which should be delegated and assigned the powers of owning, maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created.

NOW, THEREFORE, for and in consideration of the aforesaid recitals, the grants and conveyances herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant declares the Property and such additions thereto as may be hereafter be made pursuant to Article II hereof, is and shall be held,

conveyed, transferred, sold, mortgaged leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens as hereinafter set forth.

ARTICLE I

DEFINITIONS

Section 1. Definitions. As used herein, the following terms shall have the following meanings:

(a) Association: shall mean and refer to the Ashley Glen (Pike) Homeowners Association, Inc., a Georgia non-profit corporation, its successors and assigns.

(b) Board: shall mean and refer to the Board of Directors of the Association.

(c) Community Property: shall individually and collectively, as the context may require, mean and refer to the Recreational Property and the Open Space.

(d) Developer: shall mean and refer to any other home builder who, in each instance, hereafter acquires a Lot for the purpose of constructing a single-family residence thereon.

(e) Lot(s): shall mean and refer to any improved or unimproved plot of land upon which is constructed or proposed to be constructed a single-family residential dwelling, as such Lots are shown on the Plat.

(f) Owner shall mean and refer to the record owner, whether one or more Persons of the fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

(g) Open Space: shall mean any and all unimproved land hereafter owned by the Association for the common use and enjoyment of the Owners as depicted as the Open Space on the Plat and being more particularly described on the Exhibit "A" and by this reference made a part hereof.

(h) Parcel: shall mean and refer to all platted subdivisions of one or more Lots which are subject to the same Supplementary Declaration.

(i) Person: shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

(j) Plat: shall mean and refer to that certain Revised Final Plat of Ashley Glen Phase 1, dated June 16, 2005 and prepared by W.D. Gray and Associates, Inc. recorded in the Office of the Clerk of Superior Court of Pike County, Georgia

on June 27, 2005 in Plat Book 23, Page 101,et.seq., together with a future revisions, amendments or modifications thereto.

(k) Property: shall mean and refer to that certain real property described on the Exhibit "B" attached hereto and by this reference made a part hereof, together with such other real property as may become subject to this Declaration under the provisions of Article II hereof.

(l) Recreational Property: shall mean the land and the cabana structure to be constructed thereon hereafter owned by the Association for the common use and enjoyment of the Owners as depicted on the Plat and as more particularly described on the attached Exhibit "C" and by this reference made a part hereof.

(m) Subdivision: shall mean and refer to the Ashley Glen Subdivision as depicted on the Plat, together with the facilities and improvements thereon and such future additions made pursuant hereto.

(n) Supplementary Declaration: shall mean and refer to any declaration of easements, covenants and restrictions which may be recorded by the Declarant, which extends the provisions of this Declaration to a Parcel and contains such complementary provisions for such Parcel as are required by this Declaration.

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ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERETO

Section 1. Existing Property. The Property shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to this Declaration.

Section 2. Additions to Existing Property. Additional real property, as described on the attached Exhibit "D" and by this reference made a part hereof (the Additional Property), may be brought within the scheme and operation of this Declaration by the Declarant, its successors or assigns, without the consent of the Owners and shall be made by the filing of record of one or more Supplementary Declarations with respect to the additional property in the Office of the Clerk of Superior Court of Pike County, Georgia. Simultaneously therewith, Declarant shall convey to the Association any designated Community Property located on the additional property. Nothing contained herein shall mean Declarant must submit all or any portion of the property described in Exhibit AD@ to the scheme or operation of this Declaration.

Section 3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex any Additional Property to this Article, for

the purpose of removing any portion of the Property then owned by Declarant or the Association from the provisions of this Declaration, to the extent originally included in error or as a result of any changes whatsoever to the plans for the Subdivision, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of the development of the Subdivision.

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ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

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

(a) Class A. Initially, the Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one Person holds an interest in any Lot, all such Persons shall be members, subject to the limitation on voting rights as hereinafter provided. The vote for such Lot shall be exercised as they among themselves determine and shall advise the Secretary of the Association prior to any meeting of the Association.

(b) Class B. The Class B member shall be the Declarant and shall be entitled to one (1) vote for each Lot within the Subdivision plus one (1) additional vote. The Class B Membership shall cease on the happening of either of the following events, whichever occurs earlier:

(i) ten (10) years from the date of this Declaration; or

(ii) at the election of Declarant (without the prior written consent of the Association or any owner(s) of a Lot) at any time prior to the occurrence of the event described in (i) above.

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ARTICLE IV

PROPERTY RIGHTS

Section 1. Leases.

(a) No Lots shall be leased by an Owner other than the Declarant for a term shorter than six (6) months or greater than two (2) years. The lessee under every such lease shall be bound by and subject to all of the obligations under the Declaration, the By-Laws and the Articles of Incorporation of the Association and the rules and regulations promulgated thereunder. The lease of any Lot shall expressly provide that failure of the lessee or tenant to abide by the provisions of the Declaration, the By-Laws or the Articles of Incorporation of the Association, including the Association's rules and regulations, shall be an event of default thereunder. The terms hereof shall not apply to leases of Lots owned by Declarant as long as there shall be a Class B member of the Association or to leases or tenancies created prior to the recordation of this Declaration.

(b) In the event of a default under any lease with respect to a Lot, the Association may exercise against the lessee or tenant thereunder any and all remedies available to the Association under the Declaration.

(c) All leases shall be in writing. The Owner of the Lot shall provide a copy of the written lease to the Association promptly upon execution of the lease. No lease shall be of less than the entire Lot.

Section 2. Lots. Each Lot shall for all purposes constitute real property which shall be owned in fee simple. Each Owner shall be entitled to the exclusive ownership and possession of his Lot, subject to the provisions of this Declaration. Lots shall not be subdivided, and the boundaries between the Lots shall not be relocated, unless the relocation is approved by at least two-thirds (2/3rds) of the Owners and their first mortgagees and the Declarant, so long as Declarant shall own a Lot primarily for the purpose of sale.

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ARTICLE V.

COVENANT FOR MAINTENANCE AND CAPITAL IMPROVEMENT ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association; (1) annual general assessments or charges, and (2) special assessments for capital

improvements, such assessments to be established and collected as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon as periodically established by the Association, late charges, costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The general assessments levied by the Association shall be used exclusively for promoting the health, safety, pleasure and welfare of the residents of the Property and the costs and expenses incident to the operation of the Association, including without limitation the maintenance and repair of the properties and facilities located on the Community Property, the maintenance of services furnished by the Association, the purchase of insurance by the Association, the repair and replacement of improvements on the Community Property and payment of all taxes and insurance premiums and all costs and expenses incidental to the operation and administration of the Association.

Section 3. Computation. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessment to be levied against each Lot for the year (or any portion thereof in the case of the initial budget) to be delivered to each member at least thirty (30) days prior to the due date for payment of the assessment (or the first installment thereof). The assessment shall become effective unless disapproved at a meeting by two-thirds (2/3rds) of the Owners voting at a meeting. Notwithstanding the foregoing, however, in the event the Owners disapprove the proposed budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Board may levy, in any assessment year, special assessments applicable to that year as, in its discretion it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to this Article V and the costs of maintenance performed by the Association which the Owner is responsible for under this Article V shall be deemed to be a special assessment. The Board may also specifically assess Lots 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 benefitted 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.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast two-thirds (2/3rds) of all the votes of each class of membership shall constitute a quorum. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Annual and special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month of the calendar year following the conveyance of the first Lot containing an occupied dwelling by a Developer to a Person other than the Declarant or Developer. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. Anything contained herein to the contrary notwithstanding, Developer, on behalf of itself and its successors and assigns, covenants and agrees to pay the annual assessment for each Lot owned by Developer which contains an occupied dwelling; provided, however, Developer shall not be responsible for assessments on Lots not containing an occupied dwelling. The Board shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. The due dates shall be established by the Board, and, unless otherwise provided, the Association shall collect each month from the Owner of each Lot one-twelfth (1/12) of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Lot is binding upon the Association as of the date of its issuance. All payments shall be applied first to the costs of collection, if any, (including attorney's fees), then to late charges, then interest and then to delinquent assessments.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association.

Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum legal rate per annum, and the Association

may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Community Property, abandonment of his Lot or by renunciation of membership in the Association. An Owner may give to the Association, nevertheless, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

Section 9. Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, first purchase money security deed or security deed representing a first lien on said property. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. All other persons acquiring liens or encumbrances on any Lot after the Declaration shall have been recorded in the applicable real property records of Pike County, Georgia shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Community Property; (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens and no Owner may waive or otherwise exempt himself from liability for the assessments provided herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the By-laws, or for inconvenience or discomfort arising from

the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law or ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

Section 11. Budget Deficits during Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the annual, special and specific assessments collected by the Association in any calendar year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant, or (b) cause the Association to borrow such amount(s) from a commercial lending institution at the then-prevailing rates for such a loan in the local community. The Declarant in its sole discretion may guarantee repayment of such loan, if required by such lending institution, but no security deed securing any Community Property or any of the improvements maintained by the Association shall be given in connection with such loan.

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ARTICLE VI.

CONSTRUCTION

Section 1. General Requirements

(a) All single family residential buildings or any other structure, whether temporary or permanent, shall be placed only within the set back lines as depicted on the Plat.

(b) Prior to the commencement of any construction of a single family residence on a Lot, all such construction plans and specifications shall be submitted to Declarant for its approval. Such plans and specifications shall include, but not limited to descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans and specifications, building permits and samples of materials and colors as it may reasonably request showing the nature, kind, shape, height, width, color, materials, location and other essential features of the proposed construction) (collectively the Construction Plans and Specifications). The Declarant may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed construction. If Declarant or its consultants fail to approve the Construction Plans and Specifications within thirty (30) days of their submission, Construction Plans and Specifications shall be deemed approved by Declarant.

(c) The Construction Plans and Specifications shall comply with the following requirements:

(i) Each single family residence shall contain a garage containing space for not less than two (2) automobiles;

(ii) The exterior facia of any single family residence shall contain not less than thirty percent (30%) brick, stone or stucco;

(iii) No single family residence shall be constructed on a slab, provided, if Declarant authorizes a slab, a slope of not less than eight (8) feet shall be provided;

(iv) Each dwelling shall contain not less than (i) 1,800 square feet of heated/cooled area on the first finished floor level and (ii) two (2) bedrooms and two (2) bathrooms;

(v) No fence may be constructed on any Lot except (i) along the common Lot line of a Lot extending from a line perpendicular to the rear exterior building wall of a single family residence to the rear Lot line of a Lot or (ii) along the common Lot line extending from a line perpendicular to the front exterior building wall of a single family residence to the front set back line of a Lot as measured from a dedicated street;

(vi) No more than fifty percent (50%) of the trees on any Lot may be removed;

(vii) All lawns within the front yards of a Lot shall be sodded with either fescue, Bermuda or zoysia grasses extending from the curb line of any street contiguous to any Lot to within four (4) feet of the front building wall of a single family residence;

(viii) All driveways, sidewalks and pedestrian aisles located within a Lot shall be constructed of concrete or other materials approved by the Declarant in conformity with the recommendations of a licensed soils engineer approved by Declarant, which design shall require the installation of a suitable base and surfacing with an asphaltic concrete or concrete-wearing material; and

(viii) No dwelling shall be of a height greater than two (2) stories, exclusive of basement and attic.

Section 2. Utilities.

(a) All utility lines that are placed underground shall be at such depths as are designated by Declarant or its consultants;

(b) No Owner of a Lot shall grant or convey to a public utility or governmental authority an easement for any utility and service lines and systems, including but not limited to water, sewers, telephone, electricity, television, cable or communication lines and systems across, under, through or upon its Lot for service to another Lot without the prior written consent of Declarant; provided, however, nothing shall prevent an Owner from granting and conveying to such public utility or governmental authority an easement strictly to provide utility service to its Lot.

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ARTICLE VII.

ARCHITECTURAL CONTROL

Section 1. The Architectural Review Board. An Architectural Review Board consisting of three (3) or more natural persons shall be appointed by the Board.

Section 2. Purpose. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Property and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. Nothing herein shall give the Architectural Review Board authority to regulate, control or determine external design, appearance, use or location of Parcels under development, or to be developed, or dwellings under construction, or to be constructed or marketed or sold by the Declarant, its successors or assigns.

Section 3. Conditions. No exterior improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any property or the improvements located thereon from its natural or improved state shall be made or done without the prior approval of the Architectural Review Board, except as initially installed by Developer or as otherwise expressly provided in this Declaration. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, or improved, altered, made or done without the prior written approval of the Architectural Review Board. In the discretion of the Board or its designee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner. As a condition to approval hereunder, each Owner shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any change, modification, addition or alteration in the discretion of the Board.

Section 4. Procedures. Any Owner desiring to make improvements or changes with respect to his Lot (other than improvements or changes to the interior of his dwelling, provided such interior changes do not alter the structural integrity of such dwelling or

adjacent dwellings) shall submit to the Architectural Review Board plans and specifications showing the nature, color, type, shape, height, materials and location of the proposed improvements and/or changes. The Architectural Review Board shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable to the Association and the Architectural Review Board shall be entitled and empowered to enjoin or remove any construction undertaken pursuant to plans and specifications which have not been approved in writing by the Architectural Review Board. Any costs and expenses incurred by the Association in enjoining or removing any construction of improvements not previously approved in accordance herewith shall be added to and become a part of the assessment to which the Owner and his Lot are subject. In the event the Architectural Review Board fails to approve or disapprove in writing any proposed plans and specifications within sixty (60) days after such plans and specifications shall have been submitted to the Architectural Review Board, such plans and specifications shall be deemed to have been expressly approved.

Section 5. Liability of Architectural Review Board. Neither Declarant nor any member of the Architectural Review Board shall be liable in damages to anyone submitting plans and specifications for approval hereunder or to any Owner of a Lot affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans and specifications. Every Person who submits plans or specifications for approval agrees, by the submission of same, and every Owner of a Lot agrees, that he will not bring any action or suit against Declarant or any member of the Architectural Review Board to recover for any such damage. All such Persons and Owners hereby waive the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

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ARTICLE VIII

MAINTENANCE

Section 1. Association's Responsibility. Except as otherwise provided herein, the Association shall maintain and keep in good repair all portions of the Community Property. The Association's responsibility with respect to the Community Property shall be deemed to include the maintenance, repair and replacement of (i) all entry features for the Subdivision, (ii) all street signs, if any, originally installed by Declarant, (iii) all drainage detention and retention areas, ponds or lakes within the Open Space, driveways, walks, parking areas and buildings and other improvements situated within the Subdivision, and (iv) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Community Property. The Association shall also maintain all

property outside of the Lots located within the Subdivision which was originally maintained by Declarant.

Section 2. Owner's Responsibilities. Each Owner shall be solely responsible for, and shall maintain, repair and replace, as the case may be, the following exterior maintenance to its dwelling constructed on his Lot and any other improvements appurtenant thereto: paint, stain, repair, replace and care for, as the case may be, all exterior roof surfaces, all gutters and downspouts, all shutters, all fences, all windows, including window frames and hardware, all doors (and sliding glass doors including the glass therein) and door frames and hardware and all exterior building surfaces. Each Owner shall also be responsible for the maintenance, repair and replacement of all glass, lights and light fixtures (exterior and interior), awnings, window boxes, window screens, and all screens or glass enclosing porches, balconies or decks which are a part of the Lot or any other improvements appurtenant thereto. Each Owner shall maintain his Lot in a neat, clean and sanitary condition; such responsibility shall include the maintenance and care of all lawns, trees, shrubs, hedges, grass and other landscaping contained within such Lot.

Section 3. Failure to Maintain. In the event the Board determines (i) that any Owner has failed or refused to discharge properly his obligations with regard to the maintenance, cleaning, repair or replacement of items for which he is responsible, or (ii) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association is caused through the willful or negligent act of an Owner, his family, guests, tenants or invitees, then the Association, after approval by two-thirds (2/3) vote of the Board, shall have the right, through its agents and employees, to enter upon said Lot and to commence such repair, maintenance and/or replacement, at Owner's sole cost and expense. Such right of entry and repair shall be exercisable only upon fifteen (15) days prior written notice given to the Owner of said Lot, unless, in the discretion of the Board, an emergency exists necessitating a shorter period of time. The costs of any such repairs, maintenance and/or restoration shall be due and payable upon demand by the Association and shall be added to and become part of the assessment to which such Owner and his Lot are subject. There is hereby reserved to the Association a blanket easement upon, across, over and under each Lot within the Subdivision for access, ingress and egress as necessary to permit the Association to perform such maintenance. The foregoing maintenance shall be performed with the Community-Wide standards.

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ARTICLE IX

EASEMENTS

Section 1. Encroachment and Overhang Easements. There shall be reciprocal appurtenant easements for encroachment and overhang between each Lot and such portion or portions of the Community Property adjacent thereto or as between adjacent Lots as a result of unintentional construction, reconstruction or repair, shifting, settlement or movement of any portion of any dwellings or other improvements on the Lots to a distance of not more than five (5) feet, as measured from any point on the common Lot line between each Lot and the adjacent portion of the Community Property or between lots, in each instance, along a line perpendicular to such common Lot line at such point; provided, however, in no event shall such easement exist if such encroachment occurred due to the willful conduct on the part of any such Owner, tenant or the Association.

Section 2. Drainage Easements. Declarant reserves a perpetual easement across all Lots and/or Community Property as may be depicted on the Plat for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of the affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 3. Utility Easements. There is hereby created in favor of the Association an easement upon, across, over, through and under all of the Community Property or the Lots in those areas depicted on the Plat for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewers, telephone, electricity, television, cable or communication lines and systems. Notwithstanding anything to the contrary contained in this Section, no electrical lines, gas lines, water lines or other utilities may be installed or relocated on the Lots except as initially programmed and approved by the Declarant or thereafter approved by the Board. Should any utility furnishing a service covered by the general easement herein provided request a specific easement be a separate recordable document, Declarant or the Association shall have the right to grant such easement on the Community Property without conflicting with the terms hereof.

Section 4. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Community Property which shall be appurtenant to and shall pass with the title to his Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admissions and other fees for the use of any portion of the Community Property, to limit the number of guests of Lot Owners and tenants who may use the Community Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests and invitees;

(ii) the right of the Association to suspend the voting rights of a lot Owner and the right of an Owner to use the Recreational Property available for use by the Owners of the Lots, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and for a reasonable period of time, for an infraction of this Declaration, the By-laws or any rules and regulations promulgated by the Association.

(iii) the right of the Association to borrow money for the purpose of improving the Community Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located or to become located thereon, and give as security for the payment of any such loan a Mortgage conveying all or any portion of the Community Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interest, options, easements and privileges herein reserved and/or established for the benefit of the Declarant, any Lot or Lot Owner, and or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community Property (any provision in this Declaration or in any such Mortgage given by the Association to the contrary, and notwithstanding the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, interests, options, easements or privileges herein reserved or established for the benefit of Declarant, any Lot or Lot Owner encumbering any Lot or other property located within the Subdivision); no such Mortgage given by the Association shall be effective unless an instrument agreeing to such Mortgage has been approved by the Owners of at least two-thirds (2/3rds) of the Lots (other than Lots of the Developer) so long as the consent of Developer is required hereunder) and the consent of the Developer (so long as the Developer owns any property for development and/or sale in the Community or has the right unilaterally to annex property to the Community); and

(iv) the right of the Association to dedicate or transfer all or any portion of the Community Property subject to such conditions as may be agreed to by the Association; no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Declarant (so long as Declarant owns any property for

development and/or sale within the Subdivision or has the right unilaterally to annex Additional Property to the Subdivision) and Owners representing at least two-thirds (2/3rds) of the Owners (other than the Declarant so long as consent of Declarant is required)

(b) Any Lot Owner may delegate his right of use and enjoyment in and to the Community Property and facilities located thereon to the members of his family, his guests, tenants or invitees and shall be deemed to have made a delegation of all such rights to the tenant(s) of such Owner's Lot if leased.

Section 5. Easements for Association Maintenance. There is hereby expressly reserved to the Association the following easements and rights-of-way in, on, over, under and through the Subdivision for the maintenance required under Article VII, Section 1. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owners' Lots, reasonable steps shall be taken to protect such property and damage shall be required by the Person causing the damage as its sole expense.

Section 6. Easements for Maintenance and Repair. There shall be reciprocal appurtenant easements between adjacent Lots for the purpose of maintaining or repairing the improvements, including, without limitation, landscaping, located on each Lot, which easement shall extend to a distance of not more than five (5) feet as measured from any point on the common boundary line between the Lots and along a line perpendicular to such boundary line at such point. The easement shall be used only for each period of time as is reasonably necessary in order to complete the needed maintenance or repair. The Lot Owner exercising this easement right shall be liable for the prompt repair of any damage to the Lot over which this easement is exercised which is caused by the maintenance or repair work. The damaged portions of such Lot shall be returned to substantially the same condition as existed prior to the damage.

Section 7. Easements for Entry. In addition to the right of the Board to exercise self-help as provided in Article VII, Section 5 hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Subdivision for emergency, security, and safety reasons, which right may be exercised by the manager, if any, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. The right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion, or other hazard in the event an Owner or his tenants fails or refuses to cure the condition upon request by the Board.

Section 8. Easements for Entry Features and Street Signs. There is hereby reserved in Declarant, the Association, and the designees of either, an easement over and upon each Lot for ingress to, egress from, installation, construction, landscaping and maintenance of entry feature and street signs for the Subdivision. The easement

and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other plantings around all entry features and the right to grade the land under and around such entry features.

Section 9. Easements for Additional Property. There is hereby reserved in Declarant and its successors-in-title to the Additional Property, for the benefit of and as an appurtenance to such Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for (i) pedestrian and vehicular access, ingress and egress over and across all roads and driveways from time to time located within the Property, including the right for vehicular parking in parking areas not designated by the Association for the exclusive use of any Lots or individuals, (ii) the installation, maintenance and repair of utility facilities and distributions lines, including, without limitation, storm sewers and electrical, gas, telephone, water and sewer lines and (iii) drainage and discharge of surface water, provided that such drainage and discharge shall not materially damage or affect the Property or any improvements from time to time located thereon.

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ARTICLE X

GENERAL USE RESTRICTIONS APPLICABLE TO THE SUBDIVISION

Section 1. General. The Board, from time to time, without the consent of the members, may promulgate, modify, or delete use restrictions and rules and regulations applicable to the Lots and the Community Property (including the assessment of fines for any violations of the aforesaid rules and regulations). This authority shall include, but shall not be limited to, the right to limit the type and size and to set the maximum and minimum speeds of vehicles within the Community Property. The Board shall also have the authority to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the Community Property prior to the date that they are to become effective and shall thereafter be binding upon all Owners and tenants until and unless overruled, canceled, or modified in a regular or special meeting by a two-thirds (2/3rds) vote of the Owners.

Section 2. Residential Use. All dwellings constructed on the Lots shall be restricted exclusively to single-family residential use. No dwelling constructed on a Lot, or any portion thereof, shall at any time be used for any commercial business or professional purpose. No dwelling constructed on a Lot may be divided or subdivided into a smaller dwelling. No tents, shacks, barns, trailers, or any other movable structure shall be constructed or used on the Lots without the prior written consent of the Board. Lots may be leased for residential purposes only.

Section 3. Nuisances.

(a) No unlawful, noxious or offensive activities shall be carried on any Lot, or upon the Community Property, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others, emits foul or obnoxious odors or unreasonably interferes or an inconvenience with other Owners' use of their Lots and the Community Property.

(b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. 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 the Property or any portion thereof that might disturb the peace and quiet or serenity of the Subdivision.

Section 4. Antennas and Satellite Dishes. No antenna, satellite dishes or other device for the transmission or reception of television signals, radio signals, direct broadcast satellite (DBS) antennas, multi-channel multipoint distribution service (MMDS) antennas larger than one (1) meter in diameter, or any form of electromagnetic radiation shall be placed, erected, used or maintained outdoors on any portion of the Lots; provided, however, Declarant and the Association shall have the right to erect, construct and maintain such devices. Such antennas as permitted hereunder on any Lot shall be reasonably screened and installed in accordance with the rules and regulations of the Board and the Federal Communications Commission, as such rules and regulations may be amended from time to time. Each Owner or a tenant acknowledges that this provision benefits all Owners and/or tenants and each such Owner or tenant agrees to comply with this provision despite the fact that the erection of an individual outdoor antenna or similar device would be the most cost-effective way to receive the signals sought to be received.

Section 5. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, kept or permitted in any dwelling constructed on a Lot. Household pets (such as dogs, cats or other usual and common household pets) may be kept in reasonable number, as determined by the Board. Household pets of occupants must be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs which are household pets shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the Board's right to remove any household pets, no household pets that have caused damage or injury may be walked in the Subdivision.

Section 6. Vehicles. Vehicles shall not be parked on any street within the Subdivision (except passenger non-commercial automobiles parked in designated parking areas while the users thereof are using the Community Property or on any portion of a Lot other than the driveway and the garage. Except for passenger non-commercial

automobiles, vehicles shall not be parked so as to be visible from any Lot for periods of more than twenty-four (24) continuous hours (the intent of this provision is that, with the exception as herein above provided vehicles may not be stored on a Lot except if in a garage and the temporary removal of such vehicle from a Lot to break the contiguity of the twenty four (24) consecutive hours shall not be sufficient to establish compliance with this restriction). The term Vehicles, as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, mini-bikes, scooters, go-carts, trucks campers, buses, vans and automobiles. All parking shall be subject to such further rules and regulations as the Board may adopt.

Section 7. Signs. Except in connection with the sales activities of the Developer, no Owner of a Lot shall display, hang, store or use any sign, except one “for sale” sign consistent with the Community-Wide standards having a maximum height of four (4) feet measured from ground level, outside an Owner’s dwelling or on an Owner’s Lot or any portion thereof or elsewhere within the Subdivision without the prior written approval of the Board. The Board shall have the right to erect any reasonable and appropriate signs.

Section 8. Tree Removal. No trees shall be removed without the expressed written consent of the Board or its designee, except for (i) trees removed by the Developer; (ii) diseased or dead trees and (iii) trees needing to be removed to promote the growth of other trees.

Section 9. Lighting. Notwithstanding anything to the contrary in this Article IX, the following exterior lighting may be installed without the necessity of obtaining the prior written approval of the Board or its designee (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards of a Lot, (c) illumination of model homes and entrance features constructed by the Developer, and (d) other lighting originally installed by the Developer. Plans for all other exterior lighting must be submitted and approved in this Article X, Section 1 hereof.

Section 10. Gardens. Basketball Goals, etc. Grass, ornamental plants and shrubbery (and only the foregoing) may be planted in the front or side yard of any Lot. All other planting may be done only with prior written approval of the Board or its designee or in accordance with the guidelines previously established by the Board or its designee. Overseeding of fescue lawns and sodding of lawns with Bermuda or zoysia grasses shall not require prior approval pursuant to this Section. No vegetable garden, hammocks, statuary or recreational equipment may be placed, erected, allowed or maintained upon any Lot without the prior written consent of the Board or its Designee. This provision shall not, however, apply to basketball goals which may be installed after the type and location have been previously approved in writing by the Board or its designee.

Section 11. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions of debris shall be placed in these areas. No Owner or Occupant of any Lot may obstruct or redirect the drainage flows after the location and

installation of drainage swales, storm sewers or storm drains. Declarant and/or the Developer hereby reserves a perpetual easement to prepare sloping banks, cut or fill, on a three (3) to one (1) slope on all streets and roads. Declarant hereby reserves a perpetual easement across all Community Property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable slope shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 12. Other Restrictions.

(a) Each Owner shall maintain his dwelling in good condition and in good order and repair, at his own expense, and shall not do or allow anything to be done to or in an Owner's dwelling or on an Owner's Lot which may increase the cost or cause the cancellation of insurance on any other Lot or on the Community Property. No Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside an Owner's dwelling, or which may be visible from the outside of such Owner's dwelling (other than draperies, curtains or shades of a customary nature and appearance, subject to the rules and regulations of the Board).

(b) Until the Developer has completed or sold all of the Lots, neither the Owners nor the Association nor the use of the Property shall interfere with the completion of the contemplated improvements and the sale of the Lots.

(c) The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly or unkempt condition, shall not be pursued or undertaken in any part of the Subdivision.

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ARTICLE XI

INSURANCE

Section 1. Purchase of Insurance Policies. The Board, or its duly authorized agent, shall obtain insurance policies upon insurable structures and improvements hereafter erected and maintained on the Community Property and covering the items described in Section 2 below for the benefit of the Association or any mortgagee as their interest may appear. Premiums for all insurance shall be common expenses of the Association.

Section 2. Coverage. The following items shall be covered by insurance:

(a) All structures and improvements upon the Community Property and all personal property included within such structures and Improvements in an amount equal to the full replacement cost, minus ordinary deductible amounts, as determined annually by the Board. Such coverage shall afford protection against such risks as are covered by an all-risk form and such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use.

(b) Comprehensive general liability and automobile liability insurance covering loss or damage resulting from an occurrence on the Community Property, in such amounts as may be required by the Board, but having a combined single limit of not less than \$1,000,000.00, covering all claims for bodily injury or property damage or both arising out of a single occurrence, with such coverage to include protection against water damage liability and such other risks as shall customarily be covered with respect to buildings similar in construction, location and use.

(c) Worker's compensation as required by law, and if available at reasonable prices.

(d) A policy of fidelity coverage against dishonest acts on the part of the members of the Board and any employee or volunteers of the Association responsible for handling funds belonging to or administered by the Association if such coverage is available at reasonable rates.

(e) Such other insurance as the Board shall determine from time to time to be desirable.

Section 3. Named Insured. The named insured on all policies of insurance shall be the Association, as trustee for the respective parties which may be benefitted by such insurance, as their interest may appear. Such insurance shall be governed by the provisions hereinafter set forth.

Section 4. Insurance Policy Provisions. All property damage insurance and public liability insurance maintained by the Association shall contain the following provisions, to the extent deemed necessary by the Board and if reasonably available:

(a) All policies shall be written with an insurance company licensed to do business in the State of Georgia

(b) Coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least ten (10) days prior written notice to the Association and holder(s) of first mortgages on Recreational Facility or other structures constructed on the Community Property.

(c) The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost, together with an inflation guard endorsement and an agreed amount endorsement if these are reasonably available.

(d) If available at reasonable prices, a waiver of subrogation by the insurer as to any and all claims against Owners, the Association and their respective agents, employees, tenants and guests and a waiver of all defenses based upon co-insurance or upon any invalidity arising from the acts of the insured, or such policies shall otherwise permit the Association, prior to its sustaining a loss, to obtain from the insurer a release of the insurer's right to assert claims against any Owners.

(e) All insurance policies shall be reviewed annually by one or more qualified Persons as designated by the Board.

(f) That any no other insurance clause contained in the master policy shall expressly exclude individual Owner's policies from its operation.

Section 5. Other Insurance. In no event shall any recovery or payment under the insurance coverage obtained and maintained by the Association be affected or diminished by insurance purchased by individual Owners or their mortgagees. Any Owner who obtains an individual insurance policy covering his dwelling, shall at the request of the Board file a copy of such individual policy or policies with the Board within thirty (30) days after purchase of such insurance.

Section 6. Association as Agent. The Association is hereby irrevocably appointed agent, with full power of substitution, for each Owner and for each Owner of any other insured interest in the Property, to adjust all claims arising under insurance policies purchased by the Association, to bring suit thereon in its name and/or in the name of other insureds, to deliver releases upon payments of claims, to compromise and settle such claims and otherwise to exercise all of the rights, powers and privileges of the Association and each Owner or any other holder of an insured interest in the Property under such insurance policies; provided, however, the actions of the Association shall be subject to the approval of the holders of the first mortgages on each of the Lots affected thereby.

Section 7. Damage and Destruction to Recreational Property. Any damage or destruction by fire or other casualty to the Recreational Property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless, so long as Declarant owns a Lot primarily for the purpose of sale or has the unexpired option to add additional property pursuant to Article II hereof, together with at least two-thirds (2/3rds) of the Class A members of the Association, shall decide within sixty (60) days after the casualty not to repair or reconstruct and no alternative improvements are authorized, then, in such event, the property shall be restored to its

natural state and maintained as unimproved portion of the Open Space in a neat and sightly condition, such insurance proceeds shall be deposited with Association to be held in accordance with the terms and conditions of this Declaration.

Section 8. Distribution of Proceeds. Such insurance proceeds as are received shall be applied to repair or restoration of the Recreational Property as hereinafter provided unless it is determined pursuant to Section 7 of this Article not to repair or reconstruct.

(a) Plans and Specifications. Any reconstruction or repair must be sufficient to restore the Recreational Property to substantially the same condition in which they existed prior to the casualty and must be made substantially in accordance with the plans and specifications for the Recreational Property or, if not, according to plans and specifications approved by the Board.

(b) Responsibility. If the damage is to the Recreational Property, then the responsibility of reconstruction and repair after casualty shall be that of the Association.

(c) Estimate of Costs. When the Association shall have the responsibility of reconstruction or repair, prior to the commencement of reconstruction and repair the Association shall obtain reliable and detailed estimates of the cost to repair or rebuild.

(d) Assessments for Reconstruction and Repair. If the proceeds of insurance are not sufficient to completely defray the estimated cost of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the insufficient special assessments shall be levied against the Owners in proportion to the number of Lots owned by the Owners without the necessity of a vote of the Association's members. An assessment against an Owner on account of damage to the Recreational Property shall be in proportion to the Owner's rate of assessment as provided hereinabove. Special assessments for reconstruction and repair may be collected, and the collection enforced, in the same manner as an assessment.

(e) Construction Funds. The funds for the payment of costs from reconstruction and repair after casualty, which shall consist of the proceeds of insurance held by the Association and funds collected by the Association from assessments and special assessments against Owners, shall be disbursed in payment of such costs in the following manner:

(f) Lesser Damage. If the amount of the estimated cost of reconstruction and repair which is the responsibility of the Association is less than one percent (1%) of the insured value of the Recreational Property then the construction fund shall be disbursed in payment of such costs upon the order of the Board.

Section 9. Damage and Destruction to Lots. The damage or destruction by fire or other casualty to a dwelling or all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within such seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owners may elect to demolish all improvements on the Lot and remove all debris therefrom within such seventy-five (75) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified in Article XI, Section 7 hereof.

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ARTICLE XII

CONDEMNATION

Wherever all or any portion of the Community Property shall be taken (or conveyed) in lieu of and under threat of condemnation, the Board, acting on behalf of the Association or on the written direction of all Owners of Lots subject to the taking, (if any) by any authority having the power of eminent domain, the Association shall represent the Owners. The provisions of Article XI, Section 7 above shall apply and shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

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ARTICLE XIII

MORTGAGE PROVISIONS

Section 1. Notice of Action. An institutional holder, insurer or guarantor of a first Mortgage, who provided 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 the following:

(a) any condemnation loss or casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such eligible holder, where such

delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or By-laws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 2. No Priority. No provision of this Declaration or the By-laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee or any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Community Property.

Section 3. Notice to Association. Upon request, each Lot owner shall be obligated to furnish the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. Applicability of Article XII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under this Declaration, the By-laws or Georgia law.

Section 5. 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.

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ARTICLE XIV

GENERAL PROVISIONS

Section 1. Enforcement. Each Owner and every tenant of a Lot shall comply strictly with the By-laws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed to his Lot, if any. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-laws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board on behalf of the association, or in

a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, By-laws, rules and regulations and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose tenants are responsible for violating the foregoing).

Section 2. Self Help. In addition to any remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Community Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the By-laws, the rules and regulations or the Use Restrictions as contained herein or any governmental zoning ordinances. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorney's fees shall be assessed against the violating Lot Owner and shall be collected for herein for the collection of assessments.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Subdivision, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns perpetually to the extent permitted by law; provided, however, if Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provisions shall be automatically extended for successive periods of ten (10) years, unless a written instrument reflecting disapproval signed by the then Owners of at least two-thirds (2/3rds) of the Lots and the Declarant (so long as the Declarant owns any property for development and/or sale in the Subdivision or has the right unilaterally annex additional property to the Subdivision) has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided by this Section.

Section 4. Amendment.

(a) As more specifically provided in Article II above, Declarant shall have the right to execute and record one or more Supplementary Declarations without the consent or approval of the Lot Owners within the time period specified therein for the purpose of adding additional property to the scheme and operation of this Declaration.

(b) This Declaration may be amended unilaterally at any time and from time to time by Declarant (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration, (iii) if such amendment is required to obtain the approval of this Declaration by an institutional lender or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration or (iv) if such amendment is necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing.

(c) Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration, as herein provided, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not unilaterally adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

(d) In addition, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3rds) of the Lots and the consent of Declarant (so long as the Declarant owns any property of redevelopment and/or sale in the Subdivision or has the right unilaterally to annex additional property to the Subdivision).

(e) Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. No provision of this Declaration which reserves or grants special rights to the Declarant shall be amended without the prior written consent of the Declarant affected by such amendment, so long as the Declarant owns any property primarily for development and/or sale in the Subdivision or subject to annexation by the Declarant to the Subdivision.

(f) Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in a court of competent jurisdiction in the county in which the Subdivision is located within one (1) year of the recordation of such amendment.

Section 5. Severability. If any provision of this Declaration or portion thereof, or the application thereof to any person or circumstance, shall, to any extent be held invalid,

inoperative or unenforceable, the remainder of this Declaration, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby. It shall not be deemed that any such invalid provision affects the consideration for this Declaration and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and the feminine.

Section 7. Captions. The section headings in this Declaration are for convenience only, and shall in no way define or limit the scope or content of this Declaration, and shall not be considered in any construction or interpretation of this Declaration or any part hereof.

Section 8. No Partnership. Nothing in this Declaration shall be construed to make Declarant and the Developer partners or joint venturers or render either of them liable for the debts or obligations of the other.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Indemnification. In accordance with, and to the full extent allowed by, the Georgia Non-Profit Corporation Code, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal administrative, or investigative (other than an action by or in the right of the Association) by reason of the fact that such Person is or was serving as a director or officer of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, writ or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

Section 11. Conveyance of Community Property to Association; Assignment of Contracts. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved real property, leasehold, easement or other property interest. Such conveyance shall be accepted by the Association, and the property shall thereafter be Community Property to be maintained by the Association for the benefit of all or a part of its members. Declarant shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this

Section. The Association shall also accept assignment of, and shall assume and agree to perform, any contracts entered into by the Declarant for the benefit of the Association or the Owners, including, without the limitation, detention pond maintenance agreements and all types of utility easements.

Section 12. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the By-laws, the Articles of Incorporation of the Association, rules and regulations, use restrictions, and any amendments to any of the foregoing, the Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the Community Property for the benefit of the Declarant, its successors and assigns over, under, in and/or on the Community Property, without obligation and without charge to the Declarant, for the purposes of taking all actions related to or connected with construction, installation, relocation, development, sale, maintenance, repair, or replacement in or to the Community Property and any other property now owned or which may in the future be owned by the Declarant (such other property is hereafter referred to as Additional Property). The reserved easement shall constitute a burden on the title to the Community Property.

Section 13. Books and Records. This Declaration, the By-laws, copies of the rules, regulations and use restrictions, membership register, books of account and minutes of meetings of the Association and the Board shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by any holder of a first Mortgage at any reasonable time and for a purpose reasonably related to an Owner's interest or such mortgagee at the Office of the Association or at such other reasonable place as the Board shall determine. The Board shall establish reasonable rules with respect to (i) notice to the custodian of the records, (ii) the hours and the days of the weeks when such inspection may be made and (iii) payment of the cost for reproduction of such records. Any officer of the Association and/or director of the Board shall have the absolute right at any time to inspect the books and records, including the right to reproduce same.

Section 14. Financial Statements. Financial statements for the Association shall be compiled annually in the manner prescribed by the Board and shall be made available to the Owners at the annual meeting of the Association. The Owners may require by a vote of two-thirds (2/3rds) of the Owners, that such financial statements be audited as a common expense of the Association by a certified public accountant.

Section 15. Notice of Sale or Lease. If an Owner sells or leases his Lot, the Owner shall notify the Association in writing, which notice shall include the name of the buyer or lessee and such other information as the Board shall reasonably may require.

Section 16. Variances. Notwithstanding anything to the contrary contained herein, the Board is hereby authorized to grant individual variances from the provisions of this Declaration, the By-laws and any of the rules and regulations and use restrictions

promulgated pursuant hereto so long as such variance would not be inconsistent with the overall scheme of development of the Subdivision.

Section 17. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by two-thirds (2/3rds) vote of the Owners, except that no such approval shall be required if (i) any action is brought to enforce the provisions of this Declaration, (ii) the imposition and collection of assessments as provided in this Declaration, (iii) proceedings challenging ad-valorem taxation, or (iv) counterclaims brought by the Association in proceedings brought against it.

Section 18. Governing Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Georgia.

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[SIGNATURES TO FOLLOW ON PAGE 26]

IN WITNESS WHEREOF, Declarant, acting by and through its Manager, has executed this Declaration under seal on the day and year first above written.

DECLARANT:

Signed, sealed and delivered
in the presence of:

REALMARK EQUITIES, LLC
a Georgia limited liability company

Unofficial Witness

By: REALMARK ACQUISITIONS II, LLC
a Georgia limited liability company, its
manager

Notary Public

By: S. N. PHELPS & CO., a Delaware
corporation, it's manager

My commission Expires:

By: _____
Title: President

(AFFIX CORPORATE SEAL)

(AFFIX CORPORATE SEAL)

Exhibit "A"

(_____)

FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION

IN RE: DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION DATED JULY 14, 2005, AS RECORDED ON JULY 15, 2005 IN THE OFFICE OF THE CLERK OF SUPERIOR COURT OF PIKE COUNTY, GEORGIA IN DEED BOOK 591, Page 242.

FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION

THIS FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION (this "Amendment") is made and entered into this 19th day of August, 2005, by REALMARK EQUITIES, LLC, a Georgia limited liability company (hereinafter referred to as the "Declarant"). Capitalized terms used but not defined herein shall have the meanings given them in the Declaration as hereinbelow defined.

W I T N E S S E T H :

WHEREAS, the Declarant did make and declare those certain Declaration of Easements, Covenants and Restrictions for Ashley Glen Subdivision (the "Declaration") dated July 14, 2005, recorded in the Office of the Clerk of Superior Court of Pike County, Georgia in Deed Book 591, Page 242 wherein the Declarant did subject the real property as described therein to the protective covenants as provided in the Declaration (the "Property"):

WHEREAS, the Declarant desires to amend the Declaration in the following respects:

NOW, THEREFORE, for and in consideration of the above referenced recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, the Declarant does hereby covenant and agree as follows:

1.

Section 1 (c) (iii) of Article VI of the Declaration is hereby amended to read as follows:

“Slab construction is permitted so long as there is a slope of not more than eight (8) feet of cut or fill material;”

2.

Section 1(c) (iv) of Article VI of the Declaration is hereby amended by deleting from the second line thereof the phrase “on the first finished floor level”.

3.

Section 1(c) (v) (ii) of Article VI of the Declaration is hereby deleted in its entirety.

4.

Section 1(c) (vii) of Article VI of the Declaration is hereby amended by deleting therefrom the phrase “with either fescue, Bermuda or zoysia grasses” appearing in the first and second lines thereof.

5.

Section 1(c) (ix) of Article VI of the Declaration is hereby amended by deleting therefrom the number “two (2)” appearing in the first line thereof and substituting in lieu thereof the number “two and one-half (22)”.

6.

Except as expressly modified hereby, the Declaration remains in full force and effect without change, and all provisions thereof, as modified hereby are hereby ratified by the parties thereto.

[SIGNATURE TO FOLLOW ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant, acting by and through its Manager, has executed this Amendment under seal on the day and year first above written.

DECLARANT:

REALMARK EQUITIES, LLC

a Georgia limited liability company

Signed, sealed and delivered

in the presence of:

_____ By: REALMARK ACQUISITIONS II, LLC,

Unofficial Witness Georgia limited liability company, its

Manager

Notary Public By: S. N. PHELPS & CO., a Delaware

corporation, its Manager

My Commission Expires:

By: Jere E. Wilkins

Title: President

[AFFIX NOTARY SEAL]

[AFFIX CORPORATE SEAL]

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SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION

IN RE: DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION DATED JULY 14, 2005, AS RECORDED ON JULY 15, 2005 IN THE OFFICE OF THE CLERK OF SUPERIOR COURT OF PIKE COUNTY, GEORGIA IN DEED BOOK 591, Page 242, AS AMENDED BY THAT CERTAIN FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION DATED AUGUST 19, 2005 AS RECORDED ON AUGUST 19, 2005 IN DEED BOOK 597, PAGE 345, AFORESAID RECORDS.

SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION

THIS SECOND AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS FOR ASHLEY GLEN SUBDIVISION (this "Amendment") is made and entered into this 6th day of October, 2005, by REALMARK EQUITIES, LLC, a Georgia limited liability company (hereinafter referred to as the "Declarant") and MULTI-SPECS., INC., a Georgia corporation (hereinafter referred to as the "Developer"). Capitalized terms used but not defined herein shall have the meanings given them in the Declaration as herein below defined.

WITNESSETH:

WHEREAS, the Declarant did make and declare that certain Declaration of Easements, Covenants and Restrictions for Ashley Glen Subdivision (the "Declaration") dated July 14, 2005, recorded in the Office of the Clerk of Superior Court of Pike County, Georgia in Deed Book 591, Page 242 wherein the Declarant did subject the real property as described therein to the protective covenants as provided in the Declaration (the "Property"):

WHEREAS, on August 19, 2005 Declarant did execute a First Amendment to Declaration of Easements, Covenants, and Restrictions for Ashley Glen as recorded on August 19, 2005 in Deed Book 597, Page 345, aforesaid records amending the Declaration in certain respects:

WHEREAS, on August 23, 2005, Declarant did convey certain Lots to the Developer as more particularly described in that certain Limited Warranty Deed dated August 23, 2005 from Declarant to Developer and recorded in Deed Book 600, Page 122, aforesaid records (the "Deed"):

WHEREAS, the Declarant and Developer are the sole owners of all the Lots within the Property and desire to amend the Declaration in the following respects:

NOW, THEREFORE, for and in consideration of the above referenced recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant and Developer do hereby covenant and agree as follows:

1.

Section 1 (c) (ii) of Article VI of the Declaration is hereby amended to read as follows:

"The exterior front facia of any single family residence shall contain not less than thirty percent (30%) brick, stone or stucco;"

2.

Except as expressly modified hereby, the Declaration remains in full force and effect without change, and all provisions thereof, as modified hereby are hereby ratified by the parties thereto.

[SIGNATURE TO FOLLOW ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant and Developer have executed this Amendment under seal on the day and year first above written.

DECLARANT:

REALMARK EQUITIES, LLC

a Georgia limited liability company

Signed, sealed and delivered

in the presence of:

_____ By: REALMARK ACQUISITIONS II, LLC,

Unofficial Witness Georgia limited liability company, its

Manager

Notary Public By: S. N. PHELPS & CO., a Delaware

corporation, its Manager

My Commission Expires:

By: _____

Title: President

[AFFIX NOTARY SEAL]

[AFFIX CORPORATE SEAL]

DEVELOPER:

Signed, sealed and delivered MULTI-SPECS, INC., a Georgia corporation

in the presence of:

Unofficial Witness By: _____

Title: President

Notary Public

[AFFIX CORPORATE SEAL]

My Commission Expires:

[AFFIX NOTARY SEAL]

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