

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR MONTCLAIR SUBDIVISION**

THIS DECLARATION, made on the date hereinafter set forth by NICHOLSON ROAD, LLC a Georgia Limited Liability Company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant, is the owner of all that tract or parcel of land lying and being in Land Lots 64,81 and 136 of the Third District, First Section of Forsyth County, Georgia, known as MONTCLAIR SUBDIVISION, as shown on a Subdivision Plat, which plat is respectively recorded at Plat Book 77, Pages 88-95, in the Office of the Clerk of the Superior Court of Forsyth County, Georgia, and which plat is incorporated herein by reference for a more complete description of this property.

NOW THEREFORE, Declarant, hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of and which run with the real property and are binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Montclair Homeowners Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Amenities Area" shall mean all real property owned by the Association for the use and enjoyment of the owners. The Amenities Area to be owned by the Association is a tract described as the "Amenities Area" on a Plat recorded at Plat Book 77, Pages 88-95, Forsyth County, Georgia Superior Court Records.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Properties with the exception of the Amenities Area, roads and rights-of-ways. Section 6. "Declarant" shall mean and refer to Nicholson Road, LLC.

ARTICLE II

Section 1, Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Amenities Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Amenities Area;
- (b) the right of the Association to suspend the voting rights and right to the use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulation.
- (c) the right of the Association to dedicate or transfer all or any part of the Amenities Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Amenities Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

Class A. 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 persons holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. Class B. The Class B member(s) shall be te Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the class B membership, or

(b) on December 31,2005.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, and the Owners whose signatures are affixed hereto on te final page of this instrument, for each Lot owned within the Properties, hereby covenant, and each subsequent Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property 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 assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Amenities Area.

Section 3. Initiation Fee: A one time initiation fee of One Hundred Fifty and 00/100ths (\$150.00) shall be assessed against the purchaser of any finished residential unit located within the subdivision.

Section 4, Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred and 00/100ths Dollars (\$300.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than ten ((10%) percent above the maximum assessment for the previous year without a vote of the membership.

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

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

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Amenities Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are (voting in person or by proxy at a meeting duly called for this purpose.

Section 6. 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 Sections 3 and 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast twenty five percent (25%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and shall be collected as determined by the Board of Directors.

Section 8. Date of Commencement of Annual Assessment: Due Dates. The annual assessments provided for herein shall commence at the direction of the Board of Directors, but not prior to the conveyance of the Amenities Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors 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 every Owner subject thereto. The due dates shall be established by the Board of Directors. 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 Lot is binding on the Association as of the date of its issuance.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten (10%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property and any appropriate proceeding at law or in equity. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Amenities Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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.

ARTICLE V

ARCHITECTURAL COMMITTEE: ARCHITECTURAL CONTROL

The Architectural Committee shall be composed of three or more representatives appointed by the Board of Directors. If no members accepts being on the Architectural Committee, the committee will be comprised of the HOA Board members.

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design (conformity) and location in relation to surrounding structures and topography by the Architectural Committee.

In the event the Architectural Committee, fails to approve or disprove such design and location within thirty days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with.

ARTICLE VI

GENERAL COVENANTS AND RESTRICTIONS

The Following covenants, conditions, restrictions and easements are herewith imposed on all Lots:

Section 1: Residential Use of Property: All Lots shall be used for residential purposes, and not business or business activity shall be carried on upon any Lot any time except with the written approval of the Architectural Committee; provided, however, that nothing herein shall prevent Declarant or any builder of Houses in Montclair from using any Lot owned by Declarant or such builder for the purpose of carrying on business related to the development, improvement and sale of property in Montclair: provided, further, private offices may be maintained in Houses located on any of the Lots so long as such use is incidental to the primary residential use of the Houses. No Lot shall be used except for single family residential purposes. Single family being defined as that term is applied to residential use and accepted by legal courts and zoning authorities. So that all owners may enjoy the use of their property and all common facilities, such as streets and right of ways, the number of persons residing in a House shall be limited to (1) family per 1800 square feet of finished living area that is heated.

Section 2: Minimum Square Footage: All homes must have a minimum of 1,800 square feet of heated space. All homes must be constructed with a garage that must have garage doors. No schools, churches, kindergartens, temporary buildings, shacks, tents, mobile homes, modular homes, relocated homes, or barns shall be placed or maintained on said property ;nor shall any structure or device of a temporary character be used as a residence or for camping. homes, relocated homes, or barns shall be placed or maintained on said property; nor shall any structure or device of a temporary character be used as a residence or for camping.

Section 3;Review and Approval of Plans; No building, deck, fence, wall or other structure or improvement shall be commenced, erected or maintained on any Lot, nor shall any exterior addition to or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of same shall have been submitted to the Architectural Committee and approval, in writing, as to the harmony of external design and location in relation to surrounding structures and topography, by the Architectural Committee. Neither Declarant nor any member of te Architectural Committee shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Committee. Further, neither Declarant nor any member of the Architectural Committee shall be liable in damages to anyone submitting plans or specifications for approval under this Section, or any owner of property affected by this Declaration by reason of mistake in judgement, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disprove any such plans or specifications and every Owner of any Lot agrees that he will not bring any action or suit against Declarant or any member of the Architectural Committee to recover for any such damage.

Section 4:Building Construction: Not more than one single family dwelling, not to exceed two and one-half (2.5) stories in height, shall be erected on any Lot unless otherwise approved, in writing by the Architectural Committee. A basement is not to be considered as a floor level.

Section 5:Setbacks and Building Lines.

(a) Each House which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback lines shown on the recorded plat thereof. In no event shall any House be erected and located upon any such Lot in any manner which violates or encroaches upon the building and setback lines shown on the recorded plat, unless encroachment is approved in writing from the appropriate governmental agency.

(b) No fences shall be placed in drainage easements or where they will impede any site drainage. All fencing, including design, style or materials, must be approved by the Architectural Committee. It is highly recommended that a survey of your lot / property lines be done before the building of the fence / wall. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than recorded building line or set backs. Also, fencing shall not be nearer to the street than the rear line of House unless the same be retained, reinforced, or stabilized except that this restriction shall not apply to fences or walls which have been approved by the Architectural Committee. The exposed part of any retaining wall shall be made of clay brick, natural stone, stucco, railroad ties, or veneered with brick or natural stone. Other than retaining walls, there shall be no fence or wall constructed unless of wooden materials; provided however, that metal chain link fence is permissible only if metal is covered by black vinyl or other covering, and approval of such fence is obtained from the Architectural Committee. Wood fencing must have "good side" facing out with all bracing facing in toward yard.

Section 6: Use of Outbuildings and Similar Structures: No structure of a temporary nature, unless approved in writing by the Architectural Committee, shall be erected or allowed to remain on any Lot, and no trailers, campers, shacks, tents, garages, barns or other structures of a similar nature shall be used as a residence, either temporarily or permanently, provided, this paragraph shall not be construed to prevent the Declarant and those engaged in construction of Houses from using sheds or other temporary structures during construction.

Section 7: Completion of Construction: Construction of Houses on Lots shall be completed within one (1) year of commencement. The Architectural Committee shall have the right to take appropriate court action, whether at law or in equity, to compel the immediate completion of any residence not completed within one (1) year from the dated of commencement of construction.

Section 8: Livestock: No animals, or livestock of poultry of any kind shall be raised, bred or kept on any Lot, except for laying hens (maximum of 6) NO ROOSTERS. Hens must be in a fenced pen and cannot run free throughout the property. There must be a hen house and it must be painted to the color scheme of the house. Laying hens must not constitute a nuisance or cause unsanitary conditions. Plans for the hen house and fenced in area for the laying hens must be submitted to the Architectural committee for approval. Henhouse and fenced in area must be confined behind the backplane of the lot and MUST NOT BE VISIBLE FROM THE ROAD. Dogs, cats and or other household pets may be kept provided they are not kept, bred or maintained for any commercial purposes. "Outside" pets shall be limited to two (2) per House. Such household pets must not constitute a nuisance or cause unsanitary conditions, must be kept on a leash and not allowed to roam. Any outdoor shelters for household pets must conform to side yard and rear yard building line requirements. No outdoor shelters for household pets are to be located between Rear Building line and rear property line. All outdoor shelters for household pets must be approved by Architectural Committee as to design, finish and location. All shelters must be painted same exterior color as the House or a color that will blend with the landscape and shall be screened from view of all surrounding lots and streets. The use of "invisible fences" or other electronic means to control or maintain household pets on individual lot is prohibited.

Section 9: Driveways and Entrance to Garage: All driveways and entrances to garages shall be concrete or a substance approved in writing by the Architectural Committee and of a uniform quality. All front entry garages must have separate garage door. All comer lots must have separate garage door. All Houses shall have only one driveway .Any additional driveway must be approved by Architectural

Committee and if necessary approved by governmental agency. Driveways must be poured concrete and other suitable material approved by Architectural Committee.

Section 10: Clothesline: No Clothesline shall be erected on any portion of any Lot, and the outside air drying of clothes is prohibited.

Section 11: Basketball Goals: Permanent installation of basketball goals must be approved by Architectural Committee. Portable goals must not be left out overnight and must be stored in garage or rear yards when not in use. Goals must be placed on a black metal pole with a fiberglass or acrylic backboard. Backboard will not be attached to houses. Goals can be located no more than 15 feet toward the street from the front building line and will not be located within county easements at the curb and sidewalk.

Section 12: Mail Boxes: Any change in pre-approved decorative mailboxes installed by the builder must be approved by the Architectural Committee.

Section 13: Business or Retail Use of Lots: No business, customer oriented enterprises, retail use or other activity, that cause auto or pedestrian traffic and auto parking to become a neighbor nuisance and impede other homeowners from the use and enjoyment of their property is allowed. No sign can be displayed advertising any business on or off the Lot site except as otherwise permitted herein Builders may maintain model home areas for the display of houses that are offered for sale and may from time to time cause increases in pedestrian and auto traffic and parking that is associated with the marketing and sale of Houses within the subdivision. Builders can maintain signs for the display of model homes and to provide direction within the subdivision.

Section 14: Abandoned and/or Unlicensed Vehicles: Abandoned and/or vehicles without current valid registration or licenses are prohibited from being kept or stored on any Lot in such manner as to be health hazard, a safety hazard, or create an annoyance or nuisance to the neighborhood. All vehicles must be parked on driveway, parking pads, or property at the street curb. Parking of any vehicle in yards (on grass) in the front, side or rear of homes on Lots is prohibited. The parking of vehicles or trailers, either motorized or non-motorized under the rear deck of a home is prohibited. Parking of trucks, trailer, vans or other vehicles that create a neighbor nuisance or impede other homeowners from the use and enjoyment of their property is prohibited except for the use by the other builders during construction and development. These restrictions relating to abandoned and/or unlicensed vehicles also apply to any vehicle that is being stored permanently or temporarily and unused on any driveway or street, even though such vehicle is licensed, if the vehicle becomes an annoyance or nuisance to Owners of other lots or owners of property in the neighborhood.

Section 15: Air Conditioning Window Units, Swimming Pools, Window Fans and Solar Panels: No house shall have window air conditioning and heating units or window fans at front or side windows. Solar panels may be installed on the backside of the roof only (not in the yard or adjacent structure) and cannot be visible from the street. Detailed plans must be submitted to the Architectural Committee for approval before work can be scheduled or started. Above ground swimming pools are not permitted.

Section 16: Exterior Colors: All exterior colors or any changes to existing colors, including, without limitation, roof, siding, trim, blinds, brick and exterior doors are to be submitted to and approved in

writing as to harmony of external design (conformity) and location in relation to surrounding structures by the Architectural Committee.

Section 17: Outbuilding: Any outbuildings or storage building must be approved by the Architectural Committee. Any such buildings may be used for storage purposes only and not for other activities, such as wood working shop, machine shop or other home hobby activities. Such buildings are to be built or similar materials as the House on the Lot and painted the same color. Approved storage buildings or outbuildings are to be sited at the rear of the House, and may not project into established Side Yard Area of 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 equipment, etc.) such area and storage must be screened from view of other Lots and any street, as approved by the Architectural Committee.

Section 18: Seasonal Lighting and Exterior Decorations: Seasonal lighting and exterior decorations must be removed from exterior of home with a reasonable time after its use and display and in no event longer than 28 days after the celebrated holiday.

Section 19: Unapproved Alterations: In the event that any construction or alteration work is undertaken or performed upon any Lot without application having been first made and approval obtained as provided in Section 2 of this Article VI, said construction or alterations work shall be deemed to be in violation of this covenant, and the person upon whose Lot said construction or alteration work was undertaken or performed may be required to restore to its original condition, as his sole, expense, the property upon with said construction or alteration was undertaken or performed. Upon the failure or refusal of any person to perform the restoration required herein, the Architectural Committee, or their authorized agents or employees, may, after fourteen(14) days notice such person, enter upon the property upon which such unauthorized construction or alteration work has been performed, and make such restoration as the Architectural Committee, in the exercise of its discretion, may deem necessary or advisable. The person upon whose Lot such restoration work shall have been so performed shall be personally liable to the Association for all direct and indirect costs which the Association shall incur in the performance of such restoration work, and the liability for such cost shall be secured by all the liens, and shall be subject to the same means of collection, as the assessments provided for in Article V of this Declaration. Such costs shall be paid to the Association by the person liable for the same at the same time as the next due Annual Assessment payment, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Architectural Committee shall determine.

Section 20: Interpretation: In all cases, the covenants and restrictions herein contained shall be construed and interpreted in a manner which, in the opinion of the HOA Board, will best effect the intent of the general plan of development and maintenance herein set forth. These covenants and restrictions shall be liberally interpreted, and if necessary, extended or enlarged by implication as to make them fully effective.

Section 21: Overall Lot Appearance: It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkept conditions of buildings or grounds on such lots which shall tend to destroy the beauty of the neighborhood as a whole or the specific area. All garbage containers shall be decoratively screened so as not to be visible from the road or adjoining lots.

Section 22. Disrepair: No building or structure shall be allowed to fall into neglect or disrepair. Fire damaged buildings shall be demolished and the debris removed within sixty days.

Section 23. Sewage: All individual sewage disposal systems shall be designed, located and constructed in accordance with the requirements, standards, and recommendations of the Department of Public Health.

Section 24: No lot shall be re-subdivided in any manner.

Section 25. No noxious or offensive activity nor any activity, which may become an annoyance to the area, shall be carried on said Property.

Section 26. Signs and Banners: No sign of any kind shall be displayed to the public view on said lots except one sign of not more than one square foot, advertising the Property for sale or rent or signs used by a builder to advertise the Property during the construction or sales period. During election season you may display your candidate or candidates sign. Sign may not be larger than 24" X 24" square and MUST be removed no later than one week after the election.

Section 27. Pre-manufactured housing is not acceptable. No residence in whole or in part, may be constructed off-site and relocated to a Lot. This includes any pre-existing structure being relocated from another site to a Lot in the Subdivision. Only on site, stick built houses will be allowed. This is not meant to prevent the use of pre-manufactured wall components or trusses from being used in the on-site construction of a home.

Section 28. No exterior satellite dishes or other electronic transmission or receiving equipment shall be placed upon any Lot without the prior approval of the Architectural Committee.

Section 29. No boat, boat trailer, bus, trailer, motor home, or any similar items shall be on any Lot for a period of time in excess of twenty-four (24) hours.

Section 30. In order to avoid unsightly and aesthetically offensive structures, the location of tree houses and play structures and construction details, as well as exterior colors thereof, must be approved by the Architectural Committee before the commencement of construction.

Section 31: Maintenance of Lots: The owner of each Lot shall be obligated to keep and maintain all portions of his Lot. House, all exterior improvements and the portion of the right of way on which his Lot is located lying between his Lot and the pavement of the road within such right of way in a neat, sanitary and attractive condition which is satisfactory to the Board of Directors. In the event that the owner of any Lots shall fail to maintain all portions of the right of way 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 such portion of such right of way and correct the unsatisfactory condition, including, without limitation, painting, repairing, cutting the grass, weeds, and other vegetation, and removing dead trees, shrubs and other plants. The owner of the Lot upon which, or upon the right of way adjoining 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 assessments and charges provided in Article V of 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, as provided in Section 4 of Article V of this Declaration, or at such earlier time, and in such installments, as the Board of Directors shall determine.

ARTICLE VII

GENERAL PROVISIONS

Section 1. Enforcement. In the event that the owner of any Lot, or any person who is entitled to occupy any Lot, shall fail to comply with or abide by any restriction set forth in this Article VI, then the owner of any other Lot who is aggrieved by such failure of compliance or abidance, the Declarant, the Association and any mortgage having an interest in a Lot shall have the right to proceed at law or in equity to compel such owner or such occupant to comply therewith and abide thereby. Additionally, any owner of a Lot who, or whose or whose lessee, shall fail to comply with or abide by any such restriction shall be liable for any damages as may be suffered by any other owner of any Lot as a consequence of such failure.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty(20) years from the date this Declaration is recorded, after which time they can be renewed and extended, either in whole or in part, for successive periods of ten (10) years if signed by two-thirds (2/3) of the owners and filed for recording among the Deed Records of Forsyth County, Georgia, provided, that each such agreement shall specify which sets of covenants and restrictions are so renewed and extended and the term for which they are renewed. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Amenities Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members, provided, that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is a Class B Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration; Annexation of additional properties, dedication of Amenities Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

ARTICLE VIII

ENFORCMENT

8.01 Right of Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, rules and regulations, Design Standards, if any, and use restrictions, as amended or modified from time to time, and with the covenants, conditions, easements and restrictions set forth in this Declaration, the recorded subdivision plat(s) for the Community and in the deed to such Owner's Lot, if any. The Declarant and Board of Directors may impose fines or other sanctions for violations of the foregoing, which shall be collected as provided herein for the collection of assessments provided, however, only one fine may be imposed for a single violation such that an Owner or Occupant may not be fined by the Declarant and the Board of Directors for the same violation; provided, further, Declarant or the Board, as the case may be, may count each day a violation continues after notice thereof as a separate violation. In the event fines or other sanctions are imposed by Declarant hereunder, Declarant shall have any and all rights to collect such fines or sanctions (which fines shall be payable to the Association) and any related charges, including, without limitation, reasonable attorney's fees actually incurred and costs of collection, in the same manner as provided herein for the collection of assessments by the Association acting through the Board. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief or both, including, without limitation, reasonable attorney's fees actually incurred, maintainable by the Association, the Declarant an aggrieved Owner. Failure by the Declarant and 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 Association shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations, use restrictions or Design Standards, and to assess the cost of recording and removing such notice against the Lot of the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing

8.02 Occupants Bound. All provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Design Standards which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants and the guests and invitees of Owners and Occupants. The Owner shall be responsible for insuring that the Occupants, the guests, invitees and licensees of the Owner and Occupant strictly comply with all provisions of the Declaration, Bylaws, rules and regulations, use restrictions and Design Standards. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not timely paid, the fine may then be levied against the Owner.

8.03 Self-Help. In addition to any other remedies provided for herein, the Association, the Declarant, the Architectural Committee or their respective duly authorized agents shall have the power to enter upon any Lot or any other portion of the Community to abate or remove any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the violating Owner shall be given ten days written notice of the intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after giving any notice required by law. All costs of self-help, including, without limitation, reasonable attorney's fees actually incurred, shall be assessed against the violating Owner as a specific assessment

8.04 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Association or any Owner to enforce the terms of this Declaration, the Bylaws or the Design Standards by appropriate judicial proceedings or to recover damages. The Board may also impose fines, penalties or other sanctions for any Owner in violation of the terms of this Declaration. In addition, a notice of violation may be filed against the non-complying Owner in the public records of the county in which the Property is located stating the Owner's name and that Owner has failed to comply with the requirements of the Declaration. Said notice of violation may include any information regarding the nature of the violation as may be deemed appropriate in the sole discretion of the Board, the Association, the Declarant. Any beneficiary of this Declaration Declarant, aggrieved Owner or the Board (acting on behalf of the Association) shall be entitled to maintain, in addition to the actions specifically authorized herein, relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

8.05 No Waiver. Unless specifically excepted under the terms of this Declaration, the failure of the Declarant, the Association, or the Owner of the any Lot, his or its respective legal representatives, heirs, successors and assigns, to enforce any restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

ARTICLE IX

LEASES

9.1 Purposes. In order to protect the equity of the individual Lot Owners, to carry out the purpose for which the Community was formed by preserving the character of the Community as a homogenous, adult, residential community of predominantly owner-occupied homes and by preventing the Community from assuming the character of a renter-occupied neighborhood, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, an in order to comply with zoning requirements leasing of Lots shall be governed by the restrictions imposed by this Article. The Board of Directors shall have authority to make and enforce reasonable rules and regulations in order to enforce this Article.

9.2 Definitions.

(a) Leasing means regular, exclusive occupancy of a Lot by any person(s) other than the Owner for which the Owner received any consideration or benefit, including, but not limited to, a fee, rent or gratuity. For purposes hereof the following shall not constitute leasing: (i) occupancy by a roommate of an Owner Occupant; (ii) occupancy by a member of the Owner's family, (iii) occupancy by one or more wards if the Lot is owned by their legal guardian, or (iv) occupancy by one or more beneficiaries of a trust if the Lot is owned in trust by the trustee.

(b) Open Leasing Status. Any Lot that is designated as being in "Open Leasing Status" shall authorize a Lot to be leased at any time. A Lot designated as being in Open Leasing Status shall remain in Open Leasing Status until such time as title to the Lot is conveyed or transferred to another person or entity, after which conveyance the Lot shall be converted to Restricted Leasing Status regardless of the continued occupancy by the same lessee unless the new Owner requests that the Lot remain in Open Leasing Status within ninety (90) days of said conveyance. Open Leasing Status may be temporarily conferred upon a Lot as provided hereinafter or may be applied for as provided below. Notwithstanding anything to the contrary herein, any Lot in Open Leasing Status shall automatically be converted to Restricted Leasing Status if the Lot is not subject to a lease for ninety (90) or more consecutive days.

(a) Restricted Leasing Status. Any Lot that is designated as being in "Restricted Leasing Status" shall prohibit a Lot Owner from leasing his or her Lot except as may be provided below. All Lots shall be in Restricted Leasing Status unless converted to Open Leasing Status as provided in this Section.

9.3 General. No Owner of a Lot in Restricted Leasing Status may lease his or her Lot if ten percent (10%) of the Lots in the Community are in Open Leasing Status, except as provided below for cases of undue hardship. Any Owner of a Lot in Restricted Leasing Status may apply in writing to the Board of Directors for conversion to Open Leasing Status in accordance with rules and regulations promulgated by the Board of Directors. Upon receipt of such written application, the Lot shall be placed at the end of a waiting list for each building for conversion to Open Leasing Status. At such times as less than ten percent (10%) of the Lots in the Community are in Open Leasing Status, the Board shall notify the Owner of the Lot at the top of the waiting list of its conversion to Open Leasing Status, and such Owner shall have ninety (90) days within which to lease the Lot or it shall automatically revert to Restricted Leasing Status.

9.4 Undue Hardship. Notwithstanding the provisions above, the Board shall be empowered to allow reasonable leasing of a Lot upon application in accordance with this Paragraph to avoid undue hardship, including, but not limited to the following situations;

(1) a Lot Owner must relocate his residence outside the greater Atlanta metropolitan area and cannot, within nine (9) months from the date that the Lot was placed on the market, sell the Lot except at a price below the current appraised market value, after having made reasonable efforts to do so;

(2) the Owner is deceased and the Lot is being administered by a personal representative; or

(3) the Owner takes a leave of absence from employment or temporarily relocates for employment purposes and intends to return to reside in the Lot, in which case the Lot Owner must reapply every year for renewal of the hardship exception. Those Owners who have complied with this

section, have demonstrated that the inability to lease their Lot would result in undue hardship, and have obtained the requisite written Board approval may lease their Lots for such duration as the Board reasonably determines is necessary to prevent undue hardship. Any Owner who believes that he or she must lease his or her Lot to avoid undue hardship shall submit a written application to the Board of Directors setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board of Directors may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board of Director's written approval of the Owner's application. When an application is approved, the Owner shall provide the Board of Directors with the name and phone number of the lessee and the Owner's address other than at the Lot and other such information as the Board of Directors may reasonably require within ten (10) days after a lease has been signed by both parties.

9.5 Leasing Provisions. Such Lots as are permitted to be leased may be leased only in their entirety; no fraction or portion may be leased. With the exception of a lender in possession of a Lot following a default in a first Mortgage, a foreclosure proceeding, or any deed or other arrangement in lieu of foreclosure, no Owner shall be permitted to lease his Lot for transient or hotel purposes. All leases shall be in writing in a form approved by the Board of Directors prior to the effective date of the lease. The Board of Directors shall maintain in its files and, upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing or assignment of leases. All Directors, which shall not be unreasonably withheld in cases of undue hardship. Within ten (10) days after executing a lease agreement for the lease of a Lot, the Owner shall provide the Board of Directors with a copy of the lease and the name of the lessee and all other people occupying the Lot, the phone number of the lessee and the Owner's address other than at the Lot and other such information as the Board of Directors may reasonably require within ten (10) days after a lease has been signed by both parties. The Owner must provide the lessee copies of the Declaration, Bylaws, and the rules and regulations and the lease form shall provide that the Owner has made available to the lessee copies of the Declaration, Bylaws, and the rules and regulations. Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee; the Board of Director's approval or disapproval shall be limited to the form of the proposed lease.

- (a) **Notice.** At least seven (7) days prior to entering into the lease of a Lot, the Owner shall provide the Board of Directors with a copy of the proposed lease agreement. The Board of Directors shall approve or disapprove the form of said lease. In the event a lease is disapproved, the Board of Directors shall notify the Owner of the requisite action to be taken in order to bring the lease in compliance with the Declaration and any rules and regulations adopted pursuant thereto.
- (b) **Liability for Assessments, Use of Common Property, and Compliance with Declaration, Bylaws, and Rules and Regulations.** Each Owner covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the Lease by existence of this covenant, and

the lessee, by occupancy of the Lot, agrees to the applicability of this covenant and incorporation of the following language into the lease:

(1)

Compliance with Declaration, Bylaws, and Rules and Regulations. Lessee shall abide and comply with all provisions of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure such compliance. Owner agrees to cause all Occupants of his or her Lot to comply with the Declaration, Bylaws, and the rules and regulations adopted pursuant thereto and is responsible for all **violations caused by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully** liable and may be sanctioned for any violation of the Declaration, Bylaws, and rules and regulations adopted pursuant thereto. In the event that the lessee or a person living with the lessee violates the **Declaration, Bylaws, or a rule or regulation for which a fine is imposed, notice of the violation shall be** given to the Owner and the lessee, and such fine may be assessed against the Owner. Unpaid fines shall constitute a lien against the Lot. Any violation of the Declaration, Bylaws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any guest of the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and **to evict the lessee in accordance with Georgia law.**

(2) **Use of Common Property.** The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property.

(3) **Liability for Assessments.** When an Owner who is leasing his or her Lot fails to pay any general or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board of Directors, lessee shall pay to the Association all unpaid general and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board of Director's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board of Director's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Declaration as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

9.6 Mortgagee Exemption. The provisions of this Article shall not apply to any Mortgagee in possession of a Lot through foreclosure or otherwise as a result of the exercise of any rights arising out of a first priority Mortgage on a Lot.

9.7 Rights Reserved by Declarant. Notwithstanding the restriction on the leasing of Lots as described herein, Declarant may grant an Owner to lease a Lot for any reason and the extent and

duration of said privilege granted by Declarant shall be determined solely by Declarant. Any ability to lease a Lot granted by Declarant which extends beyond the termination of Declarant's rights under this Declaration shall be valid and may not be terminated by the Association so long as the Owner complies with the terms and conditions imposed by Declarant.

IN WITNESS WHEREOF, the undersigned, has hereunto set his hand and seal this day
2023.

Notary public