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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE HIGHLANDS

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COVENANTS

THE HIGHLANDS

1. 2,200 sq. ft. minimum of heated area
2. All two car garages required
3. All exterior block or concrete exposed will be veneered with masonry stucco or brick veneer
4. No mobile homes of permanent nature will be placed on any lot. Any mobile structure placed on a lot will be for temporary construction or sales office
5. All homes to be site built construction (no prefab)
6. All roofs to be of dark asphalt shingle or equivalent
7. All driveways and side walks to be poured of ready-mix concrete
8. All windows to be of southern building code conforming to insulated glass construction
9. Builders are required to plant at least four hardwood trees on lots that have no tree fronting on the front of the structure
10. All architecture must be approved by the Architect Control Committee, consisting of Developers and later turned over to the Home Owner's Association.

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EXHIBIT "B"

Land Subject to Annexation

Any property adjacent to and located within one mile of the property described on Exhibit "A."

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EXHIBIT "C"**Initial Use Restrictions and Rules**

The following restrictions shall apply to all of the Community until such time as they are amended, modified, repealed or limited by rules of the Association adopted pursuant to Article X of the Declaration.

1. **General.** The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by Declarant to assist in the sale of property described on Exhibit "A" or "B," offices for any property manager retained by the Association or business offices for Declarant or the Association) consistent with this Declaration and any Supplemental Declaration.

2. **Restricted Activities.** The following activities are prohibited within the Community unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors:

(a) Parking of any vehicles on streets or thoroughfares within the Community, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages; provided, construction, service and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Areas;

(b) Raising, breeding, or keeping of animals, livestock, or poultry of any kind, except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit; however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the dwelling. Pets shall be registered, licensed, and inoculated as required by law;

(c) Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

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(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit;

(h) Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Community, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff, and Declarant and builders may dump and bury rocks and trees removed from a building site on such building site;

(i) Accumulation of rubbish, trash, or garbage except between regular garbage pickups, and then only in approved containers;

(j) Obstruction or rechanneling of drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent;

(k) Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit after a subdivision plat including such Unit has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;

(l) Any business, trade, or similar activity, except that an Owner or occupant residing in a Unit may conduct business activities within the structure located on the Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for the Community; (iii) the business activity does not involve excessive visitation of the Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Community; and (iv) the business activity is consistent with the residential character of the Community and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board.

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

The leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a

Exhibit "C"
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builder approved by Declarant with respect to its development and sale of the Community or its use of any Units which it owns within the Community.

(m) Conversion of any carport or garage to finished space for use as an apartment or other integral part of the living area on any Unit without the prior approval of the appropriate committee pursuant to Article IX;

(n) Any construction, erection, or placement of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Article IX of the Declaration. This shall include, without limitation, signs, basketball hoops, swing sets, and similar sports and play equipment; hedges, walls, dog runs, animal pens, or fences of any kind; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; antennas, satellite dishes, ham radio towers, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind. To the extent that the reviewer of a request for any of the foregoing permit antennas or satellite dishes within the Community, such shall be restricted to a size of one meter or less and be located behind the rear portion of the dwelling and screened from view from the street and sidewalk.

3. Prohibited Conditions. The following shall be prohibited within the Community:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community;

(b) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair;

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, wetlands, or other ground or surface waters within the Community, except that Declarant and the Association shall have the right to draw water from such sources;

4. Leasing of Units. "Leasing," for purposes of this paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing. Leases shall have a minimum initial term of not less than six months. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Use Restrictions and Rules.

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**FOR
THE HIGHLANDS**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR THE HIGHLANDS is made this 2 day of may, 2006 by Shawshank, Ltd., a Georgia corporation ("Declarant").

Declarant is the owner (or if not the owner, with the written consent of such owner as attached hereto) of the real property described in Exhibit "A," which is attached and incorporated by reference. By this Declaration, Declarant imposes upon the Community mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Community, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance, and preservation of the Community. In furtherance of such plan, Declarant has caused or intends to cause the THE HIGHLAND Homeowners Association, Inc., to be formed as a Georgia non-profit corporation to own, operate, and maintain Common Areas, as defined below, and to administer and enforce the provisions of the Governing Documents.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Community, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Community.

This document does not and is not intended to create a condominium within the meaning of the Georgia Condominium Act, O.C.G.A. Section 44-3-70, and the Association is not subject to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220.

Article I Definitions

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

1.1. "Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenant, contract, or agreement.

1.2. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Homeowners Association, Inc., as filed with the Georgia Secretary of State.

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1.3. "Association": THE HIGHLANDS Homeowners Association, Inc., a Georgia non-profit corporation, its successors or assigns.

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

1.5. "By-Laws": The By-Laws of THE HIGHLANDS Homeowners Association, Inc., attached as Exhibit "D," as they may be amended.

1.6. "Class "B" Control Period": The period of time during which the Class "B" Member appoints a majority of the members of the Board of Directors as provided in Section 3.3 of the By-Laws.

1.7. "Common Area": All real and personal, including easements, which the Association owns, leases, or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners.

1.8. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association, including any reasonable reserve, as the Board may find necessary and appropriate.

1.9. "Community" or "THE HIGHLANDS": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article VII.

1.10. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Community as initially established by Declarant. After the Class "B" Control Period terminates, such standard may be more specifically determined by the Board of Directors.

1.11. "Declarant": Shawshank, Ltd., a Georgia corporation, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibit "A" or "B" for the purpose of development and/or sale and, except in the case of foreclosure, who is designated as Declarant in a Recorded instrument executed by the immediately preceding Declarant. Upon such designation of successor Declarant, all rights and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Community, there shall be only one person or legal entity entitled to exercise the rights and powers of "Declarant" at any one time.

1.12. "General Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 8.1 and 8.3.

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1.13. "Governing Documents": A collective term referring to this Declaration and any applicable Supplemental Declaration, the By-Laws, the Articles, any architectural or design standards as provided herein, and the Use Restrictions and Rules, as they may be amended.

1.14. "Land Plan": The land use plan for the development of THE HIGHLAND approved Oglethorpe Cty. Georgia, as it may be amended from time to time, which plan includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B." Inclusion of property on the Land Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Land Plan bar its later annexation in accordance with Article VII.

1.15. "Member": A Person subject to membership in the Association pursuant to Section 3.2.

1.16. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit. A "Mortgagee" is a beneficiary or holder of a Mortgage.

1.17. "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a Recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

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

1.19. "Record," "Recording," or "Recorded": The filing of a legal instrument in the records of the County Clerk's Office, Superior Court, Oglethorpe Cty Georgia, or such other place as may be designated as the official location for recording deeds, plats, and similar documents affecting title to real estate.

1.20. "Special Assessment": Assessments levied in accordance with Section 8.5.

1.21. "Specific Assessment": Assessments levied in accordance with Section 8.6.

1.22. "Supplemental Declaration": A Recorded instrument pursuant to Article VII which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.23. "Unit": A portion of the Community, whether improved or unimproved, which is intended for development, use, and occupancy as a residence for a single family. The term shall include within its meaning, by way of illustration but not limitation, each numbered lot shown on a Recorded subdivision plat with respect to any portion of the Community, together with the structures, if any, constructed thereon, as well as vacant land intended for further subdivision, but shall not include Common Areas or property dedicated to the public.

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In the case of a portion of the Community intended and suitable for subdivision into single-family lots but as to which no subdivision plat has been Recorded, such property shall be deemed to be a single Unit until such time as a subdivision plat is Recorded with respect to all or a portion of the property. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not platted shall continue to be treated as a single Unit.

1.24. "Use Restrictions and Rules": Those use restrictions and rules affecting the Community, which may be adopted, modified, and repealed as set forth in Article X. The initial Use Restrictions and Rules are set forth on Exhibit "C."

Article II Property Rights

2.1. Common Area

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

- (a) This Declaration and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board and the membership to adopt rules regulating the use and enjoyment of the Common Area, including rules limiting the number of, or prohibiting the use by, guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to Section 3.24 of the By-Laws;
- (e) The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;
- (f) The right of the Board to impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facilities situated upon the Common Area;
- (g) The right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees, and guests upon payment of such use fees as the Board may establish;

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(h) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(i) The right of Declarant to use such property without payment or charge for such purposes as Declarant, in its sole discretion, deem necessary and proper.

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

2.2. No Partition.

Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration.

2.3. Condemnation.

If any part of the Common Area shall be taken or conveyed in lieu of and under threat of condemnation by any authority having the power of condemnation or eminent domain, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article III Membership and Voting Rights

3.1. Function of Association.

The Association shall be the entity responsible for management, maintenance, operation, and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Community as the Board or the membership may adopt pursuant to Article X. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in the Governing Documents. The Association shall perform its functions in accordance with the Governing Documents and all applicable laws.

3.2. Membership.

Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth

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in Section 3.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.3. Voting.

The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Unit in which they hold the interest required for membership under Section 3.2; provided, there shall be only one vote per Unit. No vote shall be exercised for any property which is exempt from assessment under Section 8.10.

In any situation where there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The sole Class "B" Member shall be Declarant. The Class "B" Member may appoint at least a majority of the members of the Board of Directors during the Class "B" Control Period, through the procedures prescribed in Section 3.3 of the By-Laws, and it may exercise additional rights as are specified elsewhere in the Governing Documents. The Class "B" membership shall terminate at the earlier of: (i) when 100% of the property described on Exhibit "A," and any property described on Exhibit "B" that is anticipated to be developer pursuant to the Land Plan, have been developed and conveyed to Owners for residential occupancy; (b) December 31, 2013; or (c) when Declarant voluntarily terminates such membership earlier by Recording a written notice of termination.

If Declarant voluntarily terminates its Class "B" membership prior to the sale of all of the property described on Exhibits "A" and "B," Declarant shall become a Class "A" Member entitled to one Class "A" vote for each Unit which it owns. If Declarant voluntarily terminates the Class "B" Control Period prior to the termination of the Class "B" membership, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in Section 3.19 of the By-Laws.

Article IV Rights and Obligations of the Association

4.1. Common Area.

The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, landscaping, furnishings, equipment, and other personal property of the Association used in connection with the Common Areas), and shall keep it in good, clean, attractive, and

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sanitary condition, order, and repair, pursuant to this Declaration and the By-Laws and consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under the Governing Documents, the cost of which shall be a Common Expense.

4.2. Personal Property and Real Property for Common Use.

The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the properties described in Exhibit "A" or "B," personal property, and leasehold and other property interests. The Association shall accept such property and thereafter maintain it at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any improvements whatsoever to the property conveyed to the Association, including, without limitation, dredging or removing silt from lakes or ponds. Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Community originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3. Enforcement.

The Association may impose sanctions for violations of the Governing Documents in accordance with procedures set forth in the By-Laws, including reasonable monetary fines and suspension of the right to vote and to use any recreational facilities within the Common Area. In addition, in accordance with Section 3.24(d) of the By-Laws, the Association may exercise self-help to cure violations and may suspend any services it provides to the Unit of any Owner who is more than 30 days delinquent in paying any assessment or other charge due to the Association. All remedies set forth in the Governing Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration or Association rules, if the Association prevails it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs reasonably incurred in such action.

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

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

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4.4. Implied Rights; Board Authority.

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

4.5. Governmental Interests.

For so long as Declarant owns any property described on Exhibit "A" or "B," Declarant may designate sites within the Community for fire, police, and utility facilities, public schools and parks, and other public or quasi-public facilities. The sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant.

4.6. Indemnification.

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

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7. Dedication of Common Areas.

The Association may dedicate portions of the Common Areas to Henry County, Georgia, or to any other local, state, or federal governmental or quasi-governmental entity.

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4.8. Security.

The Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community safer than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within the Community, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measures, including any mechanism or system for limiting access to the Community, can not be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and covenants to inform its tenants and all occupants of its Unit that the Association, the Board of Directors and committees, and Declarant are not insurers and that each Person using the Community assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties.

Article V Maintenance

5.1. Association's Responsibility.

(a) The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(i) the Common Area, recreational amenities, open space, and all landscaping, signage, lighting, irrigation systems and equipment, fences, walls, and other structures and improvements, sidewalks, paths, and trails, situated upon the Common Area;

(ii) landscaping and signage within public rights-of-way within the Community;

(iii) any lakes, ponds, streams and/or wetlands located within the Community and all detention ponds (including the pond easement and landscaping easement), drainage systems, storm water retention or detention systems for the Community, including any retaining walls, bulkheads, or dams (earthen or otherwise) as more particularly shown on the final plat for Watkins Glen Recorded or to be Recorded;

(iv) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association; and

(v) any property and facilities owned by Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from Declarant to the Association and to remain a part of the Area of Common Responsibility and to be maintained by

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the Association unless and until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(b) There are hereby reserved to the Association easements over the Community as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and improvements within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members representing 75% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of Declarant as long as Declarant owns any property described on Exhibit "A" or "B" of this Declaration.

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

5.2. Owner's Responsibility.

Each Owner shall maintain his or her Unit and all structures, parking areas, and other improvements comprising the Unit in a manner consistent with the Community-Wide Standard. Units upon which a portion of the detention basin lies, as shown on the Land Plan or any final plat for Watkins Glen Recorded or to be Recorded, shall be maintained by the Owner up to the detention basin water's edge. The water and land beneath the surface of the detention basin water shall be the maintenance responsibility of the Association as set forth in this Declaration.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and levy a Specific Assessment of all costs incurred by the Association against the Unit and the Owner. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Standard of Performance.

Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include

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responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Article VI Insurance and Casualty Losses

6.1. Association Insurance.

(a) Required Coverages. The Association, acting through the Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering the full replacement cost of all insurable improvements from "risks of direct physical loss" for the Common Area and on other portions of the Area of Common Responsibility to the extent that the Association has responsibility for maintenance, repair, and/or replacement in the event of a casualty, regardless of ownership.

(ii) Commercial general liability insurance with such limits and terms as the board may determine reasonable;

(iii) Such other insurance such as workers compensation, directors and officers liability coverage, and fidelity insurance as the Board, in the exercise of its business judgment, determines advisable.

(b) Policy Requirements. The policies may contain a reasonable deductible. In the event of an insured loss, the deductible shall be treated as a Common Expense; provided, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.24 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may levy a Specific Assessment of the full amount of such deductible against such Owner(s) and their Units.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of Georgia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Association as trustee for the benefited parties;

(iii) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually.

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In addition, the Board shall be vested with exclusive authority to adjust losses; provided, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Damage and Destruction. Immediately after damage or destruction to all or any part of the Community covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members representing at least 67% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide not to repair or reconstruct. If the Association determines that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy a Special Assessment to cover the shortfall.

6.2. Owners' Insurance.

By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

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Article VII Annexation and Withdrawal of Property**7.1. Annexation Without Approval of Membership.**

Until all property described on Exhibit "B" has been subjected to this Declaration or ten years after the Recording of this Declaration, whichever is earlier, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibit "A" or "B" and that such transfer is memorialized in a Recorded instrument executed by Declarant.

Such annexation shall be accomplished by Recording a Supplemental Declaration describing the property being annexed. Such Supplemental Declaration shall not require the consent of the Members, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon Recording the Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

7.2. Annexation With Approval of Membership.

The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose. In addition, Declarant's consent is required so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 7.1.

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

7.3. Withdrawal of Property.

Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Section 7.1, for the purpose of removing any portion of the Community from the coverage of this Declaration, provided such withdrawal is not unequivocally contrary to the Community's overall, uniform scheme of development. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not Declarant.

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7.4. Additional Covenants and Easements.

Declarant may subject any portion of the Community to additional covenants and easements by Recording a Supplemental Declaration, concurrent with or after the annexation of the subject property, setting forth such additional covenants and easements. Any such Supplemental Declaration shall require the written consent of the owner(s) of the subject property, if other than Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

Article VIII Assessments

8.1. Creation of and Obligation for Assessments.

(a) Types. There are hereby created, and the Association is authorized to levy, assessments for the Association's Common Expenses. Such assessments shall commence at the time and in the manner set forth in Section 8.8.

There shall be three types of assessments: (a) General Assessments as described in Section 8.3; (b) Special Assessments as described in Section 8.5; and (c) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a Recorded contract of sale for any portion of the Community, is deemed to covenant and agree to pay these assessments.

(b) Personal Obligation and Lien. All assessments, together with interest (computed from the due date of such assessment at a rate of 10% per annum or such higher rate as the Board may establish, subject to the limitations of Georgia law), late charges established by Board resolution, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Unit and also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

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

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may provide for discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. The General Assessment shall be an annual assessment due and payable in advance on the first day of each

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fiscal year; provided, the Board may by resolution permit payment in two or more installments. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may accelerate the installments and require all of the General Assessment to be paid in full immediately.

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

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

8.2. Declarant's Obligation for Assessments.

During the Class "B" Control Period, Declarant shall not be liable for payment of assessments on Units which it owns. However, Declarant may annually elect to, but shall not be obligated to, contribute to the Association the difference between the amount of assessments levied on all other Units subject to assessment and the amount of actual expenditures by the Association during the fiscal year (a "Subsidy"). After termination of the Class "B" Control Period, Declarant shall pay assessments on its unsold Units subject to assessment under Section 8.8 in the same manner as any other Owner.

Any Subsidy may be treated, in Declarant's discretion, as either: a voluntary contribution; an advance against future assessments (if any); or a loan by Declarant to the Association. Subsidy which is treated as a loan may be evidenced by promissory notes from the Association in favor of Declarant. As an alternative to paying a Subsidy, Declarant may cause the Association to borrow funds from a commercial lending institution at the then prevailing rate; for such a loan in the local area of the Community.

Any Subsidy shall be disclosed as a line item in the Common Expense budget and the treatment of such Subsidy shall be made known to the membership. The payment of a Subsidy in any year shall under no circumstances obligate Declarant to continue payment of a Subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

8.3. Computation of General Assessments.

At least 30 days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a capital contribution to establish a reserve fund. General Assessments shall be fixed at a uniform rate for all Units subject to assessment under Section 8.8. Such assessment rate shall be set at a level which is reasonably expected to produce total income for the Association equal to the total

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budgeted Common Expenses, including reserves. In determining the total funds to be generated through the levy of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years and any assessment income expected to be generated from any additional Units.

The Board shall send a copy of the final budget and notice of the amount of the General Assessment for the following year to each Owner at least 30 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by at least 67% of the Class "A" Members and by the Class "B" Member, if such exists. There shall be no obligation to call such a meeting unless a petition for a special meeting is presented to the Board within 10 days of the delivery of the notice of assessment.

If a budget is not adopted for any year, then until such time as a budget is adopted, the budget in effect for the immediately preceding year shall continue for the current year.

8.4. Reserve Budget and Capital Contribution.

The Board may prepare a reserve budget which takes into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. If established, the Board shall include as a line item in the Common Expense budget a capital contribution in an amount sufficient to permit meeting the projected needs of the Association over the budget period. There shall be no obligation to establish a reserve budget or capital contribution. So long as the Board exercises business judgment in determining the amount or necessity of a reserve, the amount shall be considered adequate. If reserves are not established or are insufficient for the repair or replacement of any capital asset, Special Assessments may be levied.

Upon acquisition of record title to a Unit by the first Owner thereof other than Declarant, a contribution in the amount of \$ 150.00 shall be made by or on behalf of the purchaser to the capital reserve account of the Association. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of any assessment. This amount shall be deposited into the purchase and sales escrow and disbursed to the Association for use in owning and maintaining the Association's capital assets.

8.5. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any Special Assessment which would exceed the amount of the General Assessment in any fiscal year shall require the affirmative vote or written consent of a majority of the total Class "A" votes in the Association, and the affirmative vote or written consent of the Class "B" Member, if such exists. Special Assessments shall be payable in such manner and at such time as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. Except as otherwise provided in Section 8.8, Special Assessments shall be levied equally on all Units.

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8.6. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Unit or its occupants upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, pest control, cable television or utility service, and similar services). Specific Assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Unit into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws or rules, or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing, in accordance with Section 3.24 of the By-Laws before levying any Specific Assessment under this subsection (b).

8.7. Lien for Assessments.

The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges, costs of collection, and attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under Georgia law.

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

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.8, including such acquirer, its successors and assigns.