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Anne M. Reneau

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Page: 10

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Georgia
The Arbors Homeowners Association, Inc.
1373 Yorkshire Lane
Woodstock, GA 30188
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FIRST AMENDMENT TO THE
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS
THE ARBORS
TOWNE LAKE

THIS FIRST AMENDMENT to the Declaration of Covenants, Restrictions and Easements for The Arbors, Towne Lake ("First Amendment") is made by The Arbors Homeowners Association, Inc., a Georgia non-profit corporation (hereinafter called the "Association").

WITNESSETH

WHEREAS, The Means Brothers, Inc., as Declarant, executed that certain Declaration of Covenants, Restrictions and Easements for The Arbors, which was recorded on July 12, 1988, in Deed Book 724, Page 10, *et seq.*, Cherokee County, Georgia records (collectively hereinafter as amended the "Declaration"); and

WHEREAS, the Association is a non-profit corporation organized under the Georgia Nonprofit Code to be the Association named in the Declaration to have the power and authority set forth therein; and

WHEREAS, the Association and the Owners desire to amend the Declaration as set forth herein to: subject the Property to the Georgia Property Owners Association Act, O.C.G.A. Sections 44-3-220, *et seq.*, as the same is in effect on the date of recording hereof; to amend Article VI to

GEORGIA, CHEROKEE COUNTY
I, Anne M. Reneau, Clerk Superior, State and Juvenile Courts, hereby certify that the within is a true and correct copy of the original that appears in our office.
Witness my hand and official seal this 4 day of August, 2003.
Sharon J. Howell Deputy Clerk
ANNE M. RENEAU, CLERK OF COURTS
CHEROKEE COUNTY

define the mailboxes that can be used on the Lots; and, to amend Article VI, Section 6.12 regarding antennas and satellite dishes; and

WHEREAS, pursuant to Article IX, Section 9.03 of the Declaration, the Declaration may be amended by the Members holding at least two-thirds (2/3) of the total votes of the Association; and

WHEREAS, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the President of the Association, which sworn statement states unequivocally that the approval of Members holding at least two-thirds (2/3) of the votes of the Association was lawfully obtained; and

WHEREAS, pursuant to Article IX, Section 9.04 of the Declaration, all amendments to the Declaration shall be subject to prior written consent of the board of directors of the Master Association; and

WHEREAS, attached hereto as Exhibit "B" and incorporated herein by reference is the sworn statement of the President of Towne Lake Residential Owners Association, Inc. (the "Master Association"), which sworn statement states unequivocally that the consent of the board of directors of the Master Association was lawfully obtained; and

WHEREAS, this First Amendment does not alter, modify, change, or rescind any right, title, interest or privilege held by any mortgage holder of any Lot; provided, however, in the event a court of competent jurisdiction determines that this First Amendment does alter, modify, change or rescind any right, title, interest or privilege held by any such mortgage holder without such mortgage holder's consent in writing to this First Amendment, then this First Amendment shall not be binding on the mortgage holder so involved, unless such mortgage holder consents to this First Amendment; and if such consent is not forthcoming, then the provisions of the Declaration prior to this First Amendment shall control with respect to the affected mortgage holder; and

NOW THEREFORE, the undersigned hereby adopt this First Amendment to the Declaration of Covenants, Restrictions and Easements of The Arbors, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, as follows:

1.

Article VI, Section 6.12 Antennae, is deleted in its entirety and replaced with the following:

6.12 Antennae. No exterior antenna, receiving dish or similar apparatus of any kind for receiving or transmitting of radio or video signals shall be placed, allowed or maintained upon any portion of the Subdivision, including any Lot, unless approved in accordance with the provisions of Article V hereof; provided, however, no such approval shall be necessary to install (1) antennae designed to receive direct broadcast satellite services, including direct-to-home

satellite services, that are one meter or less in diameter; (2) antennae designed to receive video programming services via multi-point distribution services that are one meter or less in diameter or diagonal measurement; or (3) antennae that are designed and intended to receive television broadcast signals. Owners shall install any permitted antennae on the rear or side of the dwelling located on a Lot unless an acceptable quality signal cannot otherwise be obtained.

2.

Article VI, is amended by adding the following :

6.22 Mailboxes. No mailbox other than a Global Home Products MB 500 black metal mailbox, as depicted in Exhibit "C" attached hereto and made a part hereof (hereafter MB 500 mailbox) may be placed on any Lot in the Property. In the event that the MB 500 black metal mailbox is no longer available, the Owner may use a black metal mailbox substantially similar to the MB 500, as determined and approved by the Architectural Control Committee. If, at any time, the Board of Directors determines that a mailbox has fallen into a state of disrepair, it will notify the Owner that the mailbox needs to be removed and replaced with an MB 500 or other approved mailbox. The Owner agrees to replace the mailbox, at his own expense, within thirty (30) days of the date of said notice.

3.

Unless otherwise defined herein, the words used in this First Amendment shall have the same meaning as set forth in the Declaration.

4.

This First Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Cherokee County, Georgia.

5.

Except as herein modified, the Declaration shall remain in full force and effect.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed under seal the day and year above written.

ASSOCIATION: **THE ARBORS HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation

By: *Sean McEwen*

Title: President



Signed, sealed and delivered in the presence of
Kim Agood
Witness

Janet S. Read
Notary Public

Notary Public Cherokee Co. GA.
Commission Expires Feb 6, 2006



EXHIBIT "A"

Sworn Statement of President
The Arbors Homeowners Association, Inc.,

STATE OF GEORGIA

COUNTY OF CHEROKEE

Re: The Arbors at Towne Lake Subdivision

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the President of The Arbors Homeowners Association, Inc., and
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his own personal knowledge.
3. The foregoing First Amendment to Declaration of Protective Covenants for The Arbors was approved by those Members of the Association who own in the aggregate no fewer than two-thirds (2/3) of the Lots as provided in the Declaration.

This the 2nd day of December, 2002.

Ken McEld
President

Signed, sealed and delivered
in the presence of:

Janet S. Read
Notary Public

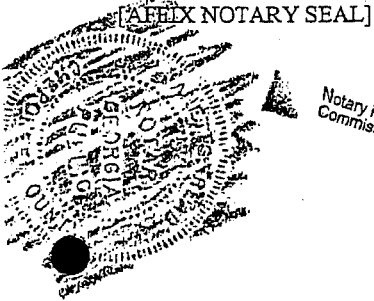


EXHIBIT "B"

Sworn Statement of President
Towne Lake Residential Owners Association, Inc.

STATE OF GEORGIA

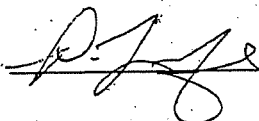
COUNTY OF CHEROKEE

Re: The Arbors at Towne Lake Subdivision

Personally appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

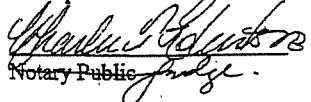
1. Deponent is the President of Towne Lake Residential Owners Association, Inc., ("Master Association") and.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein of his own personal knowledge.
3. The foregoing First Amendment to the Declaration of Covenants, Restrictions and Easements Protective Covenants for The Arbors was consented to by the members of the Board of Directors of the Master Association.

This the 11 day of 2, 2002.



President

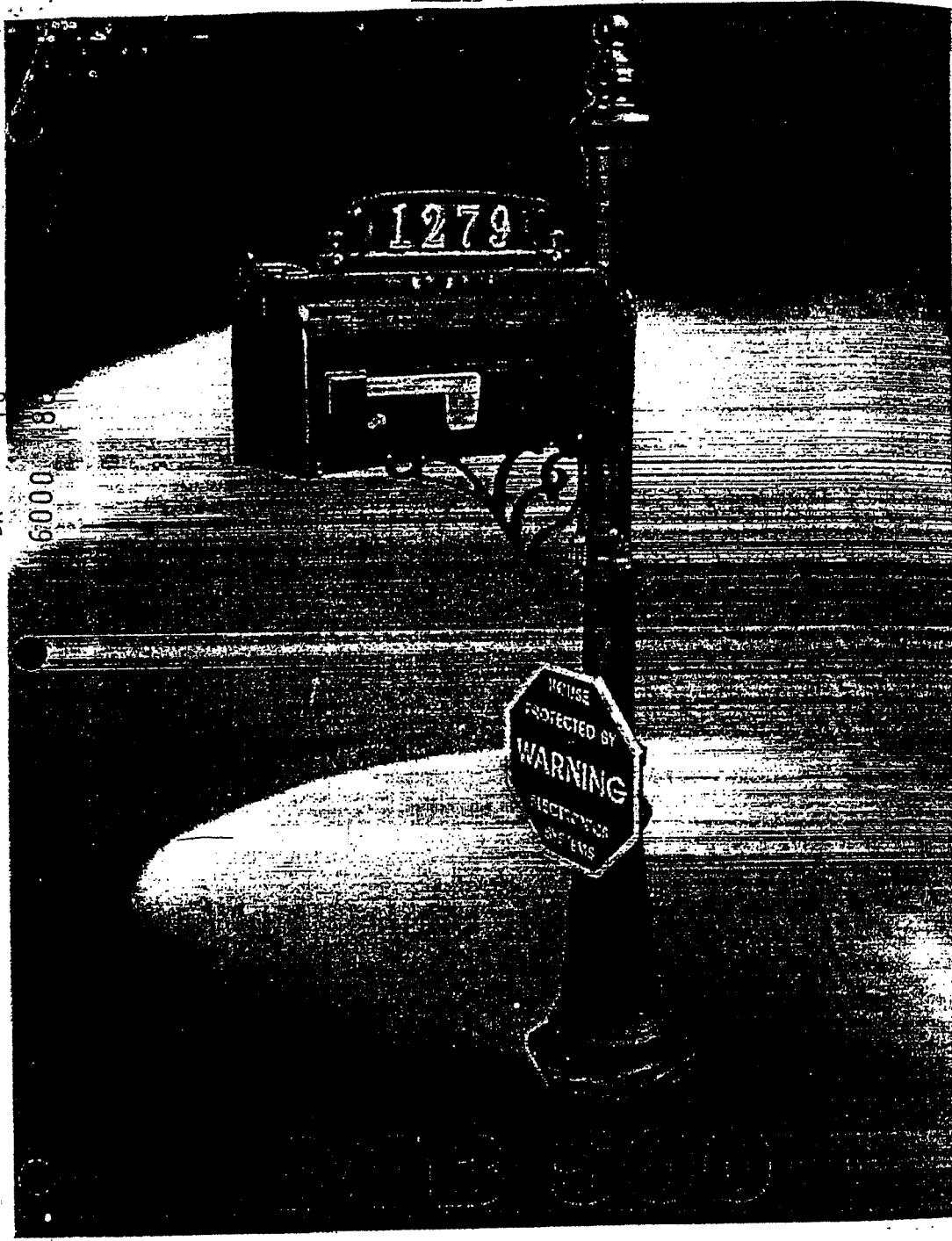
Signed, sealed and delivered
in the presence of:



Notary Public

[AFFIX NOTARY SEAL]

BK PG
6000



Rec 5-9-2003

1724-10

DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
OF THE ARBORS

TOWNE LAKE

Cherokee County, Georgia

1/1 Pd 99.00

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GEORGIA, CHEROKEE COUNTY, CIVIL SUPERIOR COURT
Filed to office this 12th day of July
19 88 at 12:00 PM
Page 10 of 30
Exhibit 3 provided

Let to: Means Brothers, Inc
2022 Powers Ferry Rd
Suite 180
Atlanta, Ga 30328

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DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
FOR THE ARBORS

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DECLARATION
OF COVENANTS, RESTRICTIONS AND EASEMENTS
OF THE ARBORS

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this 21ST day of June, 1988, by THE MEANS BROTHERS, INC. (hereinafter referred to as "Declarant").

BACKGROUND STATEMENT

Declarant is the owner of certain real property in Cherokee County, Georgia, which is more particularly described on Exhibit "A" attached hereto and made a part hereof.

Declarant intends to develop on lands including the real property described above a development to be known as THE ARBORS (hereinafter referred to as the "Development"). Declarant has caused the Association (as hereinafter defined) to be formed as a non-profit civic organization to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined). Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all Owners of Residential Property within THE ARBORS, the planned unit development made subject to this Declaration, by the recording of this Declaration and amendments thereto. Declarant desires to provide a flexible and reasonable procedure for the overall development of THE ARBORS and the interrelationship between the Association (as hereinafter defined) established pursuant to this Declaration. Declarant also desires to establish a method for the administration, maintenance, preservation, use and enjoyment of the property that is now or hereafter subjected to this Declaration and certain other properties described in this Declaration.

The Declarant hereby declares that all of the real property described above shall be held, sold and conveyed subject to this Declaration of Covenants, Restrictions and Easements, which is for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property (as hereinafter defined). The Covenants, Restrictions and Easements set forth herein shall be subordinate to and subject to the Master Declaration and shall run with the Property (as hereinafter defined), and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall, subject to the limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, distributees, successors and assigns and to the benefit of the Association and the Master Association.

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The Development is located within the planned unit development known as Towne Lake and is subject to the Master Declaration (as hereinafter defined). Declarant also desires to provide for the interrelationship between the Association and the Towne Lake Association established pursuant to the Master Declaration.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration of Covenants, Restrictions and Easements, shall have the following meanings:

1.01 Association. "Association" means THE ARBORS Homeowners Association, Inc. (a non-profit Corporation organized under the Georgia Nonprofit Corporation Code), its successor and assigns.

1.02 Board. "Board" means the Board of Directors of the Association.

1.03 Builder. "Builder" means any person or entity engaged principally in the business of constructing for sale to homeowners single family residential dwellings to whom the Declarant sells or has sold one or more Lots for the purpose of constructing thereon a single family residential dwelling.

1.04 By-Laws. "By-Laws" means the By-Laws of the Association.

1.05 Common Property. "Common Property" means all real property (together with any and all improvements now or hereafter located thereon) owned by the Association or in certain instances over which the Association has been granted permanent easements, for the common use and enjoyment of the Owners.

1.06 Community. "Community" means the Property and all improvements located or constructed thereon.

1.07 Declarant. "Declarant" means THE MEANS BROTHERS, INC., its successors and assigns. The Declarant shall have the right to assign to any person, firm or corporation any of its rights hereunder by written instrument recorded in the Clerk's Record Superior Court of Cherokee County as an Addendum to this Declaration and in such an event the word Declarant shall specifically include such assignee to the extent the right of the Declarant has been assigned.

1.08 Development-Wide Standard. "Development-Wide Standard" shall mean the standard of conduct, maintenance or oth-

er activity generally prevailing in the Development. Such standards may be more specifically determined by the Board and by committees required or permitted to be established pursuant to the Declaration and By-Laws. Such determination, however, must be consistent with the Development-Wide Standard originally established by the Declarant.

1.09 Lot. "Lot" means any parcel of land shown upon a subdivision plat recorded in the Office of the Clerk of the Superior Court of Cherokee County, covering any portion of the Property, provided, however, that no portion of the Common Property shall ever be a Lot except as provided in 2.04.

1.10 Master ARC. "Master ARC" shall mean that a certain Architectural Review Committee established by the board of directors of the Master Association pursuant to Section 9 of Article VI of the Master Declaration.

1.11 Master Assessments. "Master Assessments" shall mean any and all assessments which may or shall be levied by the Master Association against any Lots from time to time pursuant to the terms of the Master Declaration, including but not limited to General Assessments, Parcel Assessments, special and specific assessments, as such terms are defined or described in the Master Declaration.

1.12 Master Association. "Master Association" shall mean Towne Lake Residential Owners Association, Inc., (a nonprofit corporation organized under the laws of the State of Georgia) its successors and assigns.

1.13 Master Declarant. "Master Declarant" shall mean West Mill Joint Venture, a Texas joint venture composed of L.D.J. Development Co., a Texas corporation, and LDJ Construction Co., a Texas corporation, and its successors and assigns.

1.14 Master Declaration. "Master Declaration" shall mean that certain Master Declaration of Protective Covenants For Towne Lake Residential Area, dated December 7, 1987, recorded at Deed Book 679, page 501, Cherokee County, Georgia records, the terms of which are hereby incorporated herein by reference as if fully set forth herein.

1.15 Member. "Member" means any member of the Association.

1.16 Membership. "Membership" means the collective total of all Members of all classes of the Association.

1.17 Owner. "Owner" means the record owner (including Declarant) whether one or more persons or entities, of a fee simple title to any Lot, provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own

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the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.18 Property. "Property" means that certain real Property (other than Common Property) hereinabove described together with such additional real property as the Declarant may acquire and subject to the provisions of this Declaration of Covenants, Conditions and Restrictions in accordance with the provisions of Article X hereof.

1.19 Residence. "Residence" shall mean a structure situated upon a Lot intended for independent use and occupancy as a residence for a single family. Residence shall include all portions of the land (the Lot) owned as a part of the structure described above. A structure and the land owned as a part thereof (the Lot) shall not become a Residence until a certificate of occupancy shall have been issued by the appropriate governmental authorities as a pre-requisite to the occupancy of such Residence and until the Lot and structure located thereon shall have been conveyed to a third party other than the builder thereof.

1.20 Restrictions. "Restrictions" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

1.21 Structure. "Structure" means:

(a) any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall, tree, shrub, sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

(b) any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drainage channel from, upon or across any Lot; and

(c) any change in the grade at the point on a Lot of more than six (6) inches, whether or not subsection (b) of this Section 1.21 applies to such change.

ARTICLE II

COMMON PROPERTY

2.01 Conveyance of Common Property.

T A T I T

(a) The Declarant may from time to time convey to the Association or grant easements to the Association, at no expense to the Association and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners of Residences (such real and personal property is hereinafter collectively referred to as "Common Property") and, to the extent set forth in this Declaration of Covenants, Restrictions and Easements, the general public. The Association hereby covenants and agrees to accept from the Declarant all such conveyances of Common Property.

(b) It is contemplated by the Declarant that the Declarant will convey to the Association Common Property for scenic and natural area preservation and for general recreational use to include facilities for swimming, tennis and exercise. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the Association in accordance with this subsection (b) of this Section 2.01 at any time prior to conveyance of such Common Property to the Association.

(c) In addition to the property described in subsection (b) of this Section 2.01, the Declarant may convey to the Association in accordance with this Section 2.01 such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

(d) Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Property owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant until such time as the same shall be conveyed to the Association or to any municipality or other governmental body, agency or authority.

2.02 Right of Enjoyment. Every Owner of a Residence shall have a right and easement to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The Association may permit persons who are not Owners of Residences to use and enjoy part or all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section 2.02 is subject to suspension by the Association as provided in Sections 2.03 (f) and 3.05.

2.03 Rights of the Association. The rights and privileges conferred in Section 2.02 hereof shall be subject to the right, and where applicable, the obligation, of the Association acting through the Board to:

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(a) promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

(b) borrow money for the purpose of carrying out the activities of the Association, including the acquisition, construction, improvement, equipping and maintenance of the Common Property, and in aid thereof to encumber by deed to secure debt, mortgage or other security interest any or all of the Association's Property including Common Property and revenues from assessments, user fees and other sources; and provided, however, that, during the period prior to the time when the Declarant has the right to appoint members of the Board, the Association shall not deed, grant or convey to anyone any mortgage, deed to secure debt or other security interest on or in Common Property constituting real estate without approval by Declarant and a two-thirds (2/3) vote of the members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the By-Laws of the Association;

(c) grant easements or rights of way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency or to any utility company or cable television system;

(d) dedicate or transfer all or any part of the Common Property or interest therein to any municipality or other government body, agency or authority for such purposes and subject to such provisions and conditions as may be agreed upon by the Association and such grantee, including a provision that such property or interest shall, if such dedication or transfer is approved by two-thirds (2/3) vote of the Members who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the By-Laws of the Association, cease to be subject to this Declaration or all or any part of the Restrictions while held by any such municipality or other governmental body, agency or authority;

(e) charge reasonable fees in connection with the admission to and use of facilities or services by Members and non-members; provided that in setting any such fee the Board may establish reasonable classifications which shall be uniform within each such class but need not be uniform between such classes.

(f) suspend, pursuant to Section 3.05, the voting rights of any Member and the right of enjoyment granted or permitted by Section 2.02;

(g) to sell, lease or otherwise convey all or any part of its properties and interests therein;

(h) enforce all applicable provisions of valid agreements of the Association relating to the Common Property or any part thereof; and

(i) maintain any and all landscaping treatments previously installed by the Declarant, to the extent that such landscaping is not otherwise maintained by the appropriate county and/or municipal entity having jurisdiction over the roads for Cherokee County, Georgia.

2.04 Conveyance of Common Property by Declarant to Association. The Declarant may transfer or convey to the Association any personal property and any improved or unimproved property, leasehold, easement or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all of its Members.

2.05 Types of Common Property. At the time of the conveyance of any real property or grant of easement by the Declarant to the Association to be used as Common Property, the Declarant shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not, without a two-thirds (2/3) vote of the Members of the Association, be used for any different purpose or purposes without the prior written consent of the Declarant.

2.06 Delegation of Use. Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the By-Laws, his right to use and enjoy the Common Property.

2.07 Maintenance. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Property. In addition, the Association shall maintain grass and other landscaping located along or in dedicated rights of way which were installed and maintained by Declarant, to the extent permitted by the applicable governmental authority. The foregoing maintenance shall be performed consistent with the Development-Wide Standard.

ARTICLE III

THE ARBORS HOMEOWNERS' ASSOCIATION

3.01 Purposes, Powers and Duties of the Association. The Association shall be formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the people of the Development.

The Association shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the people of the Development. To the extent, and only to the extent, necessary to carry out such purpose, the Association (a) shall have all of the powers of a corporation organized under the Georgia Non-profit corporation Code and (b) shall have the power and duty to exercise all of the rights, powers and privileges and to perform all the duties and obligations of the Association as set forth in this Declaration.

3.02 Membership in the Association. Every Owner shall automatically be a member of the Association and such membership shall terminate only as provided in this Declaration of Covenants, Restrictions and Easements. For purposes of voting, there shall be two (2) classes of Members as set forth in Section 3.03.

3.03 Voting Rights.

(a) Each Owner of a Residence, with the exception of Declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote per Residence. Where such Owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the secretary of the Association.

(b) The Declarant shall be the sole Class B Member and shall be entitled to three (3) votes for each Lot owned. Subject to the terms and conditions of subsection (c) of this Section 3.03, the Class B Membership shall cease and be converted to Class A Membership when the total number of votes outstanding in the Class A Membership equals the total number of votes outstanding in the Class B Membership.

(c) The Development will be composed of Lots to be developed in phases containing unequal numbers of Lots. Each such phase will be platted of record in the office of the Clerk of the Superior Court of Cherokee County in accordance with Article X of this Declaration. The Declarant shall notify the Association in writing when the final phase of the development has been so platted of record. By acceptance of deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of the subdivision plats covering such phases, the total votes outstanding in the Association will automatically increase based upon the number of Lots in the phases added and in accordance with the formula set forth in subsection (b) of this Section 3.03 and in no event shall Class B Membership cease and be converted to Class A Membership (as provided in subsection (b) of the Section 3.03) until after the Association receives the written notice provided for in the preceding sentence; provided, however, nothing contained herein shall obligate the Declarant to develop any proposed phase of the Development unless such phase is subjected to this Declaration.

3.04 Board of Directors. The affairs of the Association shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in the By-Laws of the Association.

3.05 Suspension of Membership. The Board may suspend the voting rights of any Member and the right of enjoyment of Common Property of any person who:

(a) shall be subject to the Right of Abatement, as defined in Section 8.02 by reason of having failed to take the reasonable steps to remedy a violation or breach of either the Restrictions or the Design Standards of the ACC (as herein defined) within thirty (30) days after having received notice of the same pursuant to the provisions of Section 5.11, 6.14 or 8.02 thereof;

(b) shall be delinquent in the payment of any assessment levied by the Association pursuant to the provisions of Article IV hereof; or

(c) shall be in violation of the rules and regulations of the Association relating to the use, operation and maintenance of Common Property. Such suspensions shall be for the balance of the period in which said Member or person shall remain in violation, breach or default, as aforesaid, except that in the case of a violation described in subsection (c) of this Section 3.05, the suspensions may be for a period not to exceed sixty (60) days after the cure or termination of such violation. No such suspension shall prevent an Owner's ingress to or egress from his Lot.

3.06 Termination of Membership. Membership shall cease only when a person ceases to be an Owner.

3.07 Voting Procedures. The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the membership of the Association shall be governed by this Declaration, the Georgia Non-profit Corporation Code, the Articles of Incorporation of the Association, and the By-Laws of the Association, as each shall from time to time be in force and effect.

3.08 Control by Declarant. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation or in the By-Laws of the Association, Declarant hereby retains the right to appoint and remove any members of the Board of the Association and any officer or officers of the Association until such time as the first of the following events shall occur: (i) the expiration of ten (10) years after the date of the recording of this Declaration; (ii) the date upon which three-fourth (3/4) of all the Residences intended by Declarant to be a part of the Development have been conveyed by

Declarant to Owners other than a person or persons constituting Declarant; or (iii) the surrender by Declarant of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Declarant, provided, however, that the Owners shall be entitled to elect certain members of the Board of the Association in accordance with the terms of the By-Laws of the Association, which shall not be removable by the Declarant acting alone.

(b) Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of the Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots; and a special meeting of the Association shall be called at such time. At such special meeting the Owner shall elect a new Board of Directors which shall undertake the responsibilities of the Board and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period which Declarant has in its possession. Each Owner by acceptance of a deed to or other conveyances of a Lot vests in Declarant such authority to appoint and remove directors and officers of the Association as provided in this Section. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law and any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

ARTICLE IV

ASSESSMENTS

4.01 Covenant for Assessments and Creation of Lien and Personal Obligation. Each Owner of a Residence, jointly and severally, for himself, his heirs, his distributees, legal representatives, successors and assigns, by acceptance of a deed for a Residence, whether or not the covenants contained herein shall be expressed in any such deed, hereby covenants and agrees as follows:

(a) to pay to the Association the annual assessments which may or shall be levied by the Association pursuant to this Declaration against all Residences owned by him;

(b) to pay to the Association any special assessments for capital improvements and other charges which may or shall be levied by the Association pursuant to this Declaration against all Residences owned by him;

(c) to pay to the Association the Master Assessments which may or shall be levied pursuant to the Master Declaration against all Lots owned by him;

(d) that there is hereby created a continuing charge and lien upon all Residences (and all Lots with respect to Master Assessments) owned by him against which all such assessments are made to secure payment of such assessments and any interest thereon provided in Section 4.10 hereof and costs of collection including reasonable attorney's fees;

(e) that such continuing charge and lien on such Residence binds such Residence in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior; (ii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a Residence or Residences (together with any and all structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures; and (iii) liens securing the Master Assessments;

(f) that no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Residence from liability for any assessment thereafter assessed; and

(g) that all annual and special assessments (together with interest thereon as provided in Section 4.10 of this Declaration and costs of collection including reasonable attorney's fees) levied against any Residence owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Residence as provided in Section 4.01 (c) of this Declaration) a personal obligation which will survive any sale or transfer of the Residence owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to Owner's successor in title unless expressly assumed by such successor.

4.02 Purpose of Assessment. The assessments levied by the Association shall be used exclusively for the purpose of providing for the common good and general welfare of the people of the Development, including, but not limited to, security, the acquisition, construction, improvement, maintenance and equipping of Common Property, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the Association and the payment of all principal and interest when due on all debts owed by the Association and the payment of the Master Assessments.

4.03 Accumulation of Funds Permitted. The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise,

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and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purposes.

4.04 Annual Assessment.

(a) Beginning on the Commencement Date and continuing thereafter until January 1 of the year immediately following the Commencement Date each Lot shall be subject to a maximum annual assessment of two hundred fifty dollars (\$250.00) per Lot. In the event that the Commencement Date falls on a day other than January 1, the annual assessment for such year shall be prorated so that each Owner pays an annual assessment proportional to the number of days remaining in the calendar year. The words "Assessment Year" as used herein shall mean the calendar year with the first Assessment Year commencing on January 1 of the year immediately following the Commencement Date. For so long as Declarant has the right to appoint and remove Directors and Officers of the Association, the annual assessment shall not be reduced below \$250.00 without the express written consent of Declarant.

(b) Commencing with the first Assessment Year and continuing thereafter, the annual assessment may be increased at any time and from time to time during each Assessment Year not more than ten per cent (10%) above the maximum annual assessment for the previous Assessment Year without a vote of the Membership.

(c) Commencing with the first Assessment Year and continuing thereafter, the annual assessment for each Assessment Year may at any time and from time to time be increased more than ten per cent (10%) above the maximum annual assessment for the previous Assessment Year if such increase is approved by two-thirds (2/3) vote of the Members of the Association who are present in person or by proxy and voting at the meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

4.05 Special Assessments for Capital Improvements. In addition to the annual assessments authorized by this Article IV, the Association may levy, in any Assessment Year and with such frequency as the Association shall deem necessary, special assessments for the purpose of paying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common Property. Such special assessments may be levied by the Board in any Assessment Year without the approval of the members, which special assessments in the aggregate do not exceed an amount equal to the annual assessment then in effect. Special assessments exceeding said amount shall have been approved by a two-thirds (2/3) vote of the Mem-

bers of the Association who are present in person or by proxy at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association and this Declaration.

4.06 Assessment Procedure.

(a) The Board shall establish the annual assessment for each Assessment Year at an amount not in excess of the maximum annual assessment as determined by the provisions of this Article IV, and shall also establish the date during the Assessment Year on which the annual assessment shall be due and payable (such date is hereinafter referred to as the "Due Date"). The Board shall also establish an annual budget which shall list the estimated operating expenses and shall contain a reasonable amount to be set aside each year into a reserve allowance sufficient for reasonably anticipated future repair and replacement of Common Property. The Board shall cause the Association to send to each Owner at least thirty (30) days in advance of the Due date written notice setting forth the amount of the annual assessment and the Due Date. The annual assessment shall become due on the thirtieth (30th) day following such written notice or the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual assessment in installments during the Assessment Year. The Board shall also establish payment procedures for payment of any special assessments for capital improvements which may be levied in accordance with the provisions of this Article IV.

(b) All Members of the Association shall be given written notice by the Board not less than thirty (30) nor more than sixty (60) days in advance of any meeting of the Members of the Association at which the Board shall propose taking action pursuant to Section 4.04 (c) and Section 4.05 of this Article IV. Such written notice shall specify under which Section or Sections the Board will propose action. At such meeting, the presence of Members or of proxies entitled to cast fifty per cent (50%) of the total votes outstanding shall constitute a quorum. If the required quorum is not present at such meeting, a second meeting may be called by the Board subject to the same notice requirement and the required quorum at such second meeting shall be thirty per cent (30%) of the total votes outstanding. No such second meeting shall be held more than sixty (60) days following the first meeting. If the quorum is not present at the second meeting, the Board may take such action without approval of the Members.

4.07 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Residences.

4.08 Contribution by Declarant. For so long as Declarant has the authority to appoint and remove Directors and Officers of the Association, Declarant shall advance funds to the Association sufficient to satisfy the deficit, if any, between

the actual operating expenses of the Association (but specifically not including an allocation for the reserve allowance), and the sum of annual, special and specific assessments collected by the Association in any Assessment Year, and such advances shall be evidenced by promissory notes from the Association to Declarant.

4.09 Commencement Date for Annual Assessments. The Annual Assessments provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to a person or entity other than Declarant or a Builder (the "Commencement Date"). Anything contained herein to the contrary notwithstanding, neither Declarant nor any Builder shall be liable for the payment of any Annual Assessments or any special assessments, with respect to Lots which they own, unless or until occupied as a residence.

4.10 Effect of Nonpayment of Assessment. Any Assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the lower of the highest legal note of interest which can be charged or the rate of eighteen per cent (18%) per annum or at such rate as the Board may from time to time establish, provided, however, that in no event shall the Board have the power to establish a rate of interest in violation of the laws of the State of Georgia. In the event of default in the payment of any one or more installments of an assessment, the Board may declare any remaining balance of the assessment at once due and payable. In the event that an Owner shall fail to pay fully any portion of assessment prior to the date on which payment is due, such unpaid portion (including any remaining balance declared immediately due and payable in accordance with the preceding sentence), together with interest and costs of collection including reasonable attorney's fees, shall be a binding personal obligation of such Owner, as well as a lien on such Owner's Lot enforceable in accordance with the provisions of this Declaration.

4.11 Certificate of Payment. Upon written demand by an Owner, the Association shall within a reasonable period of time issue and furnish to such Owner a written certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser of, or lender on, the Lot in question.

4.12 Approval By Declarant. Notwithstanding anything to the contrary contained herein, no assessment shall be made without the Approval of Declarant for so long as Declarant has the right to appoint officers and directors of the Association.

4.13 Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. The Board may specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items which are maintenance responsibility of the Association as provided herein:

(a) Expenses of the Association which benefit less than all of the Residences, which may be specifically assessed equitably among all of the Residences which are benefitted according to the benefit received;

(b) Expenses incurred by the Association pursuant to Section 6.14 hereof; and

(c) Reasonable fines as may be imposed in accordance with the terms of the Declaration and By-Laws.

4.14 Collection of Master Assessments. The Association shall collect all Master Assessments levied against each Lot subject to this Declaration and shall as a matter of first priority, out of any income of the Association, remit any such Master Assessments as may be levied by the Master Association on all property subject to the jurisdiction of the Association, on a timely basis. The Association may bring suit against any Owner to collect delinquent Master Assessments, in addition to any other rights or remedies it may have hereunder or at law or in equity. In addition, any such unpaid Master Assessments, together with interest thereon as provided in Section 4.10 hereof and costs of collection including reasonable attorneys' fees, shall constitute a continuing charge and lien upon such Lots against which such Master Assessments are made.

ARTICLE V

ARCHITECTURAL CONTROL

5.01 Architectural Control Committee - Creation and Composition.

(a) An Architectural Control Committee (the "ACC") shall be established consisting of not less than one (1) nor more than five (5) individuals, provided, however, that the ACC shall always have an uneven number of members. Notwithstanding anything to the contrary contained herein, Declarant shall have the right, but not the obligation, to appoint all members of the ACC until the plans for all the Residences for all

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the Lots in the Development have been approved by the ACC. Thereafter, the Board shall appoint the members of the ACC. All costs of operating the ACC shall be borne by the Association.

(b) Each initial member of the ACC shall be appointed for a term expiring on December 31, 1989. Thereafter each member of the ACC shall be appointed for a calendar-year term. If any vacancy shall occur in the membership of the ACC by reason of death, incapacity, resignation, removal or otherwise, the remaining members of the ACC shall continue to act and such vacancy shall be subject to the provisions of 5.01 (a) be filled by the Declarant (or Board if at the time the Board has the right to appoint members of the ACC) at the earliest possible time. Any ACC member may resign at any time by giving written notice of such resignation to the Chairman of the ACC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the ACC may be removed at any time with or without cause by the Declarant (or Board if at the time the Board has the right to appoint members to the ACC).

5.02 Purpose, Powers and Duties of the ACC. The purpose of the ACC is to assure that any installation, construction or alteration of any Structure on any Lot shall be submitted to the ACC for approval (i) as to whether the proposed installation, construction or alteration is in conformity and harmony of external design and general quality with the existing standards of the neighborhood and with the standard of the THE ARBORS Development, and (ii) as to the locations of Structures with respect to topography, finished ground elevation and surrounding Structures. To the extent necessary to carry out such purpose, the ACC shall have all of the powers and duties to do each and every thing necessary, suitable, convenient or proper for, or in connection with, or incidental to, the accomplishment of such purpose, including, without being limited to, the power and duty to approve or disapprove plans and specifications for any installation, construction or alteration of any Structure on any Lot.

5.03 Officers, Subcommittees and Compensation. The members of the ACC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees of members of the ACC as they shall from time to time determine necessary. The members of the ACC shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of their duties as members of the ACC.

5.04 Operations of the ACC.

(a) Meeting. The ACC shall hold regular meetings at least once every three (3) months or more often as may be established by the ACC. Special meetings may be called by the Chairman and shall be called by the Chairman upon the written request of a majority of the members of the ACC then in office. Regular and special meetings of the ACC shall be held at such

time and at such place as the ACC shall specify. Notice of each regular or special meeting of the ACC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Notice of a meeting need not be given to any member of the ACC who signs a waiver of notice either before or after the meeting. Attendance of a member of the ACC at a meeting shall constitute a waiver of notice such meeting and shall constitute a waiver of any and all objections to the place of the meeting, the time of the meeting, or the manner in which it has been called or convened, except when the member states, at the beginning of the meeting, any such objections or objections to the transaction of business. At each meeting of the ACC, the presence of a majority of the members then in office shall constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of the members of the ACC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the ACC. In the absence of a quorum, any member of the ACC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted at the meeting as originally called. The ACC shall maintain both a record of votes and minutes for each of its meetings. The ACC shall make such records and minutes available at reasonable places and times for inspection by Members of the Association and by the Secretary. Any action required to be taken at a meeting of the ACC, or any action which may be taken at a meeting of the ACC, may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all the members of the ACC and be filed within the minutes of the proceedings of the ACC. Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any document filed by the ACC.

(b) Activities.

(i) The ACC shall adopt and promulgate the Design Standards described in Section 5.05 hereof and shall, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Design Standards of Plans and Specifications to be submitted for approval to the ACC pursuant to the provisions of this Declaration. The ACC shall, as required, issue permits, authorizations or approvals, which may include specified requirements or conditions pursuant to the provisions of this Declaration.

(ii) Any two (2) or more members of the ACC may be authorized by the ACC to exercise the full authority of the ACC with respect to all matters over which the ACC has authority as may be specified by resolution of the ACC, except with respect to the adoption or promulgation of the Design Standards. The unanimous action of the two (2) or more members with respect

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to the matter specified shall be final and binding upon the ACC and upon any applicant for an approval, permit or authorization, subject, however, to review and modification by the ACC on its own motion or appeal by the Applicant to the ACC as provided in this paragraph (ii). Written notice of the decision of such two (2) or more members shall, within five (5) working days thereof, be given to any Applicant for an approval, permit or authorization. The Applicant may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the ACC. Upon filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed promptly by, the ACC, but in no event later than thirty (30) days after the filing of such request. The decision of a majority of the members of the ACC with respect to such matter shall be final and binding.

5.05 Design Standards.

(a) The ACC shall from time to time adopt, promulgate, amend, revoke and enforce guidelines (the "Design Standards") for the purpose of:

(i) governing the form and content of Plans and Specifications to be submitted to the ACC for approval pursuant to the provisions of this Declaration;

(ii) governing the procedure for such submission of Plans and Specifications;

(iii) establishing guidelines with respect to the approval and disapproval of design features, architectural styles, exterior colors and materials, details of construction, location and size of structures and all other matters that require approval by the ACC pursuant to this Declaration and;

(iv) assuring the conformity and harmony of external design and general quality of THE ARBORS Development.

(b) The ACC shall make a published copy of its current Design Standards readily available to Members and Prospective Members of the Association and to all applications seeking the ACC's approval.

5.06 Submission of Plans and Specifications. No structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless three (3) sets of Plans and Specifications therefor shall have been submitted to and approved in writing by the ACC. Such Plans and Specifications shall be in such form and shall contain such information as may be reasonably required by the ACC in the Design Standards, including, without being limited to:

(a) a site plan showing the locations of all proposed and existing Structures on the Lot including building setbacks, open space, driveways, walkways and parking spaces including the number thereof and all siltation and erosion control measures;

(b) a foundation plan;

(c) a floor plan;

(d) exterior elevations of all proposed Structures and alterations to existing Structures, as such Structures will appear after all back-filling and landscaping are completed;

(e) specifications of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed Structures and alterations to existing Structures; and

(f) plans for landscaping and grading.

5.07 Approval of Plans and Specifications. Upon approval by the ACC of any Plans and Specifications submitted pursuant to this Declaration, one (1) copy of such Plans and Specifications, as approved, shall be deposited for permanent record with the ACC and a copy of such Plans and Specifications bearing such approval, in writing, shall be returned to the Applicant submitting the same. Approval for use in connection with any Lot or Structure of any Plans and Specifications shall not be deemed a waiver of the ACC's right, in its discretion, to disapprove similar Plans and Specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such Plans and Specifications relating to any Lot or Structure, however, shall be final as to that Lot or Structure and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such Plans and Specifications, as approved, and any conditions attached to any such approval.

5.08 Disapproval of Plans and Specifications. The ACC shall have the right to disapprove any Plans and Specifications submitted pursuant to this Declaration because of any of the following:

(a) the failure to include information in such Plans and Specifications as may have been reasonably requested;

(b) the failure of such Plans or Specifications to comply with this Declaration or the Design Standards;

(c) any other matter which, in the judgment of the ACC, would be likely to cause the proposed installation, construction or alteration of a Structure (i) to fail to be in conformity and harmony of external design and general quality with the standards for THE ARBORS Development as set forth in the Design Standards, or Development-Wide Standard, or (ii) as to locations to be incompatible with topography, finished ground elevation and surrounding Structures.

In any case in which the ACC shall disapprove any Plans and Specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the ACC shall, if requested, make reasonable efforts to assist and advise the Applicant in order that an acceptable proposal may be prepared and submitted for approval.

5.09 Obligation to Act. The ACC shall take action on any Plans and Specifications submitted as herein provided within thirty (30) days after receipt thereof. Approval by the ACC, if granted, together with any conditions imposed by the ACC, shall be placed in writing on the Plans and Specifications and shall be returned to the Applicant. Failure by ACC to take action within thirty (30) days of receipt of Plans and Specifications submitted for approval shall be deemed approval of such Plans and Specifications.

5.10 Inspection Rights. Any employee or agent of the Association or the ACC may, after reasonable notice, at any reasonable time or times enter upon any Lot and Structure thereon for the purpose of ascertaining whether the installation, construction, alteration or maintenance of any Structure or the use of any Lot or Structure is in compliance with the provisions of this Declaration; and neither the Association, nor the ACC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

5.11 Violations. If any Structure shall be erected, placed, maintained or altered upon any Lot, otherwise than in accordance with the Plans and Specifications approved by the ACC pursuant to the provisions of this Article, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If in the opinion of the ACC such violation shall occurred, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the violation, then the Board shall provide written notice to the Owner by certified mail, setting forth in reasonable detail the nature of the violation and the specific action or actions required to remedy the violation. If the Owner shall not have

taken reasonable steps toward the required remedial action within thirty (30) days after the mailing of the aforesaid notice of violation, then the Association shall have the Right of Abatement as provided in Section 8.02 hereof.

5.12 Certification of Compliance.

(a) Upon completion of the installation, construction or alteration of any Structure in accordance with Plans and Specifications approved by the ACC, the ACC shall, upon written request of the Owner thereof or upon the ACC's own initiative, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the Plans and Specifications have been approved and that such Structure complies with such Plans and Specifications. A copy of said Certificate shall be filed for permanent record with the Plans and Specifications on file with the ACC.

(b) Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated; and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot comply with all the requirements of this Article, provided, however, that the certificate shall in no way be construed to certify the acceptability, sufficiency or approval by the ACC of the actual construction of Structures or of the workmanship, or to represent or warrant to anyone the quality, function or operation of the Structures or of any construction, workmanship, engineering, materials or equipment.

The issuance of the Certificate shall in no way be construed to certify to any party that the Structures have been built in accordance with any applicable rule or regulation.

5.13 Fees. The ACC may impose and collect a reasonable and appropriate fee to cover the cost of review of plans and of inspections performed pursuant to Section 5.10. The fee shall be established from time to time by the ACC and published in the Design Standards.

5.14 Nondiscrimination by ACC. The ACC shall not discriminate against any applicant requesting its approval of Plans and Specifications because of such applicant's race, color, sex, religion, age or national origin. Further, the ACC in the exercise of its powers granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, age or national origin.

5.15 Disclaimer as to ACC Approval. Plans and Specifications are not reviewed for engineering or structural design or quality of materials, and by approving such Plans and Specifications neither the ACC, the members thereof, nor the Associa-

tion assumes liability or responsibility therefor, nor for any defect in any structure constructed from such Plans and Specifications. Neither Declarant, the Association, the ACC, the Board, nor the officers, directors, members, employess, and agents of any of them shall be liable in damages to anyone submitting Plans and Specifications to any of them for approval, or to any Owner of property affected by these Restrictions by reason of mistake in judgement, negligence, of nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such Plans and/or Specifications. Every person who submits Plans or Specifications and every Owner agrees that he will not bring any action or suit against Declarant, The Association, the ACC, the Board, or the officers, directors, members, employees, and agents of any of them to recover any such damages, and hereby releases, remises, quit-claims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any judgement, negligence, or nonfeasance and hereby waives the provisions of any law which provides that a general release does not extend to claims, demands, and causes of action not known at the time the release is given.

ARTICLE VI

GENERAL COVENANTS AND RESTRICTIONS

6.01 Application. The Covenants and Restrictions contained in this Article VI, in addition to those set forth in the Master Declaration, shall pertain and apply to all Lots and to all Structures erected or placed thereon.

6.02 Restriction of Use. Lots may be used for single-family residences only and for no other purpose provided that Declarant may operate a Sales Office and/or Model Home on a Lot or Lots designated by Declarant.

6.03 Resubdivision of Property. No Lot may be split, divided, or subdivided for sale, resale, gift, transfer, or otherwise, without the prior written approval of the ACC of Plans and Specifications for such split, division or subdivision. Notwithstanding the foregoing, nothing herein shall prevent Declarant or the Owners of any Lots from combining two or more Lots into one Lot for construction of a single Residence thereon; provided, however, that such combined Lot may not be subdivided thereafter; and, provided further, that the Owner of the Residence on such Lot shall be responsible for annual and special assessments based upon the number of Lots combined into one Lot.

6.04 Erosion Control. No activity which may create erosion or siltation problems shall be undertaken on any Lot without the prior written approval of the ACC of Plans and Specifications for the prevention and control of such erosion or siltation. The ACC may, as a condition of approval of such Plans and Specifications, require the use of certain means of preventing and controlling such erosion or siltation. Such means may in-

clude (by way of example and not of limitation) physical devices for controlling the run-off and drainage of water, special precautions in grading and otherwise changing the natural landscape and required landscaping as provided for in Section 6.05. Guidelines for the prevention and control of erosion and siltation may be included in the Design Standards of the ACC.

6.05 Landscaping. No construction or alteration of any Structure shall take place without the prior written approval by the ACC of Plans and Specifications for the landscaping to accompany such construction or alteration. Guidelines for the landscaping to accompany the construction or alteration of any Structure may be included in the Development Guidelines of the ACC.

6.06 Trees. No tree having a diameter of six (6) inches or more (measure from a point two (2) feet above ground level) shall be removed from any Lot unless such removal is in conformity with approved Landscaping Plans and Specifications submitted pursuant to the provisions of Section 6.05 hereof. Guidelines relating to the preservation of trees and other natural resources and wildlife upon the Property may be included in the Design Standards of the ACC. Under no circumstances shall any tree located within one hundred (100) feet of any right-of-way of Towne Lake Parkway or Rose Creek Drive be removed without the prior written consent of the Master ARC, except for (a) diseased or dead trees; (b) trees needing to be removed to promote the growth of other trees; or, (c) safety reasons, all as provided by Section 18 of Article VI of the Master Declaration.

6.07 Temporary Buildings. No temporary building, trailer, garage or building under construction shall be used, temporarily or permanently, as a residence on any Lot except as temporary sleeping or living quarters required or desirable for security purposes in accordance with Plans and Specifications therefor approved by the ACC. No contractor or builder shall erect on any Lot any temporary building or shed for use in connection with construction on such Lot.

6.08 Signs.

(a) No signs whatsoever (including but not limited to commercial and similar signs) shall, without the ACC's prior written approval of Plans and Specifications therefor, be installed, altered or maintained on any Lot, or on any portion of a Structure visible from the exterior thereof, except:

(i) such signs as may be required by legal proceedings;

(ii) not more than one "For Sale" or "For Rent" sign, such sign having a maximum face area of four square feet; provided, however, that if, at the time of any desired use of such sign, the Association is making "For Sale" or "For Rent"

signs available for the use of the Owners, the signs made available by the Association must be used; and

(iii) directional signs for vehicular or pedestrian safety in accordance with Plans and Specifications approved by the ACC.

(b) In no event during approved construction of any Structure shall more than one job identification sign be approved by the ACC.

(c) In addition to the foregoing, any sign visible from outside the Development shall be subject to the prior written consent of the Master ARC in accordance with Section 3 of Article VI of the Master Declaration.

6.09 Setbacks. In approving Plans and Specifications for any proposed Structure, the ACC may establish setback requirements for the location of such Structure. Guidelines for setback may be included in the Design Standards of the ACC. No Structure shall be erected or placed on any Lot unless its location is consistent with such setbacks.

6.10 Fences and Outbuildings. No fence, wall, or outbuilding of any kind shall be erected, maintained, or altered on any Lot without the prior written approval of the ACC of Plans and Specifications for such fences, walls and outbuildings. Under no circumstances shall any chain link, barbed wire, or hog wire fence be permitted in the Development. Guidelines relating to the design, location and uses of fences, walls and outbuildings may be included in the Design Standards of the ACC.

6.11 Roads and Driveways. No road or driveway shall be constructed or altered on any Lot without the prior written approval of the ACC of Plans and Specifications for such roads and driveways. Guidelines relating to the design and location of roads and driveways may be included in the Design Standard of the ACC.

6.12 Antennae. No exterior television or radio antennae or satellite dish or receiver of any sort shall be placed, allowed or maintained upon any portion of a Structure or Lot without prior written approval by the ACC. No antennae shall be installed or used for the purpose of transmitting electronic signals.

6.13 Clotheslines, Garbage Cans, Etc. No clothes, garments, or any other kind of laundry shall be placed outside of the building structure. All equipment, garbage cans, woodpiles shall be kept screened by adequate planting or fencing so as to conceal them from view by neighboring residences and streets.

6.14 Maintenance. Each owner shall keep and maintain each Lot and Structure owned by him, as well as all landscaping

located thereon, in good condition and repair, including but not limited to (i) the repairing and painting (or other appropriate external care) of all Structures; (ii) the seeding, watering and mowing of all lawns; and (iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. Notwithstanding the foregoing, the maintenance required hereunder shall also extend from the boundary of a Lot to the curbing of the right-of-way bordering said Lot. If in the opinion of the ACC or the board of the Master Association, any Owner shall fail to perform the duties imposed by this Section, the ACC shall notify the Association. If the Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition within thirty (30) days after the mailing of said written notice by certified mail, then the Association shall have the Right to Abatement as provided in Section 8.02 hereof. Guidelines relating to the maintenance of Structures and Landscaping may be included in the Design Standards of the ACC.

6.15 Recreational Vehicles and Trailers. No commercial vehicle, house trailer, mobile home, motor home, recreational vehicle, camper, truck with camper top, boat or boat trailer or like equipment shall be permitted on any Lot on a permanent basis, but shall be allowed on a temporary basis not to exceed twenty-four (24) consecutive hours. Notwithstanding the foregoing, any such vehicles or equipment may be stored on a Lot, provided such vehicle or equipment is kept in an enclosed space and is concealed from view by neighboring residences and streets.

6.16 Recreational Equipment. Recreational and playground equipment shall be placed or installed only upon the rear of a Lot as approved by the ACC. Commercially manufactured basketball backboards are acceptable as long as the backboards are inconspicuous from the street. Said basketball goal shall be installed only at the edge of a driveway so as to permit play on said driveway. No basketball goal or backboard shall be installed on a house. No above ground pool shall be allowed.

6.17 Non-Discrimination. No Owner or person authorized to act for an Owner shall refuse to sell or rent, after receiving a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the purchase or rental of any Lot to any persons because of race, color, religion, sex, age or national origin. Anything in this Declaration to the contrary notwithstanding, this Covenant shall run with the land and shall remain in effect without any limitation in time.

6.18 Animals. No animals, including birds, insects, and reptiles may be kept on any Lot unless kept thereon solely as household pets and not for commercial purposes. No animal shall be allowed to become a nuisance. No Structure for care, housing or confinement of any animal shall be constructed, placed or altered on any Lot unless Plans and Specifications for said Structure have been approved by ACC.

6.19 Solid Waste.

(a) No person shall dump rubbish, garbage, or any other form of solid waste on any Lot or on Common Property.

(b) Except during approved construction and as approved by the appropriate governmental authority, no person shall burn rubbish, garbage, or any other form of solid waste on any Lot or on Common Property.

(c) Except for building materials employed during the course of construction of any Structure approved by the ACC, no lumber, metals, bulk materials or solid waste of any kind shall be kept, stored, or allowed to accumulate on any Lot unless screened or otherwise handled in a manner set forth in the Design Standards.

(d) If rubbish, garbage, or any other form of solid waste is to be disposed of by being collected on a regular and recurring basis, containers may be placed in the open on the day that a pick-up is to be made, in order to provide access to persons making such pick-up. At all other times such containers shall be screened or enclosed in a manner set forth in the Design Standards. Guidelines relating to the type of containers permitted, the manner of storage and the place of pick-up may also be included in the Design Standards.

6.20 Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereof which may be or may become any annoyance or nuisance to the community.

6.21 Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary and subject to the provisions of Section 12, Article XIII of the Master Declaration, it shall be expressly permissible for Declarant and its agents, employees, successors and assigns to maintain and carry on within the Property such facilities and activities as may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots or the developing of Lots, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model residences. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences as model residences, and to use any resi-

dence as an office for the sale of Lots and for related activities.

ARTICLE VII

EASEMENTS, ZONING AND OTHER RESTRICTIONS

7.01 Easements.

(a) Declarant hereby expressly reserves for itself, its successors and assigns for so long as Declarant owns any Lot primarily for the purpose of sale, the right to create perpetual easements in, on, over and under any part of the Property owned by Declarant for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

(i) the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachment in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities;

(ii) the erection, installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function;

(iii) slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow; and

(iv) the planting or re-planting of hedges, shrubbery, bushes, trees, flowers and plants of any nature.

(v) For the use of the Common Property and any sales offices, model units and parking spaces in connection with its efforts to market Lots; and

(vi) For the maintenance of such other facilities and equipment as in the sole discretion of Declarant may be reasonably required, convenient or incidental to the completion, improvement and sale of Lots.

(b) No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Property unless such easement has been assigned by the Declarant to the Association.

7.02 Easement Area. The words "Easement Area" as used herein shall mean those areas on any Lot or any other portion of the Property with respect to which easements are shown on a recorded deed, easement agreement or on any filed or recorded map or plat relating thereto.

7.03 Entry. The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Declarant and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area pursuant to the provisions in Section 7.01.

7.04 Zoning and Private Restrictions. None of the Covenants, Restrictions or Easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules and regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the Covenants, Restrictions and Easements created or imposed by this Declaration and/or the Master Declaration, the most restrictive provision shall govern and control.

ARTICLE VIII

ENFORCEMENT

8.01 Right of Enforcement. This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the Association, (iii) each Owner, his legal representatives, heirs, successors and assigns, and (iv) the Master Association.

8.02 Right of Abatement.

(a) Except where different notice provisions are provided in Sections 5.11 and 6.14, in the event of a violation or breach of any Restriction contained in this Declaration the Association shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or reach within thirty (30) days after the mailing of said written notice, then the Association shall have the Right of Abatement.

(b) The Right of Abatement, as used in this Section and in Sections 5.11 and 6.14 hereof, means the right of the Association, through its agents employees, to enter at all reasonable times upon any Lot or Structure, as to which a violation, breach or other condition to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the cost thereof including the costs of collection including reasonable attorney's fees, together with interest thereon at the lower of the highest rate permitted by Law or 18%, to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 8.04 hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgement or decree or by any agreement, contract, mortgage, deed to secure debt, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens created by Section 4.01 hereof and (iii) all deeds to secure debt given to secure a loan the proceeds of which are used (1) to purchase a lot or lots (together with any and all Structures which may from time to time be placed or located thereon) and (2) to finance the construction, repair or alteration of Structures.

8.03 Specific Performance. Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration; and therefore, any beneficiary hereof shall be entitled to 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.

8.04 Collection of Assessments and Enforcement of Lien.

(a) If any assessment, interest, cost or other charge is not paid as required by this Declaration, the Association may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by his Declaration against the Lot or Lots subject to the lien, or both, for the purpose of collecting such assessments, cost or charge, plus any interest thereon and costs of collection, including reasonable attorney's fees.

(b) As an additional remedy, but in no way as a limitation on the remedies, if any assessment, interest, cost or other charge is not paid as required by this Declaration, each Owner hereby grants to the Association and its assigns the following irrevocable power of attorney: To sell the said Lot or Lots subject to the lien at auction, at the usual place for conducting sales at the Court House in Cherokee County, Georgia, to the highest bidder for cash, after advertising the time, terms and place of such sale once a week for four weeks immediately preceding such sale (but without regard to the number of days) in the paper in which the Sheriff's advertisements for Cherokee County, Georgia are published, all other notice being hereby waived by each owner, and the Association or any person on behalf of the Association, or assigns, may bid and purchase at such sale and thereupon execute and deliver to the purchaser or purchasers at such sale a conveyance of said property in fee simple, which conveyance shall contain recitals as to the happenings of the default upon which the execution of the power of sale herein granted depends, and each Owner hereby constitutes and appoints the Association and assigns, the agent and attorney in fact of each Owner to make such recitals, and hereby covenants and agrees that the recitals so to be made by the Association, or assigns, shall be binding and conclusive upon the Owner whose property is the subject matter of such sale, and the heirs, executors, administrators and assigns of such Owner, and that the conveyance to be made by the Association or assigns, shall be effectual to bar all equity of redemption of such Owner, or the successors in interest of such Owner, in and to said Lot or Lots, and the Association or assigns shall collect the proceeds of such sale, and after reserving therefrom the entire amount of assessment, interest, cost or other charge due, together with all costs and expenses of sale and fifteen per cent of the aggregate amount due for attorney's fees, shall pay any excess to such Owner, or to the heirs or assigns of such Owner as provided by law. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

(c) WAIVER. EACH OWNER, BY ACCEPTANCE OF A DEED CONVEYING A LOT SUBJECT TO THIS DECLARATION, WAIVES ANY RIGHT WHICH OWNER MAY HAVE UNDER THE CONSTITUTION OR THE LAWS OF THE STATE OF Georgia OR THE CONSTITUTION OR THE LAWS OF THE UNITED STATES OF AMERICA TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THIS DECLARATION AND OWNER WAIVES OWNER'S RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING. ALL WAIVERS BY OWNER IN THIS PARAGRAPH HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER OWNER HAS FIRST BEEN ALLOWED THE OPPORTUNITY TO CONSULT LEGAL COUNSEL WITH RESPECT TO OWNER'S POSSIBLE RIGHTS.

8.05 No Waiver. The failure of the Declarant, the Association, or the Owner of 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

DURATION AND AMENDMENT

9.01 Duration. This Declaration and the Restrictions contained herein shall run with and bind the Property for a period of twenty (20) years from and after the date when this Declaration is filed for record with the Clerk of the Superior Court of Cherokee County, Georgia, after which time this Declaration and the Restrictions shall be automatically renewed for successive periods of ten (10) years provided, however, that after the end of the said twenty (20) year period and during any ten (10) year renewal period (but only during such renewal period) this Declaration and the Restrictions contained herein may be terminated by an instrument executed by the proper Association officers and recorded in the office of the Clerk of the Superior Court of Cherokee County, Georgia, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to the resolution approving such termination which is approved by two-thirds (2/3) vote of those Class A Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association. The foregoing notwithstanding, under no circumstances shall this Declaration be terminated without the prior written consent of the president or vice president of the Master Association during any period in which (i) the Master Declaration is in force and effect against all or any portion of the Development; and (ii) the Master Association is in good standing with the office of the Secretary of State of the State of Georgia and maintains a registered office within the State of Georgia.

9.02 Amendments by Declarant. Subject to the provisions of Section 9.04, below, during any period in which Declarant retains the right to appoint and remove any directors and officers of the Association, Declarant may amend this Declaration by an instrument in writing filed and recorded in the Land Records of the Superior Court of Cherokee County, Georgia, without the approval of any Member or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Property as set forth in this Declaration or if such Amendment adversely affects the title to any Lot, such Amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Members affected thereby, or (ii) in the event that such amendment would

materially and adversely affect the security title and interest of any mortgagee, such amendment shall be valid only upon the written consent thereto of all such mortgagees so affected. Any amendment made pursuant to this Section 9.02 shall be certified by Declarant as having been duly approved by Declarant, and such Members and mortgagees if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 9.02 and further agrees that, if requested to do so by Declarant, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Development (i) if such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on any Lot subject to this Declaration, (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration or (v) if such amendment is necessary to correct a scrivener's error in drafting of this Declaration, or (vi) if such amendment is necessary to correct an inconsistency or discrepancy between this Declaration and the Master Declaration.

9.03 Amendments by Association. Subject to the provisions of Section 9.04, below, amendments to this Declaration, other than those authorized by Section 9.02 hereof, shall be proposed and adopted in the following manner:

(a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by members of the Association. Such amendment must be approved by Members holding at least two-thirds (2/3) of the total votes in the Association provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee and (ii) during any period in which Declarant has the right to appoint and remove officers and directors of the Association, such amendment must be approved by Declarant.

(c) The agreement of the required percentage of the Owners and where required, the Declarant and any mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the President and any Vice President or the Secretary of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the Agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the Amendment itself.

9.04 Approval of Master Association. All amendments to this Declaration shall be subject to the prior written consent of the majority of the board of directors of the Master Association.

ARTICLE X

ANNEXATION

Additional real property may be annexed to the Property by the Declarant, for so long as Declarant has authority to appoint and remove Directors and Officers of the Association, without the consent of the Members at any time for a period of ten (10) years following the date from which this Declaration is filed in the Office of the Clerk of the Superior Court of Cherokee County. Such annexation shall be subject to the prior written consent of the majority of the board of directors of the Master Association and shall be accomplished by filing in the Office of the Clerk of the Superior Court of Cherokee County either of the following (a) an approved subdivision plat describing the real property to be annexed to the Property and by including on such subdivision plat a statement that expressly sets forth the Declarant's intention to make such annexed real property subject to the provisions of this Declaration or (b) an amendment to the Declaration which has been consented to by the owners of the real property to be annexed if such real property is owned by someone other than Declarant. At the expiration of ten (10) years following the date of filing of this Declaration, no real property may be annexed to the Property unless such annexation is approved by a two-thirds (2/3) vote of the Members of the Association who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By-Laws of the Association.

ARTICLE XI

MISCELLANEOUS

11.01 No Reverter. No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

11.02 Severability. A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provisions hereof.

11.03 Headings. The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

11.04 Gender. Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural and vice versa.

11.05 Notices. All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or consent of any kind made pursuant to this Declaration, whether made by the Declarant, the Association, the ACC, the Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, with sufficient postage, and sent to the following addresses:

(a) Declarant: THE MEANS BROTHERS, INC.
%Al Means, Inc.
Suite 180,
2022 Powers Ferry Rd.,
Atlanta, GA 30339

(b) Owners: Each Owner's address as registered with the Association in accordance with the By-Laws.

Any written communication transmitted in accordance with this Section 11.05 shall be deemed received on the third (3rd) day following the day such written notice is deposited in the United States Mail.

11.06 No Liability. Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability.

11.07 Insurance.

(a) At all time durings the terms of this Declaration, the Association, its successors and assigns, shall be required to keep any and all recreational facilities and any other improvements located on the Common Property fully insured

by a reputable insurance company authorized to transact business in the State of Georgia with (i) fire, vandalism, malicious mischief and extended coverage insurance in an amount adequate to cover the cost or replacement of such improvements in the event of loss of any and/or all of such improvements, fixtures and contents thereof; and (ii) public liability insurance in such amounts as shall be determined by the Board of Directors as appropriate for the type of recreational activities which shall be allowed on the Common Property. Any such policies of insurance shall required that the certificate holders and insured be given thirty (30) days prior written notice of any cancellation of such policies.

(b) Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy five percent (75%) of the total votes in the Association and, so long as the Declarant has the right to appoint and remove directors, the Declarant, otherwise agree. If for any reason either the amount of insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred and twenty (120) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of vote of the Association's Members, levy a special assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited for the benefit of the Association.

In the event that it should be determined by the Association in the manner described above that the damage or

destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then in that event the property shall be restored to its natural state and maintained as an undeveloped portion of the Community in a neat and attractive condition.

(c) The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder for maintenance of the damaged or destroyed property.

(d) In addition to the coverage described hereinabove, the Association shall obtain such additional amounts and types of insurance as may be required from time to time, by either the Veterans Administration or Federal Housing Administration, their successors and assigns, for similar type residential subdivision communities.

ARTICLE XII

MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first mortgages on Residences in the Development. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.01 Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the Association (such request to state the name and address of such holder, insurer, guarantor and the Residence number, therefore becoming an "eligible holder"), will be entitled to timely written notice of:

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

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Residence subject to the mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Residence of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;

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

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

12.02 Special FHLMC Provision. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least two-thirds (2/3) of the first mortgagees (one vote per mortgage) or at least two-thirds (2/3) of the total Members of the Association entitled to vote thereon consent, the Association shall not;

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);

(b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Residence;

(c) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Residences and of the Common Property (The issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) fail to maintain insurance, as required by this Declaration; or

(e) use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of an Association policy, and first mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

12.03 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first mortgagees of any Residence in the cases of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

12.04 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such Owner's Residence.

12.05 Amendment by Board. Should the Veterans Administration, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

12.06 Veterans Administration Approval. As long as the Declarant has an option unilaterally to subject property to this Declaration as provided in Article X, the following actions shall require the prior approval of the Veterans Administration so long as the Veterans Administration is guaranteeing any mortgage in the Community: annexation of additional property to the Community, except for annexation by Declarant in accordance with Article X, pursuant to a plan of annexation previously approved by the Veterans Administration; dedication of Common Property to any public entity; and material amendment of the Declaration, By-Laws or Articles of Incorporation.

12.07 Applicability of Article XII. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or Georgia law for any of the acts set out in this Article.

12.08 Failure of Mortgagee to Respond. Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

ARTICLE XIII

CABLE TELEVISION AND GARBAGE DISPOSAL SERVICES

13.01 Exclusive Contract. Declarant shall have the right and power to execute on behalf of the Association, binding contracts granting the exclusive right to provide cable television services to, and/or trash and garbage pickup and disposal services from, all Lots and Residences in the Community. Any such contracts shall be binding upon each Owner from the date of full execution thereof until terminated in accordance with the provisions set forth therein despite the expiration of Declarant's right to appoint and remove director's and officers of the Association pursuant to paragraph 3.06 of Article III herein.

13.02 Indemnity. Each Owner, by acceptance of a deed to a Lot, hereby agrees to indemnify and hold Declarant harmless from and against any and all losses, costs and expenses, including but not limited to reasonable attorney's fees, incurred by or claimed against Declarant due to such Owner's contracting with any person or entity other than such person or entity, if any, granted an exclusive contract as set forth in paragraph 13.01 for the purpose of providing cable television service to and/or trash and garbage pick-up and disposal service from such Owner's Lot or Residence prior to the termination of such contract as set forth in paragraph 13.01 herein. Notwithstanding any provision in this Declaration to the contrary, any amounts to be paid to Declarant by any Owner pursuant to this paragraph 13.02 shall be the personal obligation of such Owner and a continuing lien upon such Owner's Lot and/or Residence. All amounts owed to Declarant pursuant to this Article shall be payable upon demand. Following such demand, Declarant shall have the right to collect all amounts owed hereunder in the same manner and with the powers afforded by this Declaration to the Association for collection of assessments.

~~13.03~~ No Waiver. Approval of the provisions of this Declaration by the ~~Master Declarant~~ and the Master Association shall not be construed as a ~~waiver~~, release or modification of any term, restriction, covenant, easement or other provision or right set forth in the Master Declaration, and afforded to said Master Declarant, Master Association or Master ARC thereunder.

13.04 Termination of Master Declaration. Upon the termination of the Master Declaration or the dissolution of the Master Association then all references to or approvals of either of them set forth in this Declaration shall be null, void and of no further force or effect.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed the day and year first above written.

Signed, Sealed and Delivered in the Presence of:

Amy J Calhoun
Unofficial Witness

Theresa B Staley
Notary Public Notary Public, Cobb County, Georgia
My Commission Expires Dec 17, 1993

Date of Execution by Notary:

6-20-88

THE MEANS BROTHERS, INC.

BY: [Signature]

Attest: Richard B Means

(Corporate Seal)

The Association, by the execution hereof, acknowledges and agrees that the Association is hereby bound by all of the Association's obligations under this Declaration of Covenants, Restrictions and Easements.

IN WITNESS WHEREOF, the Association, acting through its duly authorized officers, has caused this Declaration to be executed and sealed this 21st day of June, 1988.

Signed, sealed and delivered in the presence of:

Amy J Calhoun
Unofficial Witness

Theresa B Staley
Notary Public Notary Public, Cobb County, Georgia
My Commission Expires Dec 17, 1993

Date of execution by Notary:

6-20-88

THE ARBORS HOMEOWNERS ASSOCIATION, INC.

By: Richard B Means
President

Attest: [Signature]
Secretary

(Corporate Seal)

[SIGNATURES CONTINUE ON NEXT PAGE]

The Master Declarant, by the execution hereof, acknowledges and agrees that the Master Declarant hereby approves of all the provisions of this Declaration of Covenants, Restrictions and Easements of the Arbors.

IN WITNESS WHEREOF, the Master Declarant, acting through its duly authorized officers, have executed this instrument under seal this 17th day of June, 1988.

WEST MILL JOINT VENTURE,
a Texas joint venture

By: L.D.J. Development Co., a
Texas corporation, ven-
turer

Signed, sealed and delivered
this 17th day of June, 1988,
in the presence of:

[Signature]
Unofficial Witness

[Signature]
Notary Public

Date of execution by Notary
June 17, 1988

By:

[Signature]

Title:

Vice President

Attest:

[Signature]

Title:

Secretary

[CORPORATE SEAL]

By:

LDJ Construction Co., a
Texas corporation, ven-
turer

Signed, sealed and delivered
this 17th day of June, 1988,
in the presence of:

[Signature]
Unofficial Witness

[Signature]
Notary Public

Date of execution by Notary
June 17, 1988

By:

[Signature]

Title:

Vice President

Attest:

[Signature]

Title:

Secretary

[CORPORATE SEAL]

[SIGNATURES CONTINUE ON NEXT PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

The Master Association, by the execution hereof, acknowledges and agrees that the Master Association hereby approves of all the provisions of this Declaration of Covenants, Restrictions and Easements of the Arbors.

IN WITNESS WHEREOF, the Master Association, acting through its duly authorized officers, have executed this instrument under seal this 17th day of June, 1988.

TOWNE LAKE RESIDENTIAL OWNERS ASSOCIATION, INC.

Signed, sealed and delivered this 17th day of June, 1988, in the presence of:

[Signature]
Unofficial Witness

By:

[Signature]

Title:

President

Attest:

[Signature]

[Signature]
Notary Public

Title:

Secretary

Date of execution by Notary

JUNE 17, 1988

[CORPORATE SEAL]

EXHIBIT "A"

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 863,
864, 865, and 866 of the 15th District, 2nd Section of Cherokee County, Georgia,
and being more particularly described as: Lots 1-50, inclusive, and Lots 350-400
inclusive, The Arbors - Unit 1, as per Final Plat recorded in Plat Book 35,
Page 157, Cherokee County, Georgia records, which plat is incorporated herein
by reference.

Rec. 7-13-88