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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
CHATTAHOOCHEE COVE HOMEOWNERS ASSOCIATION

PREPARED BY:

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Return Recorded Document to:

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NOTWITHSTANDING THE ESTABLISHMENT OF CHATTAHOOCHEE COVE HOMEOWNERS ASSOCIATION, INC. AND THE SUBMISSION OF THE PROPERTY TO THE TERMS AND CONDITIONS OF THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CHATTAHOOCHEE COVE, CHATTAHOOCHEE COVE IS NOT A CONDOMINIUM AS DEFINED IN THE GEORGIA CONDOMINIUM ACT (CHAPTER 44, ARTICLE 3 OF THE OFFICIAL CODE OF GEORGIA)

DECLARATIONS OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR CHATTAHOOCHEE COVE

THIS DECLARATION, made this ____ day of October 1996, by HOMELAND COMMUNITIES, INC., a Georgia corporation and FALLING WATER INVESTMENT, LTD., a Georgia limited partnership (hereinafter collectively the "Developer").

WITNESSETH:

WHEREAS, Developer is the owner of certain real property lying and being in Land Lot 243 of the 7th District, Gwinnett County, Georgia, a portion of which property is more particularly described in Exhibit "A" attached hereto and by reference made a part hereof (hereinafter the "Property"); and

WHEREAS, Developer plans to develop and construct on the Property a residential community of townhome units to be known as Chattahoochee Cove; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values in said community and for a flexible and reasonable method for the maintenance of the Property and improvements thereon, and to this end desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each owner thereof; and

WHEREAS, Developer has caused to be incorporated under the laws of the State of Georgia the Chattahoochee Cove Homeowners Association, Inc., a non-profit corporation, for the purpose of owning, maintaining and administering the Common Area (as hereinafter defined); administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, as hereinafter provided in this Declaration, Developer has retained and reserved the right, privilege and option to submit to the provisions of this Declaration all or any portion of the Additional Property (as hereinafter defined);

NOW, THEREFORE, Developer declares that the Property, and all or any portion of the Additional Property as may by subsequent amendment hereto be submitted to this Declaration, shall be held, transferred, sold, mortgaged, conveyed, leased, occupied and used subject to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth which shall run with the Property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in the Property or any portion thereof, their heirs, successors, successors-in-title and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

When used in this Declaration the following terms, whether capitalized or not, shall have the following definitions unless the context hereby shall prohibit or otherwise require.

All terms used herein shall apply to any gender and the singular or plural form as may be required by the context.

Section 1. "Additional Property" shall mean and refer to the real property described in Exhibit "B" attached hereto and by reference made a part hereof.

Section 2. "Association" shall mean and refer to Chattahoochee Cove Homeowners Association, Inc., its successors and assigns.

Section 3. "Board of Directors" or "Board" shall mean and refer to the Board of Directors of the Association.

Section 4. "Common Area" shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of conveyance of the first Unit is the

Property as shown on the Site Plan, less and except the individual Units shown thereon and less and except the Limited Common Area shown thereon.

Section 5. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions herein set forth in this entire document, and as it may from time to time be amended.

Section 6. "Developer" shall mean and refer to Falling Water Investment, Ltd., a Georgia limited partnership, and Homeland Communities, Inc., a Georgia corporation, or any successor-in-title to the entire interest of Homeland Communities, Inc. with respect to the Property, or any party who acquires the entire interest of Homeland Communities, Inc. with respect to the Property pursuant to foreclosure of a deed to secure debt or other security interest encumbering the Property or delivery of a deed in lieu of foreclosure.

7. "Limited Common Owner" shall mean that property located to the front and rear of each Unit as further defined herein and described on the Site Plan, including the private drive between the Unit and the adjacent public street.

Section 8. "Mortgagee" shall mean and refer to the holder, guarantor or insurer of a mortgage or deed to secure debt on a Unit.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Unit and the improvements thereon, but excluding these having such interest merely as security for the performance of an obligation.

Section 10. "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity, or any combination thereof.

Section 11. "Property" shall mean and refer to the real property described in Exhibit "A" attached hereto and by reference made a part hereof, together with all improvements thereon. This term shall include any portion of the Additional Property that has been lawfully submitted to this Declaration, from and after the date such portion is so added.

Section 12. "Site Plan" shall mean and refer to that certain Plat of Chattahoochee Cove Unit I, prepared for Brooks Land, Inc., by Mansur Engineering, Inc., under seal of Ayyad M. Mansur, Registered Professional Engineer, Georgia Registration No. 21055, and under seal of Daniel A. Miller, Registered Land Surveyor, Georgia Registration No. 2557, dated September 15, 1996, and recorded in Plat Book ____ Page ____ in the office of the Clerk of Superior Court of Gwinnett County, Georgia.

The definitions set forth herein shall apply whether or not the defined terms are capitalized.

Section 13. "Unit" shall mean and refer to those portions of the Property upon which Developer has constructed or proposes to construct a townhouse for sale, use and occupancy as a residential dwelling, as designated on the Site Plan.

ARTICLE II PLAN OF DEVELOPMENT

Section 1. Plan of Development of Property. The Property shall be developed into three (3) or more phases and the Property shall contain eighty-one (81) Units and the Developer will construct eighty-one (81) townhouses on such Units. The Property shall also include paved parking areas, drives, roads, utility systems, and other improvements serving the Units. The area and location of the townhouses and other improvements on the Property, and the dimensions of the Units, are shown on the Site Plan. The vertical boundaries of the Units are and shall be perpendicular vertical projections of the exterior perimeters of the foundations of said townhouses. There are no horizontal boundaries. The Units and the Property shall be restricted exclusively to residential use in accordance with the provisions of this Declaration. Developer shall have the right, but not the obligation, for so long as Developer owns any Unit primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to Chattahoochee Cove, to make improvements and changes to all Common Areas and to all Units owned by Developer (other than changes to the location of the boundaries of the Units) including, without limitation (i) addition to and realignment of parking spaces, (ii) installation and relocation of any utility systems and facilities, (iii) installation of security and/or refuse facilities, and (iv) work relating to townhouse exteriors and roofs.

Section 2. Plan of Development of Additional Property. Developer hereby reserves the option, to be exercised in its sole discretion, without the consent of the Association or any Owner, to submit from time to time the Additional Property or any portion or portions thereof to the provisions of this Declaration and thereby to cause the Additional Property or any portion or portions thereof to become part of the Property. At this time, Developer intends to construct a total of 75 residences, more or less, on the Additional Property, together with paved parking areas, driveways, roads, utility systems, and other improvements serving such townhouses. However, Developer reserves the right to construct more or fewer townhouses on the Additional Property provided that Developer is in compliance with the applicable zoning laws. This option may be exercised by Developer in accordance with the following conditions and limitations, which are the only conditions and limitations on such option to add all or any portion of the Additional Property to Chattahoochee Cove.

(a) The option may be exercised from time to time during a period of ten (10) years from the date of this Declaration; provided, however, that Developer reserves the right to terminate such option at any time prior to the expiration of such ten (10) year period by executing and filing an agreement in the records of Gwinnett County, Georgia, evidencing such termination, and, except for such termination by Developer, no other circumstances will terminate such option prior to the expiration of such ten (10) year period. Developer further has the right to extend the option period an additional five (5) years by executing and filing an agreement in the records of Gwinnett County, Georgia, evidencing such option to extend prior to the expiration of the ten (10) year period.

(b) The legal description of the Additional Property is set forth on Exhibit B; portions of the Additional Property may be added to Chattahoochee Cove at different times, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence or location in which any of such portions may be added to Chattahoochee Cove. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar the further exercise of this option as to other portions or the balance of the Additional Property; nor shall such exercise as to a portion of the Additional Property constitute any obligation to submit any additional portions.

(c) The Additional Property has no horizontal boundaries, and the vertical boundaries are the perpendicular vertical projections of those lines which are the property line boundaries set forth in the legal description of the Additional Property in Exhibit "B".

(d) If the Additional Property or any portion thereof is submitted to this Declaration, the improvements constructed thereon shall not be unreasonably incompatible with the improvements constructed on the Property in terms of location, quality of construction and architectural style. Such improvements may, however, vary in size, material, color and architectural detail as the Developer shall in its own discretion determine. If the Additional Property or any portion thereof is added to Chattahoochee Cove, Developer shall have the right, but not the obligation, to construct on the Additional Property, or any portion thereof, such recreational and other facilities as Developer shall deem advisable for the common use and enjoyment of the Owners, their families, tenants, guests, and invitees; there are no limitations with respect to the location of such facilities on the Additional Property.

(e) If the Additional Property or any portion thereof is added to Chattahoochee Cove, the townhouses constructed thereon will be restricted exclusively to residential use.

(f) If the Additional Property or any portion thereof is added to Chattahoochee Cove, Developer reserves the right to designate the boundaries of any Units, Limited Common Areas and/or Common Areas thereon.

(g) Should the option to add the Additional Property, or any portion thereof, not be exercised within the term specified herein or be terminated by Developer, such option shall in all respects expire and be of no further force and effect. In the event that such option expires or is terminated, as aforesaid, Developer shall not be obligated to impose on the Additional Property, or any portion thereof, any covenants, conditions or restrictions the same as or similar to those contained herein.

(h) The option reserved by Developer to cause all or any portion of the Additional Property to become part of Chattahoochee Cove shall in no way be construed to impose upon Developer any obligation to add all or any portion of the Additional Property to Chattahoochee Cove, or to construct thereon any improvements of any nature whatsoever.

Section 3. Exercise of Option. The option reserved under Section 2, above, may be exercised by Developer alone by the execution of an amendment to this Declaration which shall be filed in the records of the Clerk of the Superior Court of Gwinnett County, Georgia, together with a revision of the Site Plan or a supplemental Site Plan showing the Additional Property or such portion thereof as is being added to Chattahoochee Cove by such amendment, as well as the Units thereon. Simultaneously, therewith, Developer shall convey to the Association the Common Area located on the Additional Property, or such portion thereof so submitted, such conveyance to be subject to the lien of taxes not yet due and payable, utility easements serving the Property and/or the Additional Property and any exceptions which would be disclosed by a survey or physical inspection of such parcel. Any such amendment shall expressly submit the Additional Property or such portion thereof to all of the provisions of this Declaration, as amended, and upon the exercise, if any, of such option or options, the provisions of this Declaration shall then be understood and construed as embracing the Property and the Additional Property or such portion thereof which is submitted to the terms hereof, together with all improvements located thereon.

Any provision of this Declaration to the contrary notwithstanding, the provisions of the foregoing plan of development set forth in this Article II may not be abrogated, modified, rescinded, supplemented or amended in whole or in part without the prior written consent of Developer.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every Owner of a Unit which is subject to this Declaration shall be a mandatory member of the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation.

Membership shall be appurtenant to ownership of a Unit and shall pass automatically to an Owner's successor-in title to the Unit.

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

Class A. Initially, the Class A members shall be all Owners, with the exception of the Developer, and shall be entitled to one vote for each Unit owned. When more than one Person holds an interest in any Unit, all such Persons shall be members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit. Each Owner of a Unit, by acceptance of a deed for a Unit, acknowledges, consents and agrees that as portions of the Additional Property are submitted to this Declaration and additional Units created that his voting rights will be diluted commensurately by virtue of said addition.

Class B. The Class B member shall be the Developer and shall be entitled to three (3) votes for each Unit owned including any Units subsequently created on the Additional Property. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) four months subsequent to the date when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership, unless at such time Developer has the unexpired option to add to the Property any portion of the Additional Property; or

(b) ten (10) years from the date of this Declaration unless extended as set forth herein.

ARTICLE IV PROPERTY RIGHTS

Section 1. Member's Easement of Use and Enjoyment. Subject to the provisions herein, every member of the Association shall have a non-exclusive right and easement of use and enjoyment in and to the Common Area, including, without limitation, the right of pedestrian and vehicular access, ingress and egress to and from his Unit over those portions of the Common Area from time to time designated for such purposes and the right to use any utility systems serving the Common Area and Units including any such systems that may be located on the Additional Property, which right and easement shall be appurtenant to and shall pass with the title to every Unit, subject to the following:

(a) the right of the Association to adopt and publish rules and regulations governing the use of the Common Area:

(b) the right of the Association to borrow money for the purpose of improving the Common Area or any portion thereof, or constructing, repairing or improving any facilities located or to be located thereon, and, upon the assent of two-thirds of the Class A members and the Class B member, if any, to give as security a mortgage conveying all or any portion of the Common Area. The lien and encumbrance of any such mortgage, however, shall be subject and subordinate to all rights, interests, easements and privileges herein reserved or established for the benefit of Developer, any Owner, or the holder of any mortgage, irrespective of when executed, given by Developer or any Owner;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been signed by two-thirds (2/3) of the Class A members and the Class B member, if any; provided, however, the Class B member may, in its sole discretion, so long as its unexpired option as Developer to submit Additional Property exists, grant easements across the Common Area for ingress or egress, utility easements or drainage to serve the Additional property provided such easements do not substantially detrimentally affect Units or create any unreimbursed expense to the Association.

(d) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility now or hereafter situated or constructed upon the Common Area and to impose reasonable limits on the number of guests who may use such recreational facilities;

(e) the right of the Board to suspend an Owner's voting rights and rights to use any recreational facilities within the Common Area (i) for any period during which any assessment of the Association against the Owner's Unit remains unpaid, and (ii) for any infraction by an Owner of this Declaration or the By-Laws of the Association for the duration of the infraction;

Section 2. Title to Common Area. Title to the Common Area will be conveyed to the Association by the Developer prior to conveyance of the first Unit by Developer.

Section 3. Units. Each Unit shall for all purposes constitute real property which shall be owned in fee simple. Each Owner shall be entitled to the exclusive ownership and possession of his Unit, subject to the provisions of this Declaration. Units shall not be

subdivided, and the boundaries between the Units shall not be relocated, unless the relocation is approved by at least two-thirds (2/3) of the Owners and their first mortgagees and the Developer, so long as Developer shall own a Unit primarily for the purpose of sale or shall have the unexpired option to add the Additional Property or any portion thereof to Chattahoochee Cove.

Section 4. Units and Limited Common Areas. The vertical boundary of each Unit is intended to be the exterior perimeter of the foundation of the Unit constructed on the Property as shown on the Site Plan or to be constructed on the Additional Property when and if Additional Property is submitted to the provisions hereof; porches, terraces and steps and other such improvements not constructed vertically upon, above or within the foundation are not included in the boundaries of the Unit but shall be deemed Limited Common Areas owned by the Association which shall be for the exclusive use of the Owners and occupants of the Unit containing the townhouse to which such appurtenances are attached. The Owner of such Unit shall be responsible for the repair, maintenance and replacement of such Limited Common Area improvements and the maintenance of insurance thereon to the same extent such Owner is responsible for the repair, maintenance and replacement of the townhome located on his Unit.

ARTICLE V ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association; (1) annual assessments or charges, payable in installments at such time or times as may be determined by the Association, (2) special assessments, and (3) individual assessments, to be established, levied and collected as hereinafter provided. The annual, special and individual assessments, together with interest thereon, costs of collection thereof, as hereinafter provided, including reasonable attorney's fees, shall be a charge and a continuing lien upon the Unit against which each such assessments made. Each such assessment, together with interest thereon, costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Unit at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively for routine upkeep, maintenance and repair of the Common Area (excluding Limited Common Area improvements) and recreational facilities, if any, located thereon, for maintaining and promoting the safety and welfare of the Owners

of the Units, for ad valorem real and personal property taxes assessed against the Common Area, for utilities not individually billed to each Unit, sewer and other common expenses, and for the purchase of such insurance as is required hereunder or deemed necessary by the Association and for the costs and expenses incident to the operation and administration of the Association. In addition, the annual assessments shall include amounts necessary to establish a reserve fund or funds for capital improvements to the Common Areas.

Section 3. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area (excluding Limited Common Area), including fixtures and personal property related thereto, provided that any such assessment shall have the consent of at least two-thirds (2/3) of the Class A members and the Class B member, if any, voting in person or by proxy at a meeting duly called for such purpose. Special assessments may also be levied by the Association if for any reason the annual assessments prove inadequate to defray the expenses of the Association in fulfilling its duties and obligations hereunder, subject to the consent of the members as set forth above.

Section 4. Individual Assessments. Any expenses occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests, or invitees of the Owner of any Unit may, at the discretion of the Board, be specially assessed against the Unit or Units, the conduct of the occupants (or their agents) of which occasioned such expenses. The individual assessments provided for herein, in Article VI, Section 3, Article IX, Section 3, and Article XI, Section 2 hereof shall be levied by the Board and the amount and due date of such assessment so levied by the Board shall be as specified by the Board.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 2 and 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 2 or 3 above shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty percent (50%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Except as specifically otherwise provided herein annual and special assessments must be fixed at a uniform rate for all Units.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Units on the first day of the month following the conveyance of the Common Area to the Association by the Developer. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year. Anything contained herein to the contrary notwithstanding, Developer, on behalf of itself and its successors and assigns, covenants and agrees to pay the annual assessment for each Unit owned by Developer which contains a completed and occupied townhouse; provided however, Developer shall not be responsible for assessments on Units not containing a completed townhouse. So long as there is a Class B member of the Association and the votes of the Class B member exceed the total of the Class A votes, the Developer shall fund any deficit which may exist between the annual assessments and the amount needed to defray the expenses of the Association in fulfilling its duties and obligations hereunder. The Board shall fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to each Owner subject thereto. Unless otherwise provided by the Board, the Association shall collect from the Owner of each Unit one-twelfth (1/12) of the annual assessment for such Unit on the first day of each month. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid. A properly executed certificate of the Association as to the status of assessments on a specified Unit is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within ten (10) days after the due date, the assessment shall bear interest from the date of delinquency at the maximum legal rate per annum. The Association may, in its sole discretion, accelerate the entire unpaid balance of the assessment and may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Unit, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Unit, hereby expressly vest in the Association, or its agents, the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of liens against real property, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage foreclosure on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with the foreclosure of said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid for the interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments

provided for herein by non-use of the Common Area, abandonment of his Unit or by renunciation of membership in the Association. An Owner may give to the Association, subject to acceptance thereof by the Association, a deed in lieu of foreclosure.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Areas including Limited Common Areas; (c) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption.

ARTICLE VI ARCHITECTURAL CONTROL

Section 1. Purpose. The Board of an Architectural Review Committee appointed by the Board shall regulate the external design, appearance, use, location and maintenance of the Property and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. Nothing herein shall give the Board authority to regulate, control or determine external design, appearance, use or location of the Property which is under development, or to be developed, or dwellings under construction, or to be constructed or marketed or sold by the Developer, its successors or assigns.

Section 2. Conditions. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any Unit, the improvements located thereon or appurtenances constituting Limited Common Area improvements attached thereto from its natural or improved state existing on the date such Unit was first conveyed in fee by the Developer to an Owner shall be made or done without the prior written approval of the Board or Architectural Review Committee. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, or improved, altered, made or done without the prior written approval of the Board of Architectural Review Committee.

Section 3. Procedures. Any Owner desiring to make improvements or changes with respect to this Unit or Limited Common Area improvements appurtenant thereto (other than improvements or changes to the interior of his townhouse, provided such interior changes do not alter the structural integrity of such townhouse or adjacent townhouses) shall submit in writing to the Board of Architectural Review Committee plans and specifications showing the nature, color, type, shape, height, materials and location of the proposed improvements and/or changes. The Board of Architectural Review Committee shall have the sole discretion

to determine whether the plans and specifications submitted for approval are acceptable to the Association and the Board or Architectural Review Committee shall be entitled and empowered to enjoin or remove any construction undertaken pursuant to plans and specifications which have not been approved in writing by the Board of Architectural Review Committee. Any costs and expenses incurred by the Association in enjoining or removing any construction or improvements not previously approved in accordance herewith shall be added to and become a part of the assessment to which the Owner and his Unit are subject. In the event the Board or the Architectural Review Committee fails to approve or disapprove in writing any proposed plans and specifications within sixty (60) days after such plans and specifications shall have been properly submitted to the Board of the Architectural Review Committee, such plans and specifications shall be deemed to have been expressly approved.

Section 4. Liability of Board or Architectural Review Committee. Neither Developer nor any member of the Board or of the Architectural Review Committee shall be liable in damages to anyone submitting plans and specifications for approval hereunder or to any Owner of a Unit affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans and specifications. Every Person who submits plans or specifications for approval agrees, by the submission of same, and every Owner of a Unit agrees, that he will not bring any action or suit against Developer or any member of the Board of Architectural Review Committee to recover for any such damage.

ARTICLE VII PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the townhouses and placed on the dividing line between two or more Units shall constitute a party wall. To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply.

Section 2. Expense of Repair and Maintenance. The expense of reasonable repair and maintenance of a party wall, to the extent not covered by insurance, shall be shared by the Owners using said wall in proportion to their use.

Section 3. Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it, and if the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice,

however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the Unit and shall pass to such Owner's successors in title. Nothing contained herein shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which are payable under any policy or policies of insurance for such damage.

ARTICLE VIII EASEMENTS

Section 1. Encroachment Easements. In the event any portion of the Common Area including Limited Common Area encroaches upon any residential dwelling located on a Unit or any residential dwelling located on a Unit encroaches on the Common Area as a result of construction, reconstruction or repair, shifting, settlement or movement of any portion of the Property, a valid easement for the encroachment and for the maintenance of same shall exist so long as the encroachment exists.

Section 2. Utility Easements. There is hereby created in favor of the Association and in favor of the Developer for the benefit of the Additional Property, an easement upon, across, over, through and under all of the Common Area for ingress, egress, installation, replacement, repair and maintenance of all utility and service lines and systems, including but not limited to water, sewer, gas, telephones, electricity, television, cable or communication lines and systems or any other requirements necessary for the Developer, or its successors or assigns, to develop or build Units on the Additional Property. An easement is further granted to the Association, its officers, agents, employees and any management company retained by the Association, to enter in or to cross over the Common Area and the Units during reasonable hours and upon prior request, when occupied, except in an emergency, to inspect and to perform the duties of maintenance and repair of the townhouses located on the Units and the Common Area, as provided for herein. Except as provided for herein, no sewers, electrical lines, water lines or other utilities may be installed or relocated on the Property except as initially programmed and approved by the Developer or thereafter approved by Developer or the Association if the option to add the Additional Property has lapsed. Should any utility furnishing a service covered by the general easement herein provided request that a specific easement be a separate recordable document, Developer or

the Association, whichever is so authorized hereunder, shall have the right to grant such easement on the Common Area without conflicting with the terms hereof.

Section 3. Structural Support. Every portion of the Common Area or of a Unit or any other improvement which contributes to the structural support of another portion of the Common Area or of another Unit or other improvement shall be burdened with an easement for structural support and each Unit shall also have the right to lateral support which shall be appurtenant to and pass with title to such Unit.

Section 4. Easements for Developer. Developer hereby reserves the following easements and rights-of-way in, on, over, under and through the Common Area for so long as Developer owns any Unit primarily for the purpose of sale or owns any interest in any portion of the Additional Property:

(a) For the construction of townhouses and related improvements on the Property and the Additional Property;

(b) For the erection, installation, construction, relocation and maintenance of wires, lines and conduits, and necessary or proper attachments in connection with the transmission of electricity, gas, water, sewer, telephone, community antenna, television cables and other utilities;

(c) For the installation, construction, relocation and maintenance of storm-water drains, public and private sewers, and for any other public or quasi-public utility facility;

(d) For the use of the Common Area including the right to post and maintain signs and to maintain any sales offices, model units and business offices in connection with its effort to market Units in Chattahoochee Cove;

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

Section 5. Easements for Association. There shall be a general right and easement for the benefit of the Association, its directors, officers, agents and employees including any management company retained by the Association, to enter upon the Common Area and the Units to perform their respective duties. Except in the event of emergencies, this easement shall be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner or occupant of the Unit or the structure or improvement directly affected thereby.

Section 6. Easements for Additional Property. There is hereby reserved in Developer and its successors-in-title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for (i) pedestrian and vehicular access, ingress and egress over and across all roads and driveways from time to time located within the Property, including the right for vehicular parking in parking areas not in good faith designated by the Association for the exclusive use of specific Units or individuals, (ii) the installation, maintenance and repair of utility facilities and distribution lines, including, without limitation, storm sewers and electrical, gas, telephone, water and sewer lines, and (iii) drainage and discharge of surface water, provided that such drainage and discharge shall not materially damage the Property or any improvements located thereon.

ARTICLE IX MAINTENANCE

Section 1. Association's Responsibility. Except as otherwise provided herein, the Association shall maintain and keep in good repair all portions of the Common Area. The Association's responsibility with respect to the Common Area shall be deemed to include the maintenance, repair and replacement of (i) all roads, driveways, walks, parking areas and buildings (excluding Limited Common Area improvements), if any, and other improvements situated within the Common Area, including any recreational facilities located thereon, but excluding Limited Common Area improvements located thereon, (ii) such utility lines, pipes, plumbing, wires, conduits and systems which are part of the Common Area, and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common Area. The responsibility for the maintenance and repair of the improvements on the Limited Common Area shall be the responsibility of the Owner of the Unit to which they are appurtenant to the same extent and as fully as if said improvements were located on the said Owner's Unit.

Section 2. Owner's Responsibilities. Each Owner shall be responsible for, and shall perform, maintain, repair and replace, as the case may be, all exterior maintenance to the townhouse located on his Unit together with any improvements on the Limited Common Areas appurtenant thereto, including, but not limited to: paint, stain, repair, screens and screening, awnings, window boxes, and lights and light fixtures, the repair, replacement and maintenance of all of which are the responsibility of the Owners of Units to which they are attached or appurtenant; together with all fixtures, equipment and appliances (including, without limitation, the heating and air-conditioning system for his townhouse) and all chutes, flues, ducts, conduits, wires, pipes, plumbing or other apparatus which are deemed to be part of his townhouse. Each Owner shall also be responsible for the maintenance, repair and replacement of all glass, lights and light fixtures (exterior and interior), awnings, window

boxes, window screens, and all screen or glass enclosed porches, and all balconies, decks, and entry stairs and porches which are a part of his townhouse whether located on his Unit or a Limited Common Area Improvement appurtenant thereto. Except as otherwise specified in Section 1, above, each Owner shall be responsible for the maintenance and repair of his Unit, together with all improvements thereon and all improvements attached thereto whether a part of the Unit or a Limited Common Area.

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

Section 4. No Liability of Association. The Association shall not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain, snow, or ice which may leak or flow from any portion of the Common Area, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, or utility line or facility, the responsibility for the maintenance of which is that of the Association, becoming out of repair. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of the Common Area.

ARTICLE X USE RESTRICTIONS

Section 1. Residential Use. All dwellings constructed on Units shall be restricted exclusively to residential use. Single family as used herein shall not require a relationship of blood or marriage, shall include roommate relationships but shall exclude boarding house, hotel or transient uses. No dwelling constructed on a Unit, or any portion thereof, shall at any time be used for any commercial, business or professional purpose. No dwelling constructed on a Unit may be divided or subdivided into a smaller dwelling.

Section 2. Common Area. The Common Area shall be used only by the Owners and their agents, servants, tenants, family members, invitees and licensees for access, ingress to and egress from the respective Units and for such other purposes as are authorized by the Board.

Section 3. Nuisances. (a) No unlawful, noxious or offensive activities shall be carried on upon any Unit, or upon the Common Area, nor shall anything be done therein or thereon which, in the judgment of the Board, constitutes a nuisance, causes unreasonable noise or disturbance to others or unreasonably interferes with other Owners' use of their Units and the Common Areas.

(b) No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property so as to render the same unsanitary, unsightly or offensive. No nuisance shall be permitted to exist upon any portion of the Property. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Property or any portion thereof.

Section 4. Other Restrictions. (a) Each Owner shall maintain his townhouse in good condition and in good order and repair at his own expense, and shall not do or allow anything to be done to or in his townhouse or Unit which may increase the cost or cause the cancellation of insurance on other Units or on the Common Area. No Owner shall display, hang, store or use any clothing, sheets, blankets, laundry or other articles outside his townhouse, or which may be visible from the outside of this townhouse (other than draperies, curtains or shades of a customary nature and a neutral color and appearance, subject to the rules and regulations of the Board). Except in connection with the sales activities of Developer, no Owner of a townhouse shall display, hang, store or use any sign outside his townhouse or elsewhere, or which may be visible from the outside of his townhouse without the prior written consent of the Board.

(b) No animals shall be raised, bred or kept in any townhouse for any commercial purpose. Household pets of Owners must be kept in strict accordance with the administrative rules and regulations relating to household pets from time to time adopted or approved by the Board, but in no case shall any one Unit have a total of more than three (3) pets without the prior written consent of the Board.

(c) Except for construction vehicles necessitated by the Developer's activities, no commercial vehicles may be stored or parked on any portion of the Property, except in an enclosed garage, and except for those vehicles making deliveries or providing services to the Owners. No house trailers, mobile homes, motor homes, campers, or other habitable motor

vehicles of any kind, school buses, trucks, boats, trailers, or vehicles that have been incapacitated for over 48 hours may be stored or parked on any portion of the Property unless the Association has provided designated Areas for such parking. An owner of a vehicle shall be responsible for moving a vehicle within twenty-four (24) hours after receiving notice to remove said vehicle from the Association.

(d) Until Developer has completed or sold all of the Units on the Property and the Additional Property, neither the Owners nor the Association nor the use of the Property shall interfere with the completion of the contemplated improvements and the sale of the Units and no amendment to this Declaration or the rules which will in any way so interfere, will be passed.

(e) No antenna, satellite dish (over 18 inches in diameter) or other device for the transmission or reception of television signals, radio signals or any form of electromagnetic radiation shall be erected, used or maintained outdoors on any portion of the Property; provided, however, Developer and the Association shall have the right to erect, construct and maintain such devices.

(f) "Leasing of Units.

(1) "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Unit by any person other than the Owner for which the Owner receives any consideration, or benefit, including, but not limited to, a fee, gratuity, or emolument.

(2) Leasing Prohibited. In order (i) to protect the equity of the individual property owners at Chattahoochee Cove, (ii) to carry out the purpose for which the Association was formed by preserving the character of the Association as a homogeneous residential community of predominantly owner-occupied complex; and (iii) to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, leasing of a Unit shall be prohibited, except in the case of undue hardship, as provided below.

(3) Undue Hardship. The Board shall be empowered to allow reasonable leasing of Units, upon written application, to avoid undue hardship upon an Owner. By way of illustration, constitute "undue hardships" are those in which (i) an owner must relocate his or her residence and cannot, within ninety (90) days from the date the Unit is placed on the market, sell the Unit for a price at or below its current appraised market value; (ii) where the Owner dies and the Unit is being administered by his or her estate; or (iii) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Unit.

Notwithstanding Article X, Section 4(f)(2), those Owners who have demonstrated that the inability to lease their Unit would result in undue hardship and have obtained the requisite approval of the Board may lease their Unit for such duration as the Board reasonably determined is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Unit to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing, a copy of the proposed lease, and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall only be permitted upon the Board's written approval, a copy of the lease, signed by the lessee and lessor, shall be submitted to the Board within ten (10) days after it has been signed by both parties.

The Board shall have the power to make and enforce reasonable rules and regulations and to fine, in accordance with the Declaration and By-Laws, in order to enforce the provisions of this paragraph. Any transaction which does not comply with this Article X, Section 4(f) (3), shall be voidable at the option of the Board of Directors.

(4) Such leasing as is permitted shall be governed by the following provisions:

(i) Units may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Units or assignment of leases unless approved in writing by the Association. No transient tenants may be accommodated in a Unit. All leases shall be in writing and in a form approved by the Board of Directors of the Association. Attached hereto as Exhibit "C" is a lease deemed acceptable. All rentals must be for a term of not less than one (1) year. The Unit Owner must make available to the tenant copies of the Declaration, By-Laws, and the rules and regulations. All leases and lessees are subject to the provisions of this Declaration and the By-Laws. Any lease of a Unit in the community shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner covenants and agrees that if such language is not expressly contained therein, then such language shall be incorporated into a lease by existence of this covenant on the Unit. Any lessee, by occupancy in a Unit, agrees to the applicability of this covenant and incorporation of the following language into the lease:

a. Liability for Assessment. Lessee agrees to be personally obligated for the payment of all assessments against the Owner which become due during the term of the lease and any other period of occupancy by the lessee or which become due as a consequence of lessee's activities, including, but not limited to, activities which violate provisions of the Act, the Declaration, the By-Laws, or the rules and regulations adopted pursuant thereto. The above provision shall not be construed to release the Unit Owner from

any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

Upon request by the Association lessee shall pay to the Association all unpaid annual and special assessments, as lawfully determined and made payable during the term of the lease and any other period of occupancy by lessee; provided, however, lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make only rental payments to lessor.

(2) Compliance With the Declaration, By-Laws, and Rules and Regulations. Lessee agrees to abide by and comply with all provisions of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. Owner agrees to cause all occupants of his or her Unit to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and is responsible for all violations and losses caused by such occupants, notwithstanding the fact that such occupants of the Unit are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee, or person living with the lessee, violates the Declaration, By-Laws, or rules or regulations for which a fine is imposed, such fine shall be assessed against the lessee; provided, however, if the fine is not paid by the lessee within the time period set by the Board of Directors, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. All unpaid fines, together with late charges, interest not to exceed the maximum legal rate, costs, and reasonable attorneys' fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Unit against which each fine is made. Each such fine, together with late charges, interest, costs, and reasonable attorney's fees actually incurred, shall also be the personal obligation of the person who was the Owner of such Unit at the time the assessment fell due. Any lessee charged with a violation of the Declaration, By-Laws, rules and regulations adopted pursuant thereto is entitled to the same procedure to which an owner may be entitled, if any, prior to the imposition of a fine or other sanction.

Any violation of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto is deemed to be a violation of the terms of the lease and authorizes the owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The owner hereby delegates and assigns to the Chattahoochee Cove Homeowners Association, Inc. (as a third-party beneficiary of the lease agreement between the Owner and the lessee), acting through the Board, the power and authority to evict the lessee on behalf of and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the tenant, any cost, including attorneys' fees

and court costs, associated with the eviction shall be specially assessed against the Unit and the Owner thereof, such being deemed hereby as an expense which benefits the leased Unit and the Owner thereof.

(ii) Use of Common Area. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Area, to include, but not be limited to, the use of any and all recreational facilities and other amenities.

(iii) Applicability of Paragraph. Those Owners who are owners of Units at Chattahoochee Cove as of the date on which this Declaration is recorded in the Gwinnett County, Georgia Records, may lease Units owned as of that date and shall not be required to demonstrate undue hardship as a prerequisite to the leasing of those Units. However, upon any conveyance of a Unit, any grantee thereof shall be subject to the provisions of Article X, Section 4(f) in addition to all other provisions of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto.

g. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever, including, without limitation, fences, shall be commenced or placed upon any part of the community, except as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No exterior construction, addition, erection, or alteration shall be made unless and until the plans and specifications showing the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by the Board or its designee. The Board or its designee may promulgate written guidelines for the exercise of this review.

The Board or its designee shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours, to enter upon any Unit to inspect any Unit and any improvements thereon for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry. In the event the Board or its designee fails to approve or to disapprove such design and location within sixty (60) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with. As a condition of approval under this Section, an Owner, on behalf of himself and his successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement, and insurance to and on such change, modification, addition, or alteration. In the discretion of the Board, an Owner

may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of himself and his successors-in-interest.

h. Vehicles and Parking. Owners shall be entitled to park a maximum of two (2) operable vehicles on the driveway between the Owners Unit and the adjacent street on a regular and ongoing basis. Parking more than two (2) vehicles per Unit on a regular and ongoing basis shall not be allowed without the prior written consent of the Board.

ARTICLE XI INSURANCE

Section 1. Association's Authority to Insure. The Board of Directors of the Association or its duly authorized agent shall have the authority to and may obtain insurance for all insurable improvements located in the Common Area against loss or damage by all risks of physical loss or damage, subject to normal policy exclusions, in an amount sufficient to cover the full replacement cost of such improvements in the event of damage or destruction from any insured peril. The Board may also obtain third party liability insurance covering all Common Area and all damage or injury caused by the negligence of the Association or any of its members or agents with a single limit of not less than \$1,000,000.00 liability per person, and \$50,000.00 property damage, such worker's compensation insurance as may be required by law and such other insurance as the Board may from time to time deem appropriate. The Association may obtain and maintain fidelity bond coverage as specified in the Federal National Mortgage Association Conventional Home Mortgage Selling Contract Supplement. Premiums for all such insurance, if obtained, shall be an expense of the Association. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association. Such insurance shall be governed by the provisions contained in the By-Laws of the Association.

Section 2. Owner's Responsibility. Each Owner shall obtain and maintain insurance for all insurable improvements located on their respective Unit and all improvements appurtenant to their Unit which are in Limited Common Areas against loss or damage by all risks of physical loss or damage, subject to normal policy exclusions, in an amount sufficient to cover the full replacement cost of such improvements in event of damage or destruction from any insured peril. Any such insurance policies may contain reasonable deductibles as determined by the Owner. In the event any Owner fails to maintain such insurance, the Board of Directors is authorized, but not obligated to obtain such insurance, whereupon such Owner shall immediately reimburse the Association for such premium. The cost of such premium shall be deemed an individual assessment under Article V of this Declaration and shall be added to and become a part of the assessment to which the Unit is subject.

ARTICLE XII CONDEMNATION

Whenever all or any part of the Property shall be taken by any authority having the power of condemnation or eminent domain, then each Owner shall receive notice thereof and shall be allowed to participate in the proceedings incident thereto. The award or proceeds made or collected shall be payable to the Association as trustee for all Owners and shall be disbursed as follows:

(a) If the taking is a portion of the Common Area upon which improvements have been constructed (excluding Limited Common Area improvements appurtenant to Units), then the Association shall restore or replace such improvement so taken, to the extent practicable, on the remaining property included in the Common Area, unless within sixty (60) days after such taking, Developer, for so long as it owns a Unit primarily for the purpose of sale or has the unexpired option to add the Additional Property or any portion thereof to Chattahoochee Cove and at least seventy-five (75%) of the Class A members of the Association shall otherwise agree.

(b) If the taking includes one or more Units or any portion thereof including Limited Common Area improvements appurtenant thereto, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Owners so affected.

ARTICLE XIII MORTGAGEE PROVISIONS

Section 1. Rights of First Mortgagees. Each first mortgagee of a Unit shall (a) be entitled to written notice from the Association of any default by an Owner in the performance of his obligations under the Declaration which is not cured within thirty (30) days; (b) be entitled to attend and observe all meetings of Owners, but not meetings of the Board; (c) be furnished copies of annual audited financial reports made to the Owners (if requested in writing); (d) be entitled to inspect the financial books and records of the Association and current copies of this Declaration, the By-Laws and other rules of the Association during reasonable business hours; (e) be entitled to notice of any material modification of any insurance policy or fidelity policy maintained by the Association; and (f) be entitled to written notice of any condemnation loss or any casualty loss which affects a material portion of the Property; provided; however, that such mortgagee shall first file with the Association a written request that such notices and copies of financial reports be sent to a named agent or representative of the mortgagee at an address stated in such notice.

Section 2. Consent of First Mortgagees. Notwithstanding any provisions to the contrary contained herein, unless the holders of at least seventy-five percent (75%) of the first mortgages on Units in Chattahoochee Cove have consented in writing, the Developer and the Association shall not do any of the following:

(a) by act or omission seek to abandon, subdivide, encumber, sell or transfer the Common Area. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Association shall not be deemed a transfer within the meaning of this clause;

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

(c) by act or omission materially change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of the townhouses on the Units and the Limited Common Area improvements appurtenant thereto, the exterior maintenance of the townhouses, the maintenance of the Common Area walks, fences and driveways or the upkeep of lawns and plantings in the Common Area;

(d) use hazard insurance proceeds for losses to any of the Common Area for other than the repair, replacement or reconstruction of such Common Area.

(e) terminate professional management, if any, and assume self-management of Chattahoochee Cove, unless the Board has good cause in terminating the professional management, if the management company is negligent or fails to perform the management functions in a professional manner.

Section 3. Priority of First Mortgagees. No provision of this Declaration shall be construed to grant to any Owner or any other party any priority over any rights of first mortgages of the Units pursuant to their first mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or the Common Area or any portions thereof.

Section 4. Taxes, Insurance Premiums, Etc. First mortgages of Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area and for the townhouses on the Units, and first mortgagees making such payments shall be owed immediately reimbursement therefor from the Association. This Section constitutes

the Association's agreement to such right and its agreement to immediately make such reimbursement.

Section 5. Professional Management and Other Contracts. Any agreement for professional management of Chattahoochee Cove must provide for termination by the Association, without cause and without payment of any penalty or termination fee, upon not more than ninety (90) days written notice. The term of any such agreement may not exceed one (1) year. For so long as there is a Class B member of the Association, the Association will not be bound directly or indirectly to either contracts or leases unless there is a right of termination of any such contract or lease, without cause, at any time after there ceases to be a Class B member, upon no more than ninety (90) days notice to the other party.

ARTICLE XIV GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. If any provision of the Declaration, or any paragraph, subparagraph, article, section, sentence, clause, phrase, word or the application thereof in any circumstance is held invalid, the validity of the remainder of this Declaration and the application of any such provision, paragraph, subparagraph, article, section, sentence, clause, phrase or word in any circumstance shall not be affected thereby and the remainder of this Declaration shall be construed as if such invalid part was never included therein.

Section 3. Headings. The headings of articles and sections in this Declaration are for convenience of reference only and shall not in any way limit or define the content or substance of such articles and sections.

Section 4. Duration. (a) The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and mortgagees and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect perpetually to the extent permitted by Georgia law; provided, however, that so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind title to the Property so long as permitted by law, and it shall be the

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duty of the Board to cause this Declaration to be amended of record when necessary by filing a document bearing the signatures of Owners having over fifty percent (50%) of the votes in the Association reaffirming and newly adopting such provisions in order that the same may continue to be covenants running with title to the Property. Such adoption by a majority shall be binding upon all of the Owners. Every purchaser or grantee of any interest in any property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided herein.

(b) If any of the covenants, conditions, restrictions, easements or other provisions of this Declaration shall be unlawful, void or voidable for violation of the Rule Against Perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the survivor of the new living descent of Her Majesty Queen Elizabeth II, Queen of England.

Section 5. Rights and Obligations. Each grantee of a Unit, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration. All rights, benefits and privileges of every character hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in the Property or any portion thereof, and shall inure to the benefit of such grantee in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance or contract for conveyance.

Section 6. Notices. Notices provided for in this Declaration shall be in writing and shall be addressed to any Owner at his townhouse or at such other address as hereinafter provided. Notices to the Association or Board shall be in writing and shall be addressed to the President of the Association at or at such different address or addresses for notices to them, respectively, as disclosed in a written notice of change of address furnished to all Owners. Any Owner may designate a different address for notices to him by giving written notice to the Association. Notices addressed as above shall be deemed delivered upon mailing by United States registered or certified mail or when delivered in person.

Section 7. Liability of Successor to Developer. Nothing contained herein shall make responsible or subject to liability any successor to Developer by operation of law or through purchase of the Developer's interest in the Property or any portion thereof, whether by foreclosure of a deed to secure debt or other security interest encumbering the Property or delivery of a deed in lieu of foreclosure, for any act, omission or matter occurring, or arising

from any act, omission or matter occurring prior to the time such successor succeeded to the interest of Developer.

Section 8. Rights of Third Parties. This Declaration shall be recorded for the benefit of Developer, the Owners, and their mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in Chattahoochee Cove except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof, and, subject to the provisions of this Declaration and the rights of Developer and mortgagees as herein provided, the Owners shall have the right to extend, modify, amend or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

Section 9. Amendments. As more specifically provided in Article II of this Declaration, Developer shall have the right to execute and record such amendments as are necessary to add all or any portion of the Additional Property to this Declaration, all without the consent of the Association or the Owners, within the time period specified therein. This Declaration may be amended unilaterally at any time and from time to time by Developer (i) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Units subject to this Declaration, (iii) if such amendment is required to obtain the approval of this Declaration by an institutional lender, such as a bank, savings and loan association or life insurance company, or by a governmental lender or purchaser of mortgage loans, such as the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the Units subject to this Declaration, or (iv) if such amendment is necessary to enable any governmental agency, such as the Veterans Administration, or reputable private insurance company to insure mortgage loans on the Units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Unit or materially alter or change any Owner's right to the use and enjoyment of the Common Area as set forth herein, unless any such owner so affected thereby shall consent thereto in writing. Further, this Declaration may be amended at any time and from time to time by an agreement signed by at least seventy-five percent (75%) of the Owners of Units; provided, however, such amendment by the Owners shall not be effective unless also signed by Developer, if Developer is the owner of any real property then subject to this Declaration or has the unexpired option to submit all or any portion of the Additional Property to this Declaration. No amendment to the provisions of this Declaration shall alter, modify, change or rescind any right, title, interest or privilege herein granted or accorded to the holder of any mortgage encumbering any Unit or the

Common Area affected thereby unless such holder shall consent in writing thereto. No amendment shall be made to this Declaration that shall in any way affect the easements granted in Article VIII, Section 6 without the Declarant's express written consent notwithstanding any lapse, termination or expiration of Developers right to add the Additional Property. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Every purchaser or grantee of any interest in any real property made subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that this Declaration may be amended as provided in this Section.

IN WITNESS WHEREOF, Developer has caused this Declaration to be executed by its duly authorized officers under seal on the day and year first above written.

Signed, sealed and delivered this 16 day of October 1996 in the presence of:

[Signature]

Unofficial Witness

[Signature]

Notary Public

My Commission Expires: _____

Signed, sealed and delivered this ____ day of October 1996 in the presence of:

[Signature]

Unofficial Witness

[Signature]

Notary Public

My Commission Expires: _____

DEVELOPER:

HOMELAND COMMUNITIES, INC.,
a Georgia corporation

By: [Signature]

Name: J.D. BROOKS
Title: PRESIDENT

ATTEST: [Signature]
JOHN SUTTON,
VICE PRESIDENT

FALLING WATER INVESTMENT, LTD.
a Georgia limited partnership

By: HOMELAND COMMUNITIES, INC.,
a Georgia corporation, Sole General-
Partner

BY: [Signature]

NAME: J. D. Brooks
TITLE: President