

AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
THE FAIRWAYS OF TOWNE LAKE

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STATE OF GEORGIA  
COUNTY OF CHEROKEE

Reference: Deed Book 765  
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AMENDED AND RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
THE FAIRWAYS OF TOWNE LAKE

WHEREAS, The Fairways of Towne Lake Associates Limited Partnership, recorded a Declaration of Covenants, Restrictions and Easements of The Fairways, on January 17, 1989, in Deed Book 765,

Page 374, et seq., Cherokee County, Georgia Records (hereinafter referred to as the "Original Declaration"); and

WHEREAS, the Original Declaration has been previously amended by amendments recorded in the Cherokee County, Georgia Records as follows:

<u>Recording Date</u>	<u>Deed Book/Page</u>
April 2, 1990	86/297 et seq.
June 24, 1991	1012/256 et seq.
May 26, 1992	1206/76 et seq.
May 19, 1993	1475/92 et seq.
March 2, 1994	1755/220 et seq.
March 20, 1995	2046/209 et seq.

WHEREAS, Plats for The Fairways of Towne Lake Units I - VI inclusive prepared by Southern Surveying & Mapping Company, Inc. were filed in the Cherokee County Georgia Records as follows:

Unit No.	Recording Date	Plat/Book/Page
Unit I	January 17, 1989	36/159
Unit I	February 2, 1989	36/177
Unit II	June 24, 1991	40/200
Unit II	September 3, 1991	41/71
Unit II	June 23, 1992	42/158
Unit III	May 26, 1992	42/130
Unit III	September 8, 1992	43/29
Unit IV	May 19, 1993	44/139
Unit IV	February 21, 1995	48/190
Unit V	March 2, 1994	46/109
Unit VI	February 21, 1994	48/191

WHEREAS, Article IX of the Original Declaration provides for amendment of the Original Declaration by sending notice to each member of the Association of the meeting at which the proposed amendment shall be considered, which notice shall include the subject matter of the proposed amendment; and

WHEREAS, a resolution to adopt the proposed amendment must be proposed at the meeting and approved by the members holding at least two-thirds (2/3rds) of the total votes in the Association; and

WHEREAS, the duly required notice was sent to the members, a meeting was duly called to order, a duly adopted resolution was presented to the meeting and at least two-thirds (2/3) of the total votes in the Association desire to amend the Original Declaration and have approved this amendment;

WHEREAS, in accordance with Article VIII, Section 8.2 of the By-Laws of The Fairways of Towne Lake Homeowners Association, Inc. ("Original By-Laws"), the Original By-Laws may be amended by the affirmative vote of a majority of all of the directors at any meeting of the directors duly called for such purpose; and

WHEREAS, at least a majority of the Board of Directors of record have approved this amendment to the Original By-Laws at a meeting of the Directors duly called for such purpose; and

WHEREAS, these Amendments do not alter, modify, change or rescind any right, title, interest, or privilege held by any first Mortgage Holder; provided, however, in the event a court of competent jurisdiction determines that these Amendments do alter, modify, change, or rescind any right, title, interest, or privilege held by any first Mortgage Holder without such first Mortgage Holder's consent in writing to these Amendments, then these Amendments shall not be binding on the first Mortgage Holder so involved, unless such first Mortgage Holder consents to these Amendments; and if such consent is not forthcoming, then the provisions of the Original Declaration and Original By-Laws effective prior to these Amendments shall control with respect to the affected first Mortgage Holder;

NOW, THEREFORE, the Original By-Laws and the Original Declaration and all exhibits thereto are hereby stricken in their entirety and the following is simultaneously substituted therefor:

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR THE FAIRWAYS OF TOWNE LAKE

1. NAME

The name of the property is The Fairways of Towne Lake (hereinafter sometimes called "The Fairways"), which property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982).

2. DEFINITIONS

Generally, terms used in this Declaration, the By-Laws, and the Articles of Incorporation shall have their normal, generally accepted meanings or the meanings given in the Act or the Georgia Nonprofit Corporation Code. Unless the context otherwise requires, certain terms used in this Declaration, the By-Laws, and the Articles of Incorporation shall be defined as follows:

(a) Act means the Georgia Property Owners' Association Act, O.C.G.A. Section 44-3-220, et seq. (Michie 1982), as may be amended.

(b) Architectural Control Committee or ACC means the committee established to exercise the architectural review powers set forth in Paragraph 11 hereof.

(c) Area of Common Responsibility means the Common Property, together with any areas which become the Association's responsibility under this Declaration or by contract or agreement with any other Person. The office of any property manager employed by or contracting with the Association, if located on the Property, or any public rights-of-way within or adjacent to the Property, may be part of the Area of Common Responsibility.

(d) Articles or Articles of Incorporation mean the Articles of Incorporation of The Fairways of Towne Lake Homeowners Association, Inc., filed with the Secretary of State of the State of Georgia.

(e) Association means The Fairways of Towne Lake Homeowners Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

(f) Association Legal Instruments means this Declaration and all exhibits hereto, including the Association's By-Laws, and the plats, all as may be supplemented or amended.

(g) Board or Board of Directors means the elected body responsible for management and operation of the Association.

(h) By-Laws mean the By-Laws of The Fairways of Towne Lake Homeowners Association, Inc.

(i) Common Property means any and all real and personal property and easements and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners.

(j) Common Expenses mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, and operating the Common Property and otherwise for the benefit of all Lots.

(k) Community-Wide Standard means the standard of conduct, maintenance, or other activity generally prevailing in the Property. Such standard may be more specifically determined by the Board and the ACC.

- (l) Course Owner shall mean the entity which is the owner of the Golf Facilities, and its successors and assigns.
- (m) Effective Date means the date that this Declaration is recorded in the Cherokee County, Georgia land records.
- (n) Eligible Mortgage Holder means a holder of a first mortgage secured by a Lot who has requested notice of certain items as set forth herein.
- (o) Golf Facilities means an eighteen-hole golf course, driving range, clubhouse and related parking facilities which may be, but is not required to be, constructed adjacent to certain portion of the Development.
- (p) Golf Course Lot means a Lot which shares a common boundary with any portion of the Golf Facilities or is visible from any portion of the Golf Facilities.
- (q) Lot means a portion of the Property intended for ownership and use as a single-family dwelling site as permitted in this Declaration and as shown on the plats for the Property, or amendments or supplements thereto, recorded in the Cherokee County, Georgia land records.
- (r) Majority means those eligible votes, Owners, or other group as the context may indicate totalling more than fifty (50%) percent of the total eligible number.
- (s) Master ARC means 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.
- (t) Master Assessments means 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.
- (u) Master Association means Towne Lake Residential Owners Association, Inc. (a nonprofit corporation organized under the laws of the State of Georgia), its successors and assigns.
- (v) Master Declarant means 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.
- (w) Master Declaration means 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.
- (x) Mortgage means to any mortgage, deed to secure debt, deed of trust, or other transfer or conveyance for the purpose of securing the performance of an obligation, including, but not limited to, a transfer or conveyance of fee title for such purpose.
- (y) Mortgagee or Mortgage Holder means the holder of any Mortgage.
- (z) Occupant means any Person occupying all or any portion of a dwelling or other property located within the Property for any period of time, regardless of whether such Person is a tenant or the Owner of such property.
- (aa) Officer means an individual who is elected by the Board to serve as President, Vice President, Secretary, or Treasurer, or such other subordinate officers as the Board may determine necessary.

(bb) Owner means the record title holder of a Lot, but shall not include a Mortgage Holder.

(cc) Person means any individual, corporation, firm, association, partnership, trust, or other legal entity.

(dd) Property means that real estate which is submitted to the Act and the provisions of this Declaration, as described in Exhibit "A" attached hereto and incorporated herein by reference. The Property is a residential property owners development which hereby submits to the Georgia Property Owners' Association Act, O.C.G.A. ' 44-3-220, et seq. (Michie 1982), as may be amended.

### 3. LOCATION, PROPERTY DESCRIPTION, AND PLATS.

The Property subject to this Declaration and the Act is located in Land Lots 726, 727, 786, 787, 788, 789, 796, 797, 798, of the 15th District, 2nd Section of Cherokee County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. Plats of survey relating to the Property have been filed in Plat Book 36, Page 159, Plat Book 36, Page 177; Plat Book 40, Page 200; Plat Book 41, Page 71; Plat Book 42, Page 130; Plat Book 42, Page 158; Plat Book 43, Page 29; Plat Book 44, Page 139; Plat Book 48, Page 190; Plat Book 46, Page 109 and Plat Book 48, Page 191, of the Cherokee County, Georgia records. The plats of survey are incorporated herein by reference as fully as if the same were set forth in their entirety herein.

### 4. GOLF FACILITIES.

(a) The Golf Facilities shall not constitute Common Property and are not subject to this Declaration. The Members of the Association shall have no ownership interest, proprietary interest, beneficial interest, or other vested interest in the Golf Facilities and shall have no right to enter or to use the Golf Facilities by virtue of being a Member of the Association. Only those persons who have paid the applicable fees established by the Course Owner (in the event that the Golf Facilities are operated as a public facility) or who have paid the membership fees established by the Course Owner (if the Golf Facilities are operated as a private facility) shall be entitled to use the Golf Facilities and then subject to such rules and on such terms as may be established by the Course Owner.

(b) No representations or warranties have been or are made regarding the continuing ownership or operation of the Golf Facilities, if any, and no purported representation or warranty in such regard shall ever be effective without an amendment hereto. Further, the ownership or management and administration of the Golf Facilities may change at any time and from time to time by virtue of, but without limitation, (i) the sale or assumption of operations of the Golf Facilities by/to a third party or entity, (ii) the formation of the Golf Facilities membership structure as an "equity" club or similar arrangement whereby the members of the Golf Facilities or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Golf Facilities, or (iii) the conveyance, pursuant to contract, option, or otherwise, of the Golf Facilities to a third party or entity. No consent of the Association, the Board, or any Owner shall be required to effectuate a transfer to any person or entity other than the Association and none of the foregoing shall have any right of first refusal regarding such transfer.

(c) So long as the Golf Facilities are not submitted to this Declaration, the Golf Facilities shall not be assessed pursuant hereto nor shall they be subject to any other restriction contained herein, including, without limitation, architectural controls.

### 5. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

(a) Membership. Every Owner shall be deemed to have a membership in the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one (1) membership per Lot owned. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any

Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.

(b) Voting. Members shall be entitled to one (1) equal vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners determine among themselves and advise the Secretary prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

## 6. ALLOCATION OF LIABILITY FOR COMMON EXPENSES.

Except as otherwise provided herein, each Lot is hereby allocated equal liability for Common Expenses.

(a) Except as provided below, or elsewhere in the Act or the Association Legal Instruments, the amount of all Common Expenses shall be assessed against all the Lots.

(b) The Board of Directors shall have the power to assess specially pursuant to this Paragraph and to Section 44-3-225(a) of the Act as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Paragraph 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 do so in the future.

i) Except for expenses incurred for maintenance and repair of items which are the Association's maintenance responsibility hereunder, any Common Expenses benefitting less than all of the Lots or significantly disproportionately benefitting all Lots may be specially assessed equitably among all of the Lots which are benefitted according to the benefit received.

ii) Any Common Expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or by the licensees or invitees of any such Lot or Lots may be specially assessed against such Lot or Lots.

For purposes of this subparagraph, nonuse shall constitute a benefit to less than all Lots or a significant disproportionate benefit among all Lots only when such nonuse results in an identifiable, calculable reduction in cost to the Association.

## 7. ASSOCIATION RIGHTS AND RESTRICTIONS.

The Association, acting through its Board of Directors, shall have the right and authority, in addition to and not in limitation of all other rights it may have,:

(a) to enter into Lots for maintenance, emergency, security, or safety purposes, or otherwise to discharge its powers or responsibilities hereunder, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after reasonable notice to the Owner or Occupant of the Lot;

(b) to make and to enforce reasonable rules and regulations governing the use of the Property, including the Lots and the Common Property;

(c) to enforce use restrictions, other Declaration and By-Laws provisions, and rules and regulations by imposing reasonable monetary fines and suspending use and voting privileges and services paid for as a Common Expense, as provided herein and in Section 44-3-223 of the Act. These powers, however, shall not limit any other legal means of enforcing the use restrictions or Association rules and regulations by either the Association or, in an appropriate case, by an aggrieved owner. Any fines imposed shall be considered an assessment against the Lot;

(d) to grant permits, licenses, utility easements, and other easements, permits, or licenses necessary for the proper maintenance or operation of the Property under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Property;

(e) to control, manage, operate, maintain, replace and, in the Board's discretion, improve all portions of the Property for which the Association is assigned maintenance responsibility under this Declaration;

(f) to deal with the Property in the event of damage or destruction as a result of casualty loss, condemnation or eminent domain, in accordance with the provisions of this Declaration;

(g) to represent the Owners in dealing with governmental entities;

(h) to close permanently or temporarily any portion of the Common Property with, except in emergency situations, sixty (60) days prior notice to all Owners; provided, however, the Owners may re-open the closed Common Property by a majority vote of the total Association vote, cast at a duly called special or annual meeting;

(i) to require each Owner to install separate utility meters for each Owner's Lot at the Owner's cost, or to install such separate utility meters and assess the costs of such installation against each Lot as provided for herein; and

(j) to acquire, hold, and dispose of tangible and intangible personal property and real property.

## 8. ASSESSMENTS.

(a) Purpose of Assessment. The Association shall have the power to levy assessments as provided herein and in the Act. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and Occupants of Lots as may be authorized by the Board.

(b) Creation of the Lien and Personal Obligation For Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual assessments or charges; (ii) special assessments, to be established and collected as hereinafter provided; (iii) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration; and (iv) Master Assessments, which may or shall be levied pursuant to the Master Declaration against all Lots.

All such assessments, together with charges, interest, costs, and reasonable attorney's fees actually incurred, and if the Board so elects, rents, in the maximum amount permitted under the Act, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the Person who was the Owner of such Lot at the time when the assessment fell due. Each Owner and his or her grantee shall be jointly and severally liable for all assessments and charges due and payable at the time of any conveyance.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board; unless otherwise provided, the assessments shall be paid by January 1 of each respective year. No Owner may exempt himself or herself from liability for or otherwise withhold payment of assessments for any reason whatsoever, including, but not limited to, nonuse of the Common Property, the Association's failure to provide services or perform its obligations required hereunder, or inconvenience or discomfort arising from the Association's performance of its duties.

The lien provided for herein shall have priority as provided in the Act.

(c) Delinquent Association Assessments. All assessments and related charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.

i) If any annual assessments or any part thereof is not paid in full within thirty (30) days of the due date, a late charge equal to the greater of ten (\$10.00) dollars or ten (10%) percent of the amount not paid, or such higher amounts as may be authorized by the Act, may be imposed without further notice or warning to the delinquent Owner, and interest at the rate of ten (10%) percent per annum or such higher rate as permitted by the Act shall accrue from the due date.

ii) If part payment of assessments and related charges is made, the amount received shall be applied, in respective order, to costs and attorney's fees, late charges, interest, delinquent assessments, and current assessments.

iii) If assessments and other charges or any part thereof remain unpaid more than sixty (60) days after the assessment payments first become delinquent, the Association, acting through the Board, may institute suit to collect all amounts due pursuant to the provisions of the Declaration, the By-Laws, the Act and Georgia law and suspend the Owner's and Occupant's right to use the Common Property (provided, however, the Board may not limit ingress or egress to or from the Lot).

(d) 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, such unpaid Master Assessments, together with interest thereon as provided in Section (c) above 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.

(e) Computation of Operating Budget and Assessment. Prior to the beginning of the Association's fiscal year, the Board shall prepare a budget covering the estimated costs of operating the Property during the coming year. The Board shall cause the notice of the assessments to be levied against each Lot for the following year to be delivered to each member at least sixty (60) days prior to the due date of such assessments. The budget and the assessment shall become effective upon approval of the same by the Board of Directors, unless disapproved at a duly called annual meeting by a vote of a majority of the total Association membership; provided, however, if a quorum is not obtained at the annual meeting, the budget shall become effective even though a vote to disapprove the budget could not be called at this meeting. Notwithstanding anything to the contrary contained herein, the assessment shall not increase by more than ten (10%) percent per year above the previous year's assessment without the approval of a majority of the members who are voting in person or by proxy at a duly called Association meeting, or by ballot.

If the Board proposes a budget with an assessment more than ten (10%) percent greater than the previous year's assessment, and the membership disapproves the proposed budget, or if the Board fails for any reason to determine the budget for the succeeding year, then, until a budget is determined as provided herein, the budget in effect for the current year shall continue for the succeeding year, and the Board may propose a new budget at any time during the year by causing the proposed budget and assessment to be delivered to the members at least thirty (30) days prior to the proposed effective date thereof. Unless a special meeting is requested by the members, as provided in the By-Laws for special meetings, the new budget and assessment shall take effect without a meeting of the members.

(f) Special Assessments. In addition to the annual assessment provided for in subparagraph (b) above, the Board may at any time levy a special assessment against all Owners, notice of which shall be sent to all Owners; provided, however, prior to becoming effective, any special assessment which would cause the total of special assessments levied against any Lot in one calendar year to exceed fifty (\$50.00) dollars (except as provided in Paragraph 10(b) herein, regarding repair or reconstruction of casualty damage to or destruction of all or part of the Property) first shall be approved by the affirmative vote of at least two-thirds (2/3) of Owners present or represented by proxy at a special or annual meeting of the members, notice of which shall specify that purpose.



(g) Capital Budget and Contribution. The Board shall annually prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, with respect both to amount and timing by equal annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within the budget and assessment as provided in subparagraph (e) of this Paragraph. A copy of the capital budget shall be distributed to each member in the same manner as the operating budget.

(h) Statement of Account. Any Owner, Mortgagee, or a Person having executed a contract for the purchase of a Lot, or a lender considering a loan to be secured by a Lot, shall be entitled, upon written request, to a statement from the Association setting forth the amount of assessments due and unpaid, including any late charges, interest, fines, or other charges against a Lot. The Association shall respond in writing within five (5) days of receipt of the request for a statement; provided, however, the Association may require the payment of a fee, not exceeding ten (\$10.00) dollars, as a prerequisite to the issuance of such a statement. Such written statement shall be binding on the Association as to the amount of assessments due on the Lot as of the date specified therein.

(i) Surplus Funds and Common Profits. Common profits from whatever source shall be applied to the payment of Common Expenses. Any surplus funds remaining after the application of such common profits to the payment of Common Expenses shall, at the Board's option, either be distributed equally to the Owners or credited to the next assessment chargeable to the Owners, or added to the Association's reserve account.

## 9. INSURANCE.

(a) The Association's Board or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Property. This insurance shall include fire and extended coverage, including coverage for vandalism and malicious mischief and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. Alternatively, the Board may purchase "all-risk" coverage in like amounts.

(b) The Board shall obtain a public liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents in their capacities as such, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

(c) Premiums for all insurance obtained by the Association shall be a Common Expense of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

(d) All such insurance coverage obtained by the Board shall be written in the name of the Association, as trustee, for the respective benefitted parties, as further identified in subparagraph (ii) below. Such insurance shall be governed by the provisions hereinafter set forth:

i) All policies shall be written with a company licensed to do business in Georgia.

ii) All policies on the Common Property shall be for the benefit of the Association and its members.

iii) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

iv) In no event shall the insurance coverage obtained and maintained by the Board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees, and the insurance carried by the Association shall be primary when an insured loss occurs on the Common Property.

v) All casualty insurance policies may have an inflation guard endorsement and an agreed amount endorsements if these are reasonably available and all insurance policies shall be reviewed annually by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Property is located.

vi) The Board may obtain, if reasonably available, insurance policies that will provide for the following:

a) a waiver of subrogation by the insurer as to any claims against the Board, the Association's manager, the Owners and their respective tenants, servants, agents, and guests;

b) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

c) a provision that no policy may be canceled, invalidated, suspended or subjected to nonrenewal on account of any one or more individual Owners;

d) a provision that no policy may be canceled, invalidated, suspended, or subjected to nonrenewal on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

e) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

f) that no policy may be canceled or substantially modified or subjected to nonrenewal without at least thirty (30) days' prior written notice to the Association.

(e) In addition to the other insurance required by this Paragraph, the Board shall obtain workmen's compensation insurance, if and to the extent necessary to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds or dishonesty insurance. The amount of fidelity coverage or dishonesty insurance shall be determined in the directors' best business judgment, but if reasonably available, shall not be less than three (3) months assessments plus a reasonable amount to cover all or a reasonable portion of reserve funds in the custody of the Association at any time during the term of the bond; provided, however, fidelity coverage herein required may be reduced based on financial controls which take one or more of the following forms: (a) the Association or management company, if any, maintains a separate bank account for the working account and the reserve account, each with appropriate access controls and the bank in which funds are deposited sends copies of the monthly bank statements directly to the Association; (b) the management company, if any, maintains separate records and bank accounts for each association that uses its services and the management company does not have the authority to draw checks on, or to transfer funds from, the Association's reserve account; or (c) two Board members must sign any checks written on the reserve account. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be canceled, substantially modified, or subjected to nonrenewal without at least thirty (30) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of The Mortgage Corporation or the Federal National Mortgage Association.

(f) Individual Insurance. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that such Owner shall carry blanket all-risk casualty insurance, if reasonably available, or if not reasonably available, fire and extended coverage, on his or her Lot and structures constructed thereon meeting the same requirements as set forth in

subparagraphs (a) and (c) of this Paragraph for insurance on the Common Property. Each Owner further covenants and agrees that in the event of damage and destruction of structures on his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Paragraph 10 of this Declaration, unless a determination not to rebuild is made in accordance with Paragraph 10 hereof. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed and a determination is made not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the Community-Wide Standard.

(g) Insurance Deductibles. In the event of an insured loss, any required deductible shall be considered a maintenance expense to be paid by the Person or Persons who would be responsible for such loss in the absence of insurance. If the loss affects more than one Lot or a Lot and the Common Property, the cost of the deductible may be apportioned and assessed equitably by the Board among the parties suffering loss in accordance with the total cost of repair, unless the insurance policy provides that the deductible will apply to each Lot separately. If any Owner or Owners fail to pay the deductible when required under this subparagraph, then the Association can pay the deductible and assess the cost to the Owner or Owners pursuant to Paragraph 8 of this Declaration; provided, however, no Owner shall be assigned more than one thousand (\$1,000.00) dollars as the cost of the deductible for any one occurrence.

#### 10. REPAIR AND RECONSTRUCTION.

In the event of damage to or destruction of all or any part of the Property as a result of fire or other casualty, unless eighty (80%) percent of the Lot Owners, including the Owner or Owners of any damaged Lot or Lots, vote not to proceed with the reconstruction and repair of the structure, the Board or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of the structure. In the event of substantial damage or destruction, each institutional holder of a first Mortgage shall be entitled to written notice of the damage, and nothing in these documents shall be construed to afford a priority to any Lot Owner with respect to the distribution of proceeds to any such Lot.

(a) Cost Estimates. Immediately after a fire or other casualty causing damage to the Property, the Board shall obtain reliable and detailed estimates of the cost of repairing and restoring the structures (including any damaged Lot) to substantially the condition which existed before such casualty, allowing for any changes or improvements necessitated by changes in applicable building codes. Such costs may also include professional fees and premiums for such bonds as the Board determines to be necessary.

(b) Source and Allocation of Proceeds. If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair, as determined by the Board, or if at any time during the reconstruction and repair or upon completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, a special assessment shall be made against all of the Lot Owners without the necessity of a vote of the members or compliance with Paragraph 8(f) above. If after repair and reconstruction is completed there is a surplus of funds, such funds shall be common funds of the Association to be used as directed by the Board.

(c) Plans and Specifications. Any such reconstruction or repair shall be substantially in accordance with the plans and specifications under which the Property was originally constructed, except where changes are necessary to comply with current applicable building codes or where improvements not in accordance with the original plans and specifications are approved by the Board. To the extent insurance proceeds are available, the Association may reconstruct or repair owner improvements damaged as a result of fire or other casualty.

(d) Encroachments. Encroachments upon or in favor of Lots which may be created as a result of such reconstruction or repair shall not constitute a claim or basis for any proceeding or action by the Lot Owner upon whose property such encroachment exists, provided that such reconstruction was substantially in accordance with the architectural plans under which the Property was originally constructed. Such

encroachments shall be allowed to continue in existence for so long as the reconstructed building shall stand.

(e) Construction Fund. The net proceeds of the insurance collected on account of a casualty and the funds collected by the Association from assessments against Lot Owners on account of such casualty shall constitute a construction fund which shall be disbursed in payment of the cost of reconstruction and repair in the manner set forth in this Paragraph to be disbursed by the Association in appropriate progress payments to such contractor(s), supplier(s), and personnel performing the work or supplying materials or services for the repair and reconstruction of the buildings as are designated by the Board.

## 11. ARCHITECTURAL CONTROLS.

(a) Architectural Standards. Except as provided herein, no Owner, Occupant, or any other person may make any encroachment onto the Common Property, or make any exterior change, alteration, or construction (including painting, landscaping and erosion or siltation prevention and control), nor erect, place or post any object, sign, clothesline, playground equipment, recreational equipment, light (except for reasonable seasonal decorative lights displayed between Thanksgiving and January 15), storm door or window, artificial vegetation, exterior sculpture, fountains, flags, fence, wall, road, driveway, or other thing on the exterior of the buildings on the Common Property, in any windows of any home or on any Lot (including the interior of windows which are visible from the exterior), without first obtaining the written approval of the Architectural Control Committee. The standard for approval of such improvements shall include, but not be limited to, aesthetic consideration, materials to be used, harmony with the external design of the existing buildings, Lots and structures, and the location in relation to surrounding structures and topography.

Notwithstanding anything stated herein, commercially manufactured basketball backboards are permitted on a Lot, provided that the backboards are inconspicuous from the street and that they are installed at the edge of a driveway on a Lot so as to permit play only on the driveway. No basketball goal or backboard shall be installed on any portion of a house.

Applications for approval of any such architectural modification shall be in writing and shall provide such information as the Committee may reasonably require. The Committee or its designated representative shall be the sole arbiter of such application and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction which is not in conformance with approved plans. The Committee may also establish setback requirements for the location of any structure as a condition of approval of any plans and specifications. The Board or the Committee may publish written architectural standards for exterior and Common Property alterations or additions, and any request in substantial compliance therewith shall be approved; provided, however, each such requested change shall be in harmony with the external design of the existing buildings and Lots and the location in relation to surrounding structures and topography of the vicinity.

The Architectural Control Committee or the Board, subject to this subparagraph (a), may allow such encroachments on the Common Property as it deems acceptable.

In the event that the Committee or its designated representative fails to approve or to disapprove such application within forty-five (45) days after the application and such information as the Committee may reasonably require shall have been submitted, its approval will not be required and this subparagraph (a) will be deemed complied with; provided, however, even if the requirements of this subparagraph are satisfied, nothing herein shall authorize anyone to construct or maintain any structure or improvement that is otherwise in violation of the Declaration, the By-Laws, or the rules and regulations.

(b) Architectural Control Committee. The Architectural Control Committee shall constitute a standing committee of the Association. The Committee shall consist of the Board unless the Board delegates to other Lot Owners the authority to serve on the Committee. The Board may delegate such authority to individual Lot Owners by resolution, or the Board may call for a special election by the Association to select the Lot Owners to whom the authority shall be delegated.

Notwithstanding anything to the contrary herein, the Architectural Control Committee shall be divided into two (2) subcommittees, (1) New Construction Committee ("NCC") and (2) Modifications Committee ("MC") until the final approval by the NCC of the plans for all of the residences for all of the Lots in the Fairways. The following rules, responsibilities, procedures and powers of such subcommittees shall be interpreted in accordance with this Declaration:

(1) Eagle Watch Architectural Control Committee. No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Golf Course Lot, nor shall any existing Structure upon any Golf Course Lot be altered in any way which materially changes the exterior appearance of the Structure or Lot, unless plans and specifications therefor shall have been submitted to and approved in writing by the Architectural Control Committee ("Eagle Watch ACC") for Eagle Watch Homeowners' Association, Inc. ("Eagle Watch Association"). The content for such plans and specifications and the procedure for the review thereof by the Eagle Watch ACC shall be as set forth in paragraphs 5.06 through 5.15 of the certain Declaration of Covenants, Restrictions and Easements for Eagle Watch, dated June 27, 1988, recorded at Deed Book 721, Page 260, as the same may be amended from time to time (the "Eagle Watch Declaration"); provided, however, that the Eagle Watch ACC shall review the plans and specifications submitted to it pursuant to this paragraph within seven (7) days of receipt of such plans and specifications (or fourteen (14) days in the event that the Eagle Watch ACC receives over five (5) sets of plans and specifications pursuant to this paragraph at any one time). The provisions of this paragraph may not be amended without the prior written consent of the majority of the Board of Directors of the Eagle Watch Association. Failure of the Eagle Watch ACC to respond within the aforementioned time periods shall constitute approval of such plans and specifications.

(2) New Construction Committee. The New Construction Committee ("NCC") shall have exclusive jurisdiction over all original construction of dwellings on any portion of The Fairways of Towne Lake Community, all other construction related thereto, and the construction of fences and changes of house color. The NCC shall be entitled to adopt, promulgate, amend, revoke and enforce design guidelines and standards regarding new construction, construction of fences and changes of house color in accordance with this Paragraph 11 of the Declaration. The NCC also shall enforce such design guidelines and procedures, use restrictions and rules in accordance with this Declaration, as they apply to Lots taken down or owned by approved builders and other new construction contractors.

(3) Modifications Committee. The Modifications Committee ("MC") shall have exclusive jurisdiction over modifications, additions, or alterations made on or to Lots owned for residential purposes, except for construction of fences and changes of house color. The MC shall be entitled to adopt, promulgate, amend, revoke and enforce design guidelines and standards regarding modifications to Lots already owed for residential purposes in accordance with this Paragraph 11 of the Declaration. The MC shall enforce the design guidelines and procedures, use restrictions and rules in accordance with this Declaration, as they apply to Lots owned for residential purposes.

(4) Changes of House Color. As part of the NCC's control over changes of house color, the NCC shall henceforth require that all members of the Fairways of Towne Lake Homeowners Association, Inc. who desire to change the color of the exterior of their house, seek the prior authorization of the NCC through its appointed representative, currently Nancy Lamine. Further, in order to change the color of one's house, the Association member must pay \$50.00, or any other reasonable amount required by the NCC, to the NCC's appointed representative.

(5) Appointment of Members to the NCC and MC. The Declarant shall have the right to appoint, remove or change any members of the NCC. The Declarant voluntarily surrenders any and all rights to appoint, remove or change members on the MC. Only the Board of Directors of The Fairways of Towne Lake Homeowners Association, Inc. shall have the right to appoint, remove and change members of the MC.

(6) Conflicts. In the event of a conflict between the NCC and the MC, the decision of the NCC shall be binding.

(7) Purpose, Powers and Duties. The purpose, powers and duties of both the NCC and the MC are set forth in this Paragraph 11 of this Declaration.

(c) Condition of Approval. As a condition of approval for a requested architectural change, modification, addition, or alteration, an Owner, on behalf of himself or herself and his or her 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 or the Committee, an Owner may be made to verify such condition of approval by written instrument in recordable form acknowledged by such Owner on behalf of himself or herself and all successors-in-interest.

(d) Limitation of Liability. Review and approval of any application pursuant to this Paragraph may be made on any basis, including solely the basis of aesthetic considerations, and neither the Board nor the Architectural Control Committee shall bear any responsibility for ensuring the design, quality, structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes, zoning regulations and other governmental requirements. Neither the Association, the Board, the Architectural Control Committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner, design or quality of approved construction on or modifications to any Lot.

(e) No Waiver of Future Approvals. Each Owner acknowledges that the members of the Board and the Architectural Control Committee will change from time to time and that interpretation, application and enforcement of the architectural standards may vary accordingly. The approval of either the Board or the Architectural Control Committee of any proposals, plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the Board or the Architectural Control Committee, shall not constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

(f) Enforcement. Any construction, alteration, or other work done in violation of this Paragraph shall be deemed to be nonconforming. Upon written request from the Board, Owners shall, at their own cost and expense, remove such construction, alteration, or other work and shall restore the property to substantially the same condition as existed prior to the construction, alteration, or other work. Should an Owner fail to remove and restore as required hereunder, the Board or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs thereof, including reasonable attorney's fees, may be assessed against the benefitted Lot.

In addition to the above, the Board shall have the authority and standing, on behalf of the Association, to impose reasonable fines and to pursue all legal and equitable remedies available to enforce the provisions of this Paragraph and its decisions or those of the Architectural Control Committee.

If any Owner or Occupant makes any exterior change, alteration, or construction (including landscaping) upon the Common Property in violation of this Paragraph, he or she does so at his or her sole risk and expense. The Board may require that the change, alteration or construction remain on the Common Property without reimbursement to the Owner or Occupant for any expense he or she may have incurred in making the change, alteration or construction.

## 12. USE RESTRICTIONS.

Each Owner of a Lot shall be responsible for ensuring that the Owner's family, guests, tenants and Occupants comply with all provisions of this Declaration, the By-Laws and the rules and regulations of the Association. Furthermore, each Owner and Occupant shall always endeavor to observe and promote the cooperative purposes for which the Association was established. In addition to any rights the Association may have against the Owner's family, guests, tenants or Occupants, the Association may take action under this Declaration against the Owner as if the Owner committed the violation in conjunction with the Owner's family, guests, tenants or Occupants.

Use restrictions regarding use of Lots and the Common Property are as follows and also as may be adopted by the Board in accordance with the terms hereof and as specified in the By-Laws.

(a) Use of Lots.

i) Residential Use. Each Lot shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or any part of the Property, including business uses ancillary to a primary residential use, except that the Owner or Occupant residing in a dwelling on a Lot may conduct such ancillary business activities within the dwelling so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the dwelling; (b) the business activity does not involve visitation of the Lot by employees, clients, customers, suppliers or other business invitees; provided, however, this provision shall not preclude delivery of materials or items by United States Postal delivery or by other customary parcel delivery services (U.P.S., Federal Express, etc.); (c) the business activity conforms to all zoning requirements for the Property; (d) the business activity does not increase traffic in the Property; (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the ability of the Association to obtain insurance coverage; and (f) the business activity is consistent with the residential character of the Property and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the Board's sole discretion.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the use of a Lot by an on-site management company operating on behalf of the Association shall not be considered a trade or business within the meaning of this subparagraph.

ii) Number of Occupants. The maximum number of occupants in a dwelling on a Lot shall be limited to two (2) people per bedroom in the dwelling. "Occupancy," for purposes hereof, shall be defined as staying overnight in a dwelling for a total of more than thirty (30) days, either consecutive or nonconsecutive, in any calendar year. This occupancy restriction shall not apply to require the removal of any person lawfully occupying a dwelling on the Effective Date hereof. Upon written application, the Board shall grant variances to this restriction to comply with provisions of the Fair Housing Amendments Act of 1988 or any amendments thereto.

If an Owner of a Lot is a corporation, partnership, trust or other legal entity not being a natural person, the entity shall designate in writing to the Board the name(s) of the person(s) who will occupy the dwelling on the Lot. The designated person(s) to occupy the dwelling may not be changed more frequently than once every six (6) months.

(b) Subdivision of Lots and Outbuildings. No Lot may be subdivided into a smaller Lot and no structure of a temporary character, trailer, tent, shack, carport, garage, barn or other outbuilding shall be erected or used by any Owner or Occupant on any portion of the Property, at any time, either temporarily or permanently.

(c) Use of Common Property. There shall be no obstruction of the Common Property, nor shall anything be kept, parked or stored on any part of the Common Property without prior written Board consent, except as specifically provided herein.

With prior written Board approval, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Property for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Property hereunder shall assume, on behalf of himself/herself/themselves and his/her/their guests, Occupants and family, all risks associated with the use of the Common Property and all liability for any damage or injury to any person or thing as a result of such use. The Association shall not be liable for any damage or injury resulting from such use unless such

damage or injury is caused solely by the willful acts or gross negligence of the Association, its agents or employees.

(d) Prohibition of Damage, Nuisance and Noise. Without prior written Board consent, nothing shall be done or kept on the Property or any part thereof which would increase the rate of insurance on the Property or any Lot or part thereof, which would be in violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirements of any governmental body, or which would increase the Common Expenses.

Noxious, destructive or offensive activity shall not be carried on upon the Property. Each Owner shall refrain from any act or use of his or her Lot which could reasonably cause embarrassment, discomfort, nuisance or annoyance to other Owners or Occupants. No Owner or Occupant of a Lot may use or allow the use of the Lot or any portion of the Property in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or Occupants of a portion of the Property, or in such a way as to constitute, in the Board's sole opinion, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved Owner to proceed individually for relief from interference with his or her property or personal rights. No Owner or Occupant of a Lot may use or allow the use of the Lot or the Common Property in any manner which creates disturbing noises between the hours of 11:00 p.m. and 7:30 a.m. that will, in the Board's sole discretion, unreasonably interfere with the rights, comfort or convenience of the other Owners or Occupants.

No Owner shall do any work which, in the Board's reasonable opinion, would jeopardize the soundness or safety of the Property or any structure created thereon, would reduce the value thereof, or would impair any easement or hereditament thereto, without prior written consent of all Association members and their Mortgagees. No damage to or waste of the Common Property, or any part thereof, or of the exterior of any building constructed upon any Lot shall be permitted by any Owner or member of his or her family or any invitee of any Owner. Each Owner shall indemnify and hold the Association and the other Owners harmless against all loss to the Association or other Owners resulting from any such damage or waste caused by such Owner, members of his or her family, guests, invitees, or Occupants of his or her Lot.

(e) Firearms and Fireworks. The display or discharge of firearms or fireworks on the Common Property is prohibited; provided, however, that the display of lawful firearms on the Common Property is permitted for the limited purpose of transporting the firearms across the Common Property to or from the Owner's Lot. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size. The term "fireworks" shall include those items as listed in O.C.G.A. Section 25-10-1.

(f) Pets. No Owner or Occupant may keep any pets other than a reasonable number of generally recognized household pets on any portion of the Property, as determined in the Board's discretion.

No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors nor kept outdoors in unlocked fenced areas. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Property without prior written Board approval as provided in Paragraph 11 hereof. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while outdoors. Feces left upon the Common Property or other Lots by dogs must be removed by the owner of the dog or the person responsible for the dog.

No animals determined in the sole discretion of the Board to be dangerous dogs may be brought onto or kept on the Property at any time by any Lot Owner, Occupant, or guest of an Owner or Occupant. Any pet which endangers the health of any Owner or Occupant of any Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the Board's sole discretion, must be permanently removed from the Property upon seven (7) days' written notice by the Board. If the Owner or Occupant fails to comply with such notice, the Board may remove the pet. Any pet which, in the Board's sole discretion, presents an immediate danger to the health, safety or property of any member of the community may be removed by the Board without prior notice to the pet's owner.



(g) Parking. Disabled and stored vehicles are prohibited from being parked on the Common Property or on Lots unless kept in garages or other enclosed spaces on a Lot, provided that such disabled vehicle is kept in an enclosed space and is concealed from view by neighboring residences, streets, and the Golf Facilities. For purposes of this subparagraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is obviously inoperable.

Boats, boat trailers, house trailers, trucks with a load capacity of one (1) ton or more, full-size vans (excluding mini-vans or utility vehicles used as passenger vehicles), recreational vehicles (RV's, mobile homes and motor homes), campers, trucks with camper tops, vehicles used primarily for commercial purposes, and vehicles with commercial writings on their exteriors are also prohibited from being parked on the Common Property or Lots, except on a temporary basis not to exceed twenty-four (24) consecutive hours or in garages or other enclosed spaces on a Lot, provided that such vehicle or equipment is kept in an enclosed space and is concealed from view by neighboring residences, streets, and the Golf Facilities. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writings on their exteriors shall be allowed temporarily on the Common Property during normal business hours for the purpose of serving any Lot or the Common Property; provided, that, without the written consent of the Board, no such vehicle shall be authorized to remain on the Common Property overnight or for any purpose except serving a Lot or the Common Property.

If any vehicle is parked on a Lot or Common Property in violation of this subparagraph (g) or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of a person to contact regarding the alleged violation. A notice also shall be conspicuously placed at the Property stating the name and telephone number of the person or entity which will do the towing. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle.

If a vehicle is towed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage as a result of the towing activity. The Association's right to tow is in addition to, and not in limitation of all other rights of the Association, including the right to assess fines. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

(h) Grading and Drainage. No Person shall alter the grading of any Lot without prior approval pursuant to Paragraph 11 of this Declaration. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or rechannel the drainage flows after location and installation of drainage swells, storm sewers, or storm drains. The Declarant hereby reserves for itself and the Association a perpetual easement across the Property for the purpose of altering drainage and water flow. However, the exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent.

(i) Abandoned Personal Property. Personal property, other than an automobile as provided for in subparagraph (g) of this Paragraph, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Property without prior written Board permission.

If the Board, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Property in violation of this subparagraph, then the Board may remove and either discard or store the personal property in a location which the Board may determine.

If the Board, in its sole discretion, determines that property is being abandoned or stored in violation of this subparagraph, the Board may place a notice on the personal property and/or on the front door of the Lot of the owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored by the Board in a location which the

Board may determine. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation.

If two (2) days after such notice is placed on the personal property and/or the front door of the Lot, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the notice, without further notice to the owner or user of the personal property.

In addition to the provisions above, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this subparagraph may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board in a location which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

If personal property is removed in accordance with this subparagraph, neither the Association nor any officer or agent of the Association shall be liable to any person for any claim of damage resulting from the removal activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to remove abandoned or improperly stored personal property, as set forth herein.

(j) Signs. Except as may be required by legal proceedings, no signs, advertising posters or billboards of any kind shall be erected, placed, or permitted to remain on the Property without the prior written consent of the Board or its designee, except that one professional security sign not to exceed four (4") inches by four (4") inches in size may be displayed on a Lot and one (1) professionally lettered "For Rent" or "For Sale" sign not to exceed two (2') feet by two (2') feet in size may be displayed on a Lot being offered for sale or for lease. Notwithstanding anything herein, in no event shall any signs be displayed on the rear yard of a Lot abutting a golf course. The Board shall have the right to erect reasonable and appropriate signs on behalf of the Association. In addition to the foregoing, any sign visible from outside The Fairways shall be subject to the prior written consent of the Master ARC in accordance with Section 3 of Article VI of the Master Declaration.

(k) Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate therein. No garbage or trash shall be placed on the Common Property, temporarily or otherwise, except as provided herein. Rubbish, trash, and garbage shall be disposed of in appropriate sealed bags and placed in proper receptacles for collection. 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 such persons making pick-up. At all other times, all equipment, garbage cans and wood piles shall be screened by adequate planting or fencing so as to conceal from view by neighboring residences and streets. Notwithstanding the foregoing, the Association acting through its Board of Directors, shall have the right and authority to make and to enforce reasonable rules and regulations governing the time, date and method of garbage collection.

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

Except for building materials employed during the course of construction of a 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 approved and permitted by the ACC.

(l) Impairment of Dwellings and Easements. An Owner shall do no act nor any work that will impair the structural soundness or integrity of another dwelling or impair any easement or hereditament, nor do any

act nor allow any condition to exist which will adversely affect the other Lots or their Owners or Occupants.

(m) Unsanitary or Unkempt Conditions. The pursuit of hobbies or other activities, including, but not limited to the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Property. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the dwelling. Only appropriate outdoor items, such as neatly stacked firewood, patio furniture, grills, and bicycles may be kept on the patio or deck serving the Lot.

(n) Garage Sales. No garage sale, carport sale, yard sale, flea market, or similar activity shall be conducted in any portion of the Property without prior written Board consent. If so permitted, any such activities shall be subject to all reasonable conditions that the Board may impose.

(o) Garages. Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. All garages shall be maintained in such a manner that parking for the maximum number of motor vehicles for which it was originally designed to hold is allowed and possible. No garage may be converted into temporary or permanent living space; provided, however, that all garage conversions in existence at the time of the adoption of this Declaration, and made in compliance with all of the terms of the Original Declaration, shall not constitute a violation of this requirement.

Notwithstanding anything to the contrary contained herein, during the period of any construction of a dwelling on any Lot or on any portion of the Property subject to this Declaration, Declarant and any successors-in-interest to Declarant shall be prohibited from storing, parking or keeping any commercial vehicles or other construction related equipment or vehicles overnight on the Common Property.

(p) Laws and Ordinances. Declarant and every Owner and Occupant of any Lot, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Property. Any violation may be considered a violation of this Declaration. However, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

(q) Trees. No tree having a diameter of six (6) inches or more (measured from a point of two (2) feet above ground level) shall be removed from any Lot unless approved by the ACC. Under no circumstances shall any tree located within fifty (50) feet of any right-of-way of Towne Lake Parkway 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.

### 13. LEASING.

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.

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

(b) Leasing Provisions. Leasing of Lots shall be governed by the following provisions:

i) General. Lots may be leased only in their entirety; no fraction or portion may be leased without prior written Board approval. All leases shall be in writing and in a form approved by the Board prior to the effective date of the lease. The Board shall maintain in its files and, upon request, shall provide to any Owner a form which is deemed acceptable. There shall be no subleasing of Lots or assignment of leases without prior written Board approval. All leases must be for an initial term of not less than six (6) months; provided, however, that the Board shall have the power to allow leases for an initial term of less than six (6) months, on such terms and conditions as the Board may establish, upon a showing by the Owner that

such a lease is required to avoid undue hardship to the Owner. Within seven (7) days after executing a lease agreement for the lease of a Lot, the Lot Owner shall provide the Board with a copy of the lease and the name of the lessee and the names of all other people to occupy the Lot. The Lot Owner must provide the lessee copies of the Declaration, By-Laws, and the rules and regulations.

ii) Compliance With Declaration, By-Laws, and Rules and Regulations, Use of Common Property, and Liability for Assessments. Any lease of a Lot shall be deemed to contain the following provisions, whether or not expressly therein stated, and each Owner and each lessee, by occupancy of a Lot, covenants and agrees that any lease of a Lot shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be incorporated into the lease by existence of this covenant on the Lot:

a) Compliance With Declaration, By-Laws, and Rules and Regulations. The lessee shall comply with all provisions of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto and shall control the conduct of all other Occupants and guests of the leased Lot in order to ensure compliance with the foregoing. The Owner shall cause all Occupants of his or her Lot to comply with the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations by such Occupants, notwithstanding the fact that such Occupants of the Lot are fully liable and may be sanctioned for any violation of the Declaration, By-Laws, and rules and regulations adopted pursuant thereto. In the event that the lessee, or a person living with the lessee, violates the Declaration, By-Laws, or a rule or regulation for which a fine is imposed, notice of such violation shall be given to the Owner and the lessee, and such fine may be first be assessed against the lessee in accordance with Article V, Section 2 of the By-Laws. If the fine is assessed against the lessee and is not paid by the lessee within the time period set by the Board, the Owner shall pay the fine upon notice from the Association of the lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Lot.

Any violation of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto by the lessee, any Occupant, or any person living with the lessee, is deemed to be a default under the terms of the lease and authorizes the Owner to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The Owner hereby delegates and assigns to the Association, acting through the Board, the power and authority of enforcement against the lessee for breaches resulting from the violation of the Declaration, By-Laws, and the rules and regulations adopted pursuant thereto, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the Owner, in accordance with the terms hereof. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specifically assessed against the Lot and the Owner thereof, such being deemed hereby as an expense which benefits the leased Lot and the Owner thereof.

b) Use of Common Property. The Owner transfers and assigns to the lessee, for the term of the lease, any and all rights and privileges that the Owner has to use the Common Property, including, but not limited to, the use of any and all recreational facilities.

c) Liability for Assessments. When a Lot Owner who is leasing his or her Lot fails to pay any annual or special assessment or any other charge for a period of more than thirty (30) days after it is due and payable, then the delinquent Owner hereby consents to the assignment of any rent received from the lessee during the period of delinquency, and, upon request by the Board, lessee shall pay to the Association all unpaid annual and special assessments and other charges payable during and prior to the term of the lease and any other period of occupancy by lessee. However, lessee need not make such payments to the Association in excess of, or prior to the due dates for, monthly rental payments unpaid at the time of the Board's request. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under Paragraph 8 herein as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(c) Applicability of this Paragraph 13. Leases existing on the date this Declaration is recorded in the Cherokee County land records shall not be subject to the terms of subparagraph (b) above. Such leases may continue in accordance with the terms of the Original Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Paragraph. Any Owner of a Lot which is leased on the date this Declaration is recorded in the Cherokee County land records shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Declaration is recorded in the Cherokee County, Georgia land records.

This Paragraph 13 shall not apply to any leasing transaction entered into by the holder of any first Mortgage on a Lot who becomes the Owner of a Lot through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by such Mortgage.

#### 14. SALE OF LOTS.

A Lot Owner intending to make a transfer or sale of a Lot or any interest in a Lot shall give the Board written notice of such intention within seven (7) days after execution of the transfer or sales documents. The Owner shall furnish the Board, as part of the notice, the name and address of the intended grantee and such other information as the Board may reasonably require. This Paragraph shall not be construed to create a right of first refusal in the Association or in any third party.

Within seven (7) days after receiving title to a Lot, the purchaser of the Lot shall give the Board written notice of his or her ownership of the Lot. Upon failure of a Owner to give the required notice within the seven-day time period provided herein, the Board may levy fines against the Lot and Owner thereof, and assess the Owner for all costs incurred by the Association in determining his or her identity.

#### 15. MAINTENANCE RESPONSIBILITY.

(a) Association's Responsibility. 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 grass areas, paving and other improvements situated on the Common Property. The Association shall also maintain and keep in good repair all water and sewer pipes or facilities which serve more than one (1) Lot, whether located within or without the Lot's boundaries to the extent that such pipes and facilities are not maintained by public, private, or municipal utility companies.

Upon Board resolution and approval of a Majority of the members present or represented by proxy at a duly constituted meeting of the members, the Association may assume responsibility for providing certain exterior maintenance upon Lot improvements and/or responsibility for maintenance of landscaping and walkways within the boundaries of Lots. The Association shall have the right, but not the obligation, to maintain other property not owned by the Association where the Board has determined that such maintenance would benefit all Owners.

The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

(b) Owner's Responsibility. Except as provided in subparagraph (a) above, all maintenance of the Lot shall be the responsibility of the Owner thereof. 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.

In addition, the Owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the Lot, whether located within or without a Lot's boundaries (including all gas, electricity, water, sewer and air conditioning pipes, lines, ducts, conduits and other apparatus serving only the Lot). Such maintenance shall be performed consistent with this Declaration and the Community-Wide Standard established pursuant hereto. Any maintenance which involves an exterior change, including, without limitation, repainting of the exterior of improvements in a different color, shall require prior approval of the Board or its designee pursuant to Paragraph 11 of this Declaration.

Subject to the maintenance responsibilities herein provided, any maintenance or repair performed on or to the Common Property by an Owner or Occupant which is the responsibility of the Association hereunder (including, but not limited to landscaping of Common Property) shall be performed at the sole expense of such Owner or Occupant, and the Owner or Occupant shall not be entitled to reimbursement from the Association even if the Association accepts the maintenance or repair.

Each Owner shall also be obligated:

- i) To perform his or her responsibility in such manner so as not to unreasonably disturb other persons in other Lots.
- ii) To promptly report to the Association or its agent any defect or need for repairs, for which the Association is responsible.
- iii) Not to make any alterations in the portions of the Lot which are to be maintained by the Association or to remove any portion thereof or to make any additions thereto or do anything with respect to the exterior or interior of the Lot which would or might jeopardize or impair the safety or soundness of any Lot without first obtaining the written consent of the Board of Directors of the Association and all Lot Owners and Mortgagees of the Lots affected, nor shall any Lot Owner impair any easement without first obtaining written consent of the Association and of the Lot Owner or Owners and their Mortgagees for whose benefit such easement exists.
- iv) To pay for the cost of repairing, replacing or cleaning up any item which is the responsibility of the Lot Owner but which responsibility such Owner fails or refuses to discharge (which the Association shall have the right, but not the obligation, to do), or to pay for the cost of repairing, replacing, or cleaning up any item which, although the responsibility of the Association, is necessitated by reason of the willful or negligent act of the Lot Owner, his or her family, tenants or guests, with the cost thereof to be added to and become part of the Lot Owner's next chargeable assessment.

The Association shall not be liable for injury or damage to person or property caused by the elements or by the Owner of any Lot, or any other person, or resulting from any utility, rain, snow or ice which may leak or flow from any portion of the Common Property or from any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to the Owner of any Lot or such Owner's Occupant, guest, or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupant, guest or family for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities under this Paragraph where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge its responsibilities. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority.

The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association.

In performing its responsibilities hereunder, the Association shall have the authority to delegate to such persons, firms or corporations of its choice, such duties as are approved by the Board.

(c) Failure to Maintain. If the Board determines that any Owner has failed or refused to discharge properly his or her obligation with regard to the maintenance, repair, or replacement of items of which he or she is responsible hereunder, then, the Association shall give the Owner written notice of the Owner's failure or refusal and of the Association's right to provide necessary maintenance, repair, or replacement at the Owner's cost and expense. The notice shall set forth with reasonable particularity the maintenance, repair, or replacement deemed necessary by the Board.

Unless the Board determines that an emergency exists, the Owner shall have ten (10) days within which to complete maintenance or repair, or if the maintenance or repair is not capable of completion within such time period, to commence replacement or repair within ten (10) days. If the Board determines that: (i) an emergency exists or (ii) that an Owner has not complied with the demand given by the Association as herein provided; then the Association may provide any such maintenance, repair, or replacement at the Owner's sole cost and expense, and such costs shall be an assessment and lien against the Owner and the Lot.

If the Board determines that the need for maintenance or repair is in the Area of Common Responsibility and is caused through the willful or negligent act of any Owner or Occupant or their family, guests, lessees, or invitees, then the Association may assess the cost of any such maintenance, repair, or replacement against the Owner's or Occupant's Lot, which shall become a lien against the Lot and shall be collected as provided herein for the collection of assessments.

(d) Maintenance Standards and Interpretation. The maintenance standards and the enforcement thereof and the interpretation of maintenance obligations under this Declaration may vary from one term of the Board to another term of the Board. These variances shall not constitute a waiver by the Board of the right to adopt and enforce maintenance standards under this Paragraph. No decision or interpretation by the Board shall constitute a binding precedent with respect to subsequent decisions or interpretations of the Board.

## 16. MORTGAGEE'S RIGHTS.

(a) Unless at least two-thirds (2/3) of the first Mortgagees or Lot Owners give their consent, the Association or the membership shall not:

i) by act or omission seek to abandon or terminate the Property or the Association;

ii) change the pro rata interest or obligations of any individual Lot for the purpose of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards;

iii) partition or subdivide any Lot;

iv) by act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property (the granting of utility easements or easements or rights-of-way for public purposes consistent with the intended use of the Common Property by the Association or architectural changes, as authorized herein, shall not be deemed a transfer within the meaning of this clause); or

v) use hazard insurance proceeds for losses to any portion of the Property (whether to Lots or to Common Property) for other than the repair, replacement, or reconstruction of such portion of the Property.

The provisions of this subparagraph shall not be construed to reduce the percentage vote that must be obtained from Mortgagees or Lot Owners where a larger percentage vote is otherwise required by the Association Legal Instruments for any of the actions contained in this Paragraph.

(b) Where the Mortgagee holding a first Mortgage of record or other purchaser of a Lot obtains title pursuant to judicial or nonjudicial foreclosure of the Mortgage, it shall not be liable for the share of the

Common Expenses or assessments by the Association chargeable to such Lot which became due prior to such acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible from Owners of all the Lots, including such acquirer, its successors and assigns. Additionally, such acquirer shall be responsible for all charges accruing subsequent to the passage of title, including, but not limited to, all charges for the month in which title is passed.

(c) Upon written request to the Association, identifying the name and address of the holder and the Lot number or address, any Eligible Mortgage Holder will be entitled to timely written notice of:

i) any condemnation loss or any casualty loss which affects a material portion of the Property or any Lot on which there is a first Mortgage held by such Eligible Mortgage Holder;

ii) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to a first Mortgage held by such Eligible Mortgage Holder which remains unsatisfied for a period of sixty (60) days, and any default in the performance by an individual Lot Owner of any other obligation under the Association Legal Instruments which is not cured within sixty (60) days;

iii) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association; or

iv) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders, as specified herein.

(d) Any holder of a first Mortgage shall be entitled, upon written request, to receive within a reasonable time after request, a copy of the financial statement of the Association for the immediately preceding fiscal year, free of charge to the Mortgagee so requesting.

(e) Notwithstanding anything to the contrary herein contained, the provisions of Paragraphs 13 and 14 governing sales and leases shall not apply to impair the right of any first Mortgagee to: (i) foreclose or take title to a Lot pursuant to remedies contained in its Mortgage; (ii) take a deed or assignment in lieu of foreclosure; or (iii) sell, lease, or otherwise dispose of a Lot acquired by the Mortgagee.

## 17. GENERAL PROVISIONS.

(a) Security. The Association may, but shall not be required to, from time to time, provide measures or take actions which directly or indirectly improve safety on the Property; however, each Owner, for himself or herself and his or her tenants, guests, licensees, and invitees, acknowledges and agrees that the Association is not a provider of security and shall have no duty to provide security on the Property. It shall be the responsibility of each Owner to protect his or her person and property and all responsibility to provide security shall lie solely with each Lot Owner.

The Association shall not be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

(b) Dispute Resolution. Any Lot Owner or Occupant must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute before that Owner or Occupant files any lawsuit against the Association, the Board, any officer or director, or the property manager of the Association. The Owner or Occupant shall, in such notice and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's or Occupant's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than seven (7) nor more than twenty-one (21) days from the date of receipt of the notice of hearing from the person requesting the hearing.



(c) No Discrimination. No action shall be taken by the Association or the Board of Directors which would unlawfully discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

(d) Indemnification. The Association shall indemnify every officer and director against any and all expenses, including, without limitation, attorney's fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.

(e) Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the By-Laws, the Articles of Incorporation, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

(f) 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.

(g) 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.

## 18. EMINENT DOMAIN.

Whenever all or any part of the Common Property shall be taken or conveyed in lieu of or under threat of condemnation by any authority having power of condemnation or eminent domain, each Owner shall be entitled to notice thereof. If the taking involves a portion of the Common Property on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five (75%) percent of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Property to the extent lands are available therefor. The provisions of Paragraph 10, above, applicable to Common Property improvements damage, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

## 19. EASEMENTS.

(a) Easements in Favor of Declarant. 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;

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

v) 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.

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.

Notwithstanding anything to the contrary contained herein, during the period of any construction of a dwelling on a Lot at The Fairways of Towne Lake Community, Declarant and any successors or successors-in-interest to Declarant hereby agrees not to place or store garbage, trash or other materials or waste on the Common Property and not to block access, egress, ingress or traffic to or from The Fairways of Towne Lake Community. Declarant further agrees to at all times comply with and adhere to all laws, ordinances, rules and regulations of any governmental authority governing the burning of trash or other debris or solid waste, grading, clearing and development of any Lot and the construction of any dwelling on such Lot.

(b) 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. 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 Paragraph. 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 of this Paragraph.

(c) 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 or Easements created or imposed by this Declaration and/or the Master Declaration, the most restrictive provision shall govern and control.

(d) Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, Occupant, or the Association.

(e) Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his or her Lot, subject to the following provisions:

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

ii) the right of the Association to suspend the voting rights of an Owner and the right of an Owner to use the recreational facilities in the Property for any period during which any assessment against his or her Lot which is provided for herein remains unpaid and for a reasonable period of time for an infraction of the Declaration, By-Laws, or rules and regulations;

iii) the right of the Association to borrow money as may be set forth in the By-Laws; provided, however, the lien and encumbrance of any such mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Property (Any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, easements or privileges herein reserved or established for the benefit of any Lot or Lot Owner, or the holder of any Mortgage, irrespective of when executed, encumbering any Lot or other property located within the Property.); and

iv) the right of the Association to dedicate or transfer all or any portion of the Common Property subject to such conditions as may be agreed to by the members of the Association.

Any Lot Owner may delegate his or her right of use and enjoyment in and to the Common Property and facilities located thereon to the members of his or her family, his or her tenants and guests, and shall be deemed to have made a delegation of all such rights to the Occupants of his or her Lot, if leased.

(f) Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the Property for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the Property or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, or security system which the Association may have installed to serve the Property. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

(g) Easement for Entry. The Association shall have an easement to enter onto any Lot for emergency, security, safety, and for other purposes reasonably necessary for the proper maintenance and operation of the Property, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all police officers, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall be only during reasonable hours and after notice to the Owner or Occupant. This right of entry shall include the right of the Association to enter a Lot to cure any condition which may increase the possibility of a fire or other hazard in the event that an Owner fails or refuses to cure the condition upon request by the Board.

(i) Easement for Golf Facilities. Declarant hereby expressly grants for the benefit of the Golf Facilities and its respective successors and assigns a perpetual easement over that portion of the Property which is parallel to and twenty-five (25) feet in width, and bounded on one side by the entire Lot boundary line in common with the golf course, for the purposes of maintaining a natural buffer area between golf and residential uses. No fence, wall, structure or other improvement other than underground improvements shall be permitted in the easement and no hedge or shrub planted which would obstruct access to property covered by such easement from the golf course shall be placed or permitted to remain in the easement, and

no plantings, trees or foliage may be removed from this easement area without specific prior approval of the Golf Facilities and its successors and assigns. Violation of this covenant shall be subject to a liquidated damage sum of \$1,000.00 Dollars per inch of diameter measured at a point two feet above the average height of the ground at the base of each tree as hereinabove specified for each tree, \$500.00 Dollars for each shrub and \$5,000.00 for each Dogwood tree removed without authorization, except that the maximum liquidated damage shall not exceed \$10,000.00 Dollars for any Lot. The recovery of such liquidated damage shall inure to the benefit of the Golf Facilities, and such other party as the Golf Facilities may from time to time designate, which recovery shall not be deemed the exclusive remedy of the Golf Facilities who would also be entitled to injunctive relief and any other relief available to the Golf Facilities. The Golf Facilities may give written notice to the violator of any of the restrictions set forth in this paragraph, and, ten (10) days after such notice, may perform any required corrective or remedial work on the golf course or Lot at the Lot Owner's expense. The provisions of this paragraph 19(i) may not be amended without the prior written consent of the majority of the board of directors of the Course Owner.

## 20. AMENDMENTS.

Except where a higher vote is required for action under any other provisions of this Declaration, in which case such higher vote shall be necessary to amend such provision, this Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the members of the Association holding sixty-six and two-thirds (66-2/3%) percent of the total eligible vote thereof. Notice of a meeting, if any, at which a proposed amendment will be considered shall state the fact of consideration and the subject matter of the proposed amendment. No amendment shall be effective until certified by the President and Secretary of the Association and recorded in the Cherokee County, Georgia land records.

In addition to the above, material amendments to this Declaration must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes of Lots that are subject to Mortgages held by Eligible Mortgage Holders. Notwithstanding the above, the approval of any proposed amendment by an Eligible Mortgage Holder shall be deemed implied and consented to if the Eligible Mortgage Holder fails to submit a response to any written proposal for an amendment within thirty (30) days after the Eligible Mortgage Holder receives notice of the proposed amendment sent by certified or registered mail, return receipt requested.

Notwithstanding the foregoing, the Board of Directors, without the necessity of a vote from the owners, may amend this Declaration to comply with the Act, any applicable state, city or federal law, including but not limited to, compliance with applicable guidelines of the Federal National Mortgage Association ("Fannie Mae"), the Department of Housing and Urban Development ("HUD") and the Veterans Administration ("VA").

Any action to challenge the validity of an amendment adopted under this Paragraph must be brought within one (1) year of the effective date of such amendment. No action to challenge such amendment may be brought after such time.

## 21. SEVERABILITY.

Invalidation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provision to other circumstances or affect any other provision(s), which shall remain in full force and effect.

## 22. DURATION.

The covenants and restrictions of this Declaration shall run with and bind the Property perpetually to the extent provided in the Act.

## 23. PREPARER.

This Declaration was prepared by Jamie Platt Lyons, Weissman, Nowack, Curry & Wilco, P.C., 1349 West Peachtree Street, 15th Floor, Atlanta, Georgia 30309.

IN WITNESS WHEREOF, the undersigned officers of The Fairways of Towne Lake Homeowners Association, Inc., hereby certify that the above amendment to the Original Declaration and the following amendment to the Original By-Laws were duly adopted by the required majority of the Association and its membership.

This day of , 19 .

Sworn to and subscribed to THE FAIRWAYS OF TOWNE LAKE HOMEOWNERS before me this day of ASSOCIATION, INC. , 199 .

By: \_\_\_\_\_(SEAL)  
Witness President

Attest: \_\_\_\_\_(SEAL)  
Notary Public Secretary

My Commission Expires: [CORPORATE SEAL]

[NOTARY SEAL]  
DOCS\DEC\POA\5811

EXHIBIT "A" ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 726, 727, 786, 787, 788, 789, 796, 797 and 798 of the 15th District, 2nd Section of Cherokee County, Georgia, and being more particularly described as Lots 1-26, inclusive, Lots 101-146, inclusive and Lots 256-263, inclusive, The Fairways of Towne Lake - Unit I as per Plat recorded in Plat Book 36, Page 159 and revised as per Plat recorded in Plat Book 36, Page 177, Cherokee County, Georgia records; Lots 27-38, inclusive, Lots 201-224, inclusive, and Lots 264-272, inclusive, The Fairways of Towne Lake - Unit II as per Plat recorded in Plat Book 40, Page 200, and revised as per Plat recorded in Plat Book 41, Page 71 and further revised as per Plat recorded in Plat Book 42, Page 158, aforesaid records; Lots 87-100, inclusive, and Lots 236-255, inclusive, The Fairways of Towne Lake - Unit III as per Plat recorded in Plat Book 42, Page 130 and revised as per Plat recorded in Plat Book 43, Page 29 aforesaid records; Lots 39-62, inclusive, Lots 314-331, inclusive, Lots 225-235, inclusive and Lots 74-86, inclusive, The Fairways of Towne Lake - Unit IV as per Plat recorded in Plat Book 44, Page 139 and revised as per Plat recorded in Plat Book 48, Page 190 aforesaid records; Lots 301-313, inclusive, The Fairways of Towne Lake - Unit V as per Plat recorded in Plat Book 46, Page 109, aforesaid records; and Lots 332-350, inclusive, The Fairways of Towne Lake - Unit VI as per Plat recorded in Plat Book 48, Page 191, aforesaid records.

STATE OF GEORGIA  
COUNTY OF CHEROKEE

EXHIBIT "B"  
BYLAWS  
OF  
THE FAIRWAYS OF TOWNE LAKE HOMEOWNERS ASSOCIATION, INC.

WEISSMAN, NOWACK, CURRY & WILCO, P.C.  
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Atlanta, Georgia 30309  
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BYLAWS  
OF  
THE FAIRWAYS OF TOWNE LAKE HOMEOWNERS ASSOCIATION, INC.

Article I.  
General

Section 1. Applicability. These Bylaws provide for the self-government of The Fairways of Towne Lake Homeowners Association, Inc., in accordance with the Georgia Property Owners' Association Act ("Act"), the Articles of Incorporation filed with the Secretary of State and the Declaration of Covenants, Conditions and Restrictions for The Fairways of Towne Lake, recorded in the Cherokee County, Georgia land records ("Declaration").

Section 2. Name. The name of the corporation is The Fairways of Towne Lake Homeowners Association, Inc., ("Association").

Section 3. Definitions. The terms used herein shall have their generally accepted meanings or such meanings as are specified in Paragraph 2 of the Declaration.

Section 4. Membership. An Owner of a Lot shall automatically become a member of the Association upon taking title to the Lot and shall remain a member for the entire period of ownership. As may be more fully provided below, a spouse of a member may exercise the powers and privileges of the member. If title to a Lot is held by more than one (1) Person, the membership shall be shared in the same proportion as the title, but there shall be only one (1) membership and one (1) vote per Lot. Membership does not include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. Membership shall be appurtenant to the Lot and shall be transferred automatically by conveyance of that Lot and may be transferred only in connection with the transfer of title.

Section 5. Entity Members. In the event an Owner is a corporation, partnership, trust, or other legal entity not being a natural person or persons, then any natural person who is an officer, director, or other designated agent of such corporation, partner of such partnership, beneficiary or other designated agent of such trust, or manager of such other legal entity shall be eligible to represent such entity in the affairs of the Association. Such person's relationship with the Association shall terminate automatically upon the termination of such person's relationship with the entity which is the Owner, which will create a vacancy in any elected or appointed position within the Association in which such person may have been serving, to be filled by the Board.

Section 6. Voting. Each Lot shall be entitled to one equally weighted vote, which vote may be cast by the Owner, the Owner's spouse, or by a lawful proxy as provided below. When more than one (1) Person owns a Lot, the vote for such Lot shall be exercised as they determine between or among themselves, but in no

event shall more than one (1) vote be cast with respect to any Lot. If only one (1) co-owner attempts to cast the vote for a Lot, it shall be conclusively presumed that such co-owner is authorized on behalf of all co-owners to cast the vote for such Lot. In the event of disagreement among co-owners and an attempt by two (2) or more of them to cast such vote, such Persons shall not be recognized and such vote or votes shall not be counted. No Owner shall be eligible to vote, either in person or by proxy, or to be elected to the Board, if that Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association or if the Owner has had its voting rights suspended for the infraction of any provision of the Declaration, these Bylaws, or any rule of the Association. If the voting rights of an Owner have been suspended, that Owner shall not be counted as an eligible vote for purposes of establishing a Majority or a quorum or for purposes of amending these Bylaws or the Declaration.

Section 7. Majority. As used in these Bylaws, the term "majority" shall mean those votes, Owners, or other group as the context may indicate totalling more than fifty (50%) percent of the total number of eligible votes, Owners, or other group, respectively. Unless otherwise specifically stated, the words "majority vote" mean more than fifty (50%) percent of those voting in person or by proxy. Except as otherwise specifically provided in the Declaration or these Bylaws, all decisions shall be by majority vote.

Section 8. Purpose. The Association shall have the responsibility of administering the Property, establishing the means and methods of collecting the contributions to the Common Expenses, arranging for the management of the Property and performing all of the other acts that may be required to be performed by the Association pursuant to the Act, the Georgia Nonprofit Corporation Code and the Declaration. Except as to those matters which the Declaration, the Act or the Georgia Nonprofit Corporation Code specifically require to be performed by the vote of the Association membership, the administration of the foregoing responsibilities shall be performed by the Board of Directors as more particularly set forth below.

## Article II.

### Meetings of Members

Section 1. Annual Meetings. The regular annual meeting of the members shall be held during March of each year with the date, hour, and place to be set by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called for any purpose at any time by the President, the Secretary, or by request of any two (2) or more Board members, or upon written petition of twenty-five (25%) percent of the Lot Owners. Any such written petition by the members must be submitted to the Association's Secretary. The Secretary shall then verify that the required number of members have joined in the petition and shall submit all proper petitions to the Association's President. The President shall then promptly call a special meeting for the purpose stated in the petition, and the Secretary shall send notice of the meeting in accordance with these Bylaws.

Section 3. Notice of Meetings. It shall be the duty of the Secretary to mail or deliver to each Owner of Lots of record or to the Lots a notice of each annual or special meeting of the Association at least twenty-one (21) days prior to each annual meeting and at least seven (7) days prior to each special meeting. The notice shall state the purpose of any special meeting, as well as the time and place where it is to be held. The notice of an annual meeting shall state the time and place of the meeting. If any Owner wishes notice to be given at an address other than his or her Lot, the Owner shall designate such other address by written notice to the Secretary. The mailing or delivering of a meeting notice as provided in this Section shall constitute proper service of notice.

Section 4. Waiver of Notice. Waiver of notice of a meeting of the Owners shall be deemed the equivalent of proper notice. Any Owner may, in writing, waive notice of any Association meeting, either before or after such meeting. Attendance at a meeting by an Owner, whether in person or represented by proxy, shall be deemed waiver by such Owner of notice of the time, date, and place thereof unless such Owner specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted at such meeting unless objection to lack of notice is raised before the business, of which proper notice was not given, is put to a vote.

Section 5. Quorum. Except as may be provided elsewhere, the presence, in person or by proxy at the beginning of the meeting, of Owners entitled to cast one third (1/3) of the eligible vote of the Association shall constitute a quorum. Once a quorum is established for a meeting, it shall conclusively be presumed to exist until the meeting is adjourned and shall not need to be reestablished. Owners whose voting rights have been suspended pursuant hereto shall not be counted as eligible votes toward the quorum requirement.

Section 6. Adjournment. Any meeting of the Owners may be adjourned for periods not exceeding ten (10) days by vote of the Owners holding the Majority of the votes represented at such meeting, regardless of whether a quorum is present. Any business which could be transacted properly at the original session of the meeting may be transacted at a reconvened session, and no additional notice of such reconvened session shall be required.

Section 7. Proxy. Any member entitled to vote may do so by written proxy duly executed by the member setting forth the meeting at which the proxy is valid. To be valid, a proxy must be signed, dated, and filed with the Secretary prior to the opening of the meeting for which it is to be used. Proxies may be delivered to the Board by personal delivery, U.S. mail or telefax transmission to any Board member or the property manager. Proxies may be revoked only by written notice delivered to the Association, except that the presence in person by the proxy giver at a meeting for which the proxy is given shall automatically invalidate the proxy for that meeting. A proxy holder may not appoint a substitute proxy holder unless expressly authorized to do so in the proxy.

Section 8. . In the Board's discretion, any action that may be taken by the Association members at any annual, regular, or special meeting may be taken without a meeting if the Board delivers a written consent form or written ballot to every member entitled to vote on the matter.

(a) Ballot. A written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. Approval by written ballot shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

All solicitations for votes by written ballot shall: a) indicate the number of responses needed to meet the quorum requirements; b) state the percentage of approvals necessary to approve each matter other than election of directors; and c) specify the time by which a ballot must be received by the corporation in order to be counted. A written ballot may not be revoked. The Association shall maintain such ballots in its file for at least three (3) years.

(b) Written Consent. Approval by written consent shall be valid only when the number of written consents received equals or exceeds the requisite majority of the voting power for such action. Executed written consents shall be included in the minutes or filed with the Association's records. If an action of the members is approved by written consent hereunder, the Board shall issue written notice of such approval to all members who did not sign written consents. Membership approval shall be effective ten (10) days after written notice is issued; provided, however, if the consent is to an amendment to the Declaration or Bylaws which must be recorded, the effective date shall be no earlier than the date of recording of such amendment.

Section 9. Order of Business. At all meetings of the Association, Roberts Rules of Order (latest edition) shall govern when not in conflict with the Declaration, these Bylaws or the Articles of Incorporation.

### Article III.

#### Board of Directors

##### A. Composition and Selection.

Section 1. Composition. The affairs of the Association shall be governed by a Board of Directors composed of at least three (3) but no more than seven (7) persons. The directors shall be Owners of Lots or



spouses or partners of such Owners; provided, however, no Owner and his or her spouse, partner or co-Owner may serve on the Board at the same time.

Section 2. Term of Office. Those directors serving on the Effective Date of these Bylaws shall remain in office until the terms for which they were elected expire. Successor directors shall be elected by the vote of those members present or represented by proxy, at the annual or other meeting of the membership of the Association, a quorum being present. Those persons receiving the most votes shall be elected to the number of positions to be filled. All successor directors shall be elected for one (1) year terms and shall hold office until their successors are elected. No person shall serve more than two (2) consecutive terms on the Board of Directors.

Section 3. Removal of Members of the Board of Directors. At any valid regular or special Association meeting, any one or more Board members may be removed with or without cause by a Majority of the Association members and a successor may then and there be elected to fill the vacancy created. Moreover, any director who has had three (3) consecutive unexcused absences from regularly scheduled Board meetings or is more than sixty (60) days past due in the payment of any assessment may be removed by the vote of a Majority of the other directors. Any director whose removal has been proposed shall be given at least ten (10) days notice of the calling of the meeting to consider his or her removal and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Section 4. Vacancies. Vacancies in the Board caused by any reason, except the removal of a director by vote of the membership, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any Board meeting. The successor selected shall hold office for the remainder of the term of the director being replaced.

Section 5. Compensation. Directors shall not be compensated for services as such unless and only to the extent that compensation is authorized by a Majority vote of the members. Directors may be reimbursed for the expenses incurred in carrying out their duties as directors upon Board approval of such expenses.

Section 6. Director Conflicts of Interest. Nothing herein shall prohibit a director from entering into a contract and being compensated for services or supplies furnished to the Association in a capacity other than as director, provided that the director's interest is disclosed to the Board and the contract is approved by a Majority of the directors who are at a meeting of the Board of Directors at which a quorum is present, excluding the director with whom the contract is made. The interested director shall not count for purposes of establishing a quorum of the Board. The interested director shall be entitled to be present at any meeting at which the proposed contract is discussed and to discuss the proposed contract, unless requested by any other director to leave the room during the discussion.

Section 7. Nomination. Nomination for election to the Board shall be made by a Nominating Committee which shall be appointed by the Board of Directors at least thirty (30) days prior to the annual meeting to serve a term of one (1) year. The members of the Nominating Committee shall be announced at the annual meeting. The Nominating Committee may nominate any number of qualified individuals, but not less than the number of directors to be elected. The nominations shall be made at least fourteen (14) days prior to the annual meeting. Nominations shall also be allowed from the floor at the meeting. Each candidate shall be given a reasonable opportunity to communicate his or her qualifications to the membership prior to the election. No member shall be nominated for election to the Board of Directors, nor permitted to run for election, if more than thirty (30) days past due in the payment of any assessment. Failure to comply with this Section shall in no way invalidate the election of directors who were not nominated in accordance with the provisions hereof. Nomination for election to the Board shall also be taken from the floor at the meeting. Nominations also may be made by a nominating committee, if appointed by the Board.

Section 8. Elections. All Association members eligible to vote shall be entitled to cast their entire vote for each directorship to be filled. There shall be no cumulative voting. The directorships for which elections are held shall be filled by that number of candidates receiving the most votes. Voting for election of Board members shall be by secret written ballot (unless dispensed by unanimous consent at such meeting at which such voting is conducted).

## B. Meetings.

Section 1. Regular Meetings. Regular Board meetings may be held at such time and place as determined by the Board, but at least once every three (3) months. The newly elected Board shall meet within ten (10) days after each annual Association meeting.

Section 2. Special Meetings. Special Board meetings may be called by the President on three (3) days' notice to each director given by mail, in person, by telephone, or by facsimile transmission, which notice shall state the time, place, and purpose of the meeting. Special Board meetings shall be called by the President, Vice President, Secretary, or Treasurer in like manner and on like notice on the written request of at least two (2) directors.

Section 3. Waiver of Notice. Any director may, at any time, in writing, waive notice of any Board meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any Board meeting shall also constitute a waiver of notice by him or her of the time and place of such meeting. If all directors are present at any Board meeting, no notice shall be required and any business may be transacted at such meeting.

Section 4. Conduct of Meetings. The President shall preside over all Board meetings, and the Secretary shall keep a minute book recording therein all resolutions adopted by the Board and a record of all transactions and proceedings occurring at such meetings. The presence of directors entitled to cast one-half of the votes of the Board shall constitute a quorum for the transaction of business. One or more directors who participate in a meeting by means of telephone or electronic communication shall be deemed present and in attendance for all purposes at such meeting, provided all persons participating in the meeting can hear each other.

Section 5. Open Meetings. All Board meetings shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly authorized by the Board. Notwithstanding the above, the Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 6. Action Without a Meeting. Any Board action required or permitted to be taken at any meeting may be taken without a meeting if a Majority of the directors consent in writing to such action. The written consents must describe the action taken and be signed by no fewer than a Majority of the directors. The written consents shall be filed with the minutes of the Board.

## C. Powers and Duties.

Section 1. Powers and Duties. The Board of Directors shall manage the affairs of the Association and shall have all the powers and duties necessary for the administration of the Property and may do all such acts and things as are not by the Act, the Declaration, the Articles of Incorporation, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

- (a) preparation and adoption of an annual budget, in which there shall be established the contribution of each Owner to the Common Expenses;
- (b) making assessments to defray the Common Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment;
- (c) providing for the operation, care, upkeep, and maintenance of all of the Area of Common Responsibility as defined in Paragraph 15 of the Declaration;

(d) designating, hiring, and dismissing the personnel necessary for the operation of the Association and the maintenance, repair, and replacement of the Common Property, Association property, and the Area of Common Responsibility and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a financial depository or institution which it shall approve, or otherwise investing the proceeds in accordance with any limitations set forth in O.C.G.A. ' 14-3-302, and using the proceeds to administer the Association;

(f) making and amending rules and regulations and imposing sanctions for violation thereof, including reasonable monetary fines;

(g) opening of bank or other financial accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to, or alterations of the Common Property in accordance with the other provisions of the Declaration and these Bylaws, after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Act and the Declaration, and paying the premium cost thereof;

(k) paying the costs of all services rendered to the Association or its members and not directly chargeable to specific Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred; and

(m) contracting with any Person for the performance of various duties and functions. The Board shall have the power to enter into common management agreements with trusts, condominium associations, or other associations or corporations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 2. Management Agent. The Association may, but shall not be required to, hire a professional management agent or agents, at a compensation established by the Board, to perform such duties and services as the Board of Directors shall authorize. The Board shall use reasonable efforts in any management contract to provide for termination of such contract with or without cause and without penalty, upon no more than thirty (30) days written notice, and for a term not in excess of one (1) year.

Section 3. Borrowing. The Board of Directors shall have the power to borrow money for any purpose; provided, however, the Board shall obtain membership approval in the same manner as provided in Paragraph 8 of the Declaration for special assessments if the total amount of such borrowing exceeds or would exceed five thousand (\$5,000.00) dollars outstanding debt at any one time.

Section 4. Liability and Indemnification of Officers and Directors. The Association shall indemnify every officer and director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon such officer or director in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which he or she may be made a party by reason of being or having been an officer or director, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors shall not

be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer or director in the performance of his or her duties, except for his or her own individual willful misfeasance or malfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in the Declaration.

#### D. Committees.

Section 1. Nominating Committee. Pursuant to Section 7 of this Article, there shall be a Nominating Committee composed of at least three (3) members appointed in the manner and to perform the functions specified in Section 7 of this Article.

Section 2. Architectural Control Committee. The Board may establish an Architectural Control Committee for the purpose of establishing and maintaining architectural standards in the Property as provided in the Declaration.

Section 3. Other Committees. There shall be such other committees as the Board shall determine with the powers and duties that the Board shall authorize.

Section 4. Service on Committees. Unless otherwise provided in these Bylaws or in the resolution authorizing a particular committee, the members of any committee shall be appointed by the President and shall serve at the pleasure of the Board of Directors. Any committee member may be removed with or without cause at any time and with or without a successor being named.

#### Article IV.

##### Officers

Section 1. Designation. The principal officers of the Association shall be the President, the Secretary, and the Treasurer. The President, Treasurer, and Secretary shall be elected by and from the Board of Directors. The Board of Directors may also elect a Vice President. The Board may appoint one or more Assistant Treasurers, Assistant Secretaries, and such other subordinate officers as in its judgment may be necessary. Any assistant or subordinate officers shall not be required to be Board members. Except for the offices of Secretary and Treasurer, which may be held by the same person, no person may hold more than one (1) office.

Section 2. Election of Officers. The Association officers shall be elected annually by the Board at the first meeting of the Board following each annual meeting of the members and shall hold office at the pleasure of the Board and until a successor is elected.

Section 3. Removal of Officers. Upon the affirmative vote of a Majority of the Board members, any officer may be removed, either with or without cause, and a successor may be elected.

Section 4. Vacancies. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

Section 5. President. The President shall be the chief executive officer of the Association and shall preside at all Association and Board meetings. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the Georgia Nonprofit Corporation Code, including, but not limited to, the power to appoint committees from among the members from time to time as he or she may in his or her discretion decide is appropriate to assist in the conduct of the affairs of the Association.

Section 6. Vice President. The Vice President (if any) shall act in the President's absence and shall have all powers, duties, and responsibilities provided for the President when so acting.

Section 7. Secretary. The Secretary shall keep the minutes of all Association and Board meetings and shall have charge of such books and papers as the Board may direct, and shall, in general, perform all duties incident to the office of the secretary of a corporation organized under Georgia law.

Section 8. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board. The Treasurer shall be responsible for the preparation of the budget as provided in the Declaration. The Treasurer may delegate all or a part of the preparation and notification duties associated with the above responsibilities to a management agent.

Section 9. Other Officers. Other offices may be created by the Board, and the Board members which hold such offices shall have such titles and duties as are defined by the Board.

Section 10. Agreements, Contracts, Deeds, Leases, Etc. All agreements, contracts, deeds, leases, checks, promissory notes, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

#### Article V.

##### Rule Making and Enforcement

Section 1. Authority and Enforcement. The Property shall be used only for those uses and purposes set out in the Declaration. The Board of Directors shall have the authority to make, modify, repeal and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and the Common Property; provided, copies of all such rules and regulations shall be furnished to all Owners and Occupants. Any rule or regulation may be repealed by the affirmative vote or written consent of a Majority of the total Association vote at an annual or special meeting of the membership.

Every Owner and Occupant shall comply with the Declaration, Bylaws and rules and regulations of the Association, and any lack of compliance shall entitle the Association and, in an appropriate case, one or more aggrieved Lot Owners, to take action to enforce the terms of the Declaration, Bylaws or rules and regulations.

The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the Owner's Lot, and to suspend an Owner's right to vote or to use the Common Property for violation of any duty imposed under the Declaration, these Bylaws, or any rules and regulations duly adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. In the event that any Occupant of a Lot violates the Declaration, Bylaws, or a rule or regulation and a fine is imposed, notice of such violation shall be sent to the Owner and the Occupant, and the fine may first be assessed against such Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Lot Owner shall pay the fine upon notice from the Association, and the fine shall be an assessment and a lien against the Lot until paid. The failure of the Board to enforce any provision of the Declaration, Bylaws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

Section 2. Fining and Suspension Procedure. The Board shall not impose a fine or suspend the right to vote or to use the Common Property (unless an Owner is shown on the books or management accounts of the Association to be more than thirty (30) days delinquent in any payment due the Association, in which case such suspensions shall be automatic) unless and until notice of the violation is given as provided in subsection 2(a) below. Any such fine or fines may be effective or commence upon the sending of such notice or such later date as may be set forth in such notice, notwithstanding the violator's right to request a hearing before the Board to challenge such fine under subsection 2(b) below.

(a) Notice. If any provision of the Declaration or Bylaws or any rule or regulation of the Association is violated, the Board shall serve the violator with written notice sent certified mail, return receipt requested, which shall state: i) the nature of the alleged violation; ii) the proposed sanction to be imposed; iii) a statement that the violator may challenge the fact of the occurrence of a violation, the proposed sanction, or both, by written challenge and written request for a hearing before the Board, which request must be received by the Board within ten (10) days of the date of the notice; iv) the name, address, and telephone number of a person to contact to challenge the proposed action. If a timely challenge is made and the violation is cured within ten (10) days of the date of the notice, the Board, in its discretion, may, but is not obligated to, waive any sanction or portion thereof. In the event of a continuing violation, each day the violation continues or occurs again constitutes a separate offense, and fines may be imposed on a per diem basis without further notice to the violator.

(b) Hearing. If the alleged violator timely challenges the proposed action, a hearing before the Board shall be held in executive session affording the violator a reasonable opportunity to be heard. The hearing shall be set at a reasonable time and date by the Board, and notice of the time, date (which shall be not less than ten (10) days from the giving of notice without the consent of the violator), and place of the hearing and an invitation to attend the hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator. The minutes of the meeting shall contain a written statement of the results of the hearing. This Section shall be deemed complied with if a hearing is held and the violator attends and is provided an opportunity to be heard, notwithstanding the fact that the notice requirements contained herein are not technically followed.

Section 3. Additional Enforcement Rights. Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity for compliance with the procedure set forth in Section 2 of this Article. In any such action, to the maximum extent permissible, the Owner or Occupant responsible for the violation for which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

The Association or its duly authorized agent shall have the power to enter a Lot or upon any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates the Declaration, the Bylaws, or the rules and regulations. All costs of self-help, including reasonable attorney's fees, shall be assessed against the violating Lot Owner.

#### Article VI.

##### Miscellaneous

Section 1. Notices. Unless otherwise provided in these Bylaws, all notices, demands, bills, statements, or other communications under these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) If to a Lot Owner, at the address which the Lot Owner has designated in writing and filed with the Secretary, or if no such address has been designated, at the address of the Lot of such Owner;

(b) If to an Occupant, at the address of the Lot occupied; or

(c) If to the Association, the Board or the managing agent, at the principal office of the Association or the managing agent, if any, or at such other address as shall be designated in writing and filed with the Secretary.

Section 2. Severability. The invalidity of any part of these Bylaws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these Bylaws or the Declaration.

Section 3. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these Bylaws or the intent of any provision thereof.

Section 4. Gender and Grammar. The use of the masculine gender in these Bylaws shall be deemed to include the feminine gender, and the use of the singular shall be deemed to include the plural whenever the context so requires.

Section 5. Fiscal Year. The fiscal year of the Association may be set by Board resolution or, in the absence thereof, shall be the calendar year.

Section 6. Financial Review. A financial review of the accounts of the Association shall be performed annually in the manner provided by the Board. However, after having received the Board's financial review at the annual meeting, the Owners may, by a Majority of the Association vote, require that the Association accounts be audited as a Common Expense by an independent accountant.

Section 7. Conflicts. The duties and powers of the Association shall be those set forth in the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, and the Articles of Incorporation, together with those reasonably implied to affect the purposes of the Association; provided, however, that if there are conflicts or inconsistencies between the Act, the Georgia Nonprofit Corporation Code, the Declaration, these Bylaws, or the Articles of Incorporation, then the provisions of the Act, the Georgia Nonprofit Corporation Code, as may be applicable, the Declaration, the Articles of Incorporation and these Bylaws, in that order, shall prevail, and each Owner of a Lot, by acceptance of a deed or other conveyance therefor, covenants to vote in favor of such amendments as will remove such conflicts or inconsistencies.

Section 8. Amendment. The Board of Directors shall have the power to alter, amend or repeal any of the Bylaws or to adopt new Bylaws by the affirmative vote of a majority of all of the Directors represented in person at a meeting of the Board of Directors at which a quorum is present, but any Bylaws adopted by the Board of Directors may be altered, amended or repealed and new Bylaws adopted by the affirmative vote of at least two-thirds (2/3rds) of the total number of votes of all of the Members. The Members may prescribe in any Bylaw adopted by them that such Bylaw shall not be altered, amended or repealed by the Board of Directors. Any amendment covered by Paragraph 16 of the Declaration shall not be effective until the requirements of that Paragraph are met. Any amendment duly certified and recorded (containing any additional signatures required by the Declaration) shall be conclusively presumed to have been duly adopted in accordance with the Declaration and Bylaws. Owners whose voting rights have been suspended pursuant to the Declaration or these Bylaws shall not be counted as eligible votes toward the amendment requirement.

Any action to challenge the validity of an amendment adopted under this Section must be brought by a Member, within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

Section 9. . To the extent provided in O.C.G.A. ' 14-3-1602, all Association members and any institutional holder of a first Mortgage shall be entitled to inspect Association records at a reasonable time and location specified by the Association, upon written request at least five (5) days before the date on which the member wishes to inspect and copy. The Association may impose a reasonable charge, covering the cost of labor and material, for copies of any documents provided to the Member.

#### CERTIFICATION

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of The Fairways of Towne Lake Homeowners Association, Inc., a Georgia corporation;

That the foregoing Bylaws constitute the Amended and Restated Bylaws of said Association, as duly adopted by the Board of Directors of the Association on the day of, 19 .

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this day of, 19 .

THE FAIRWAYS OF TOWNE LAKE HOMEOWNERS  
ASSOCIATION, INC.

Secretary

\_\_\_\_\_ [SEAL]

[CORPORATE SEAL]

"EXHIBIT C"

THE FAIRWAYS OF TOWNE LAKE  
LEASE AGREEMENT

THIS AGREEMENT is made this day of , 19 , by and between (hereinafter called "Lessor"), and (hereinafter called "Lessee");

W I T N E S S E T H

That, in consideration of the mutual covenants hereinafter set forth, the parties do hereby covenant and agree as follows:

1. PREMISES LEASED, TERM OF LEASE, AND OCCUPANCY. Lessor does hereby rent and lease to Lessee a Lot at in The Fairways of Towne Lake (hereinafter the "Premises"), for a term of (not less than six (6) months) , commencing on , 19 , and ending on , 19 , midnight.
2. RENT. Lessee covenants and agrees to pay to Lessor at total rent for the term equal to ( \$ ) Dollars which rent shall be paid in equal monthly installments of ( \$ ) Dollars promptly on the first day of each rental month in advance during the term of this Lease, without deduction or demand. The rent amount specified above is subject to adjustment during the term of the Lease as described in Paragraphs 3 and 8 below.
3. RENT ADJUSTMENT. It is expressly agreed and understood that, at any time, the rent due may be increased in the amount of any assessment and/or real estate tax increases incurred by Lessor during the term of this Lease. Lessor or Agent may adjust rent pursuant to the foregoing by delivering a notice of the adjustment at least thirty (30) days before such adjustment is to take effect, which notice shall be deemed delivered when (a) sent certified or registered mail to Lessee at the address of the Premises; (b) personally delivered to Lessee; or (c) left at the Premises.
4. LATE PAYMENTS AND RETURNED CHECKS. Time is of the essence in this Agreement, and if Lessor elects to accept rent after the day of the month, a late charge, upon request of Lessor, of \$ may be charged as additional rent. In the event Lessee's rent check is dishonored by the bank, Lessee agrees to pay Lessor \$ as a handling charge and, if appropriate, the late charge. Returned checks shall be redeemed by cash, a cashier's check, certified check, or money order. If more than two checks are returned, Lessee agrees to pay all future rents and charges in the form of cash, a cashier's check, a certified check, or money order.
5. SECURITY DEPOSIT. Upon the execution of this Lease, Lessee covenants and agrees to pay to Lessor a security deposit in the amount of \$ , as security for Lessee's fulfillment of the conditions of this Lease. The security deposit will be returned to Lessee within thirty (30) days after the Premises are vacated if:
  - (a) the lease term has expired or this Lease has been terminated by both parties;



(b) all monies due Lessor by Lessee have been paid; and

(c) the Premises are not damaged and are left in the same condition as exists at the execution of this Lease, normal wear and tear excepted.

The deposit may be applied by Lessor to satisfy all or part of Lessee's obligations, and such application shall not prevent Lessor from claiming damages in excess of the deposit. Lessee agrees not to apply the deposit to any rent payment and also agrees to pay \$ for re-keying locks if all keys are not returned. Lessee acknowledges receipt of keys.

In the event that any part of the deposit has been used by Lessor in accordance with the terms of this Lease or applicable law, Lessee shall upon demand immediately deposit with Lessor a sum equal to the amount so applied by Lessor so that Lessor shall have the full deposit on hand at all times during the Lease term including any extension, renewal or holdover term. In the event of any permitted assignment or sublease of this Lease by Lessee, the deposit shall be deemed to be held by Lessor as a deposit made by Lessee's assignee or sublessee, and Lessor shall have no further liability to return such deposit to the assignor or sublessor.

The foregoing notwithstanding, if Lessor is not a natural person, has used a rental agent, or leases more than ten (10) rental units:

(i) The security deposit shall be deposited in Escrow Account No. , at ; and

(ii) Prior to the acceptance of a security deposit, Lessor shall present Lessee with a list signed by Lessor of all damage, if any, to the Premises, and Lessee, after having been given an opportunity to inspect the Premises to ascertain the accuracy of the list, shall either verify the list by signing it or shall notify Lessor in writing of any items on the list to which Lessee dissents.

6. ASSOCIATION IS THIRD-PARTY BENEFICIARY. Lessee and Lessor acknowledge that The Fairways of Towne Lake Homeowners Association, Inc. (hereinafter the "Association"), is a third-party beneficiary of the promises made in this Lease Agreement.

7. COMPLIANCE AND ENFORCEMENT BY ASSOCIATION. Lessee shall comply strictly with the Declaration of Covenants, Conditions and Restrictions for The Fairways of Towne Lake (hereinafter the "Declaration"), the By-Laws of The Fairways of Towne Lake Homeowners Association, Inc. (hereinafter the "By-Laws"), and the administrative rules and regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold Lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee, or any occupant or person living with Lessee, of any provision of the Declaration, By-Laws, or the rules and regulations adopted thereunder, shall constitute a default under this Lease.

In order to enforce the provisions of this Lease, the Association may bring an action against the Lessor or Lessee for damages or injunctive relief or may impose any other sanction authorized by the Declaration or By-Laws or available at law or in equity including, without limitation, all remedies available to a landlord upon breach or default of a lease (including eviction). Failure by the Association to enforce any of its rights shall not be deemed a waiver of the right to do so thereafter.

Lessor hereby delegates and assigns to the Association, acting through the Board, the power and authority to evict Lessee on behalf of and for the benefit of Lessor, in accordance with the terms hereof. In the event the Association proceeds to evict Lessee, any cost associated with the eviction, including attorney's fees and court costs, shall be specially assessed against the Premises and shall be a personal obligation of Lessor, such being deemed hereby as an expense which benefits the leased Premises and Lessor.

Lessee and Lessor hereby represent that Lessee has been given a copy of the Declaration, By-Laws, and rules and regulations of The Fairways of Towne Lake Homeowners Association, Inc., that Lessee has read them, and that Lessee is bound by them.

If Lessee or a person living with Lessee violates the Declaration, By-Laws or a rule or regulation for which a fine is imposed, such fine may be assessed against Lessee; provided, however, if the fine is not paid by Lessee within the time period set by the Board of Directors of the Association, Lessor shall pay the fine upon notice from the Association of Lessee's failure to pay the fine. Unpaid fines shall constitute a lien against the Premises.

8. PAYMENT OF ASSESSMENTS. Upon request by the Association, Lessee shall pay to the Association all unpaid annual assessments and special assessments, as lawfully determined and made payable during and prior to 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 under this Paragraph shall reduce, by the same amount, Lessee's obligation to make monthly rental payments to Lessor. If Lessee fails to comply with the Association's request to pay assessments, Lessee shall pay to the Association all late or delinquent charges, interest, and costs of collection including, but not limited to, reasonable attorney's fees actually incurred, to the same extent Lessee would be required to make such payments to the Association if Lessee were the owner of the Premises during the term of this Lease and any other period of occupancy by Lessee.

9. POSSESSION. Lessor shall not be liable for damages to Lessee for failure to deliver possession of the Premises to Lessee at the commencement of the term if such failure is due to no fault of the Lessor. Lessor shall use his or her best efforts to give possession of the Premises to the Lessee at the beginning of Lessee's term.

10. MAINTENANCE AND INDEMNIFICATION. Lessee accepts the Premises in the condition in which they are now and as suited for the use intended by Lessee. Lessor shall not be required to make any repairs or improvements on the Premises, except that on written notice from the Lessee of any defect rendering the Premises unsafe or untenantable, Lessor shall remedy such defective condition. Lessee shall comply with all notices and other requirements, including the Declaration, By-Laws and rules and regulations of the Association concerning maintenance and repair. Lessee shall be liable for and shall indemnify and hold Lessor harmless from any damage or injury to the person or property of Lessee or any other person if such damage or injury be due to the act or neglect of the Lessee or any other person in his or her control or employ, or if such damage or injury be due to any failure of Lessee to report in writing to Lessor any defective condition which Lessor would be required to repair under the terms hereof on notice from Lessee. Lessee releases Lessor from liability for and agrees to indemnify Lessor against all losses incurred by Lessor as a result of (a) Lessee's failure to fulfill any condition of this Agreement; (b) any damage or injury happening in or about the Premises to Lessee's invitees or licensees or such person's property; (c) Lessee's failure to comply with any requirements imposed by any governmental authority and as provided in Paragraph 7 hereof; and (d) any judgment, lien, or other encumbrance filed against the Premises as a result of Lessee's action. All personal property located or stored in the Premises or on Common Property of The Fairways of Towne Lake shall be kept and stored at Lessee's sole risk, and Lessee shall indemnify and hold harmless Lessor and the Association from and against any loss or damage to such property arising out of any cause whatsoever. Lessor and the Association shall not be liable, except in the case of Lessor's direct negligence or willful misconduct, for any injury, damage, or loss resulting from any accident or occurrence in or upon the Premises or the Common Property and facilities sustained by Lessee or by any person claiming through Lessee.

11. USE AND OCCUPANCY. The Premises will be used solely for the purpose of Lessee's residence. Lessee shall not use or allow the Premises to be used for any disorderly or unlawful purposes or in any manner offensive to others, and Lessee shall comply with all applicable laws, ordinances, covenants and rules and regulations. Lessee shall not paint, redecorate, remodel or make any structural changes to the Premises, nor shall Lessee remove or replace any fixtures on or from the Premises. Lessee shall not

damage, destroy or commit waste on the Premises, nor permit any other person to damage, destroy or commit waste on the Premises.

Lessor transfers and assigns to Lessee for the term of this Lease any and all rights and privileges that Lessor has to use the Common Property of The Fairways of Towne Lake including the recreational facilities and other amenities.

12. UTILITIES. All utility bills for services separately metered or billed to the Premises during the lease term shall be paid by .

13. PETS OR ANIMALS. Lessee shall keep only those pets or animals that comply with the Declaration and the rules and regulations adopted by the Board of Directors, and then only with prior approval from Lessor.

14. ASSIGNMENT AND SUBLEASING. Lessee shall not assign this Lease or sublet the Premises or any part thereof without the written permission of Lessor and the Board of Directors of the Association, pursuant to its duly adopted rules and regulations.

15. CASUALTY. If the Premises are rendered untenantable by fire, storm, earthquake or other casualty, this Lease shall terminate as of the date of such destruction or damage, and rental shall be accounted for as of that date.

16. ACCESS. Lessor, his or her agents, and the agents of the Association shall have the right of access to the Premises, upon notice to Lessee, between the hours of 8:00 a.m. and 8:00 p.m., to inspect, maintain, and improve the Premises, and for the purpose of showing the Premises to prospective tenants during the last month of the lease term. In case of emergency, such parties may enter at any time to prevent property damage or personal injury.

17. DISCLOSURE. Lessor, as the owner of record of the Premises, or the person authorized to act for and on behalf of the owner for the purpose of service of process and receiving and receipting for demands and notice is:

(owner) (agent)

(address)

18. HOLDOVER. Lessee shall not remain in possession of the leased Premises after the expiration of this Lease. Any holding over of the leased Premises by Lessee after the expiration of this Lease without a written renewal thereof or written consent from Lessor or Lessor's agents and written approval of the Board of Directors of the Association shall not constitute a tenancy-at-will by Lessee, but Lessee shall become a tenant-at-sufferance. There shall be no renewal whatsoever of this Lease by operation of law. The Association, as attorney-in-fact on behalf of Lessor, shall be empowered to bring an action to evict Lessee in the event that Lessee holds over beyond the term of this Lease.

19. SURRENDER. Whenever under the terms hereof Lessor is entitled to possession of the Premises, Lessee shall at once surrender the Premises to Lessor in as good condition as at present, natural wear and tear excepted, and Lessor may forthwith reenter Premises and repossess himself or herself thereof and remove all persons and effects therefrom, using such force as may be necessary without being guilty of forcible entry or detainer, trespass, or other tort.

20. ABANDONMENT. If Lessee removes or attempts to remove property from the Premises other than in the usual course of continuing occupancy without first having paid Lessor all monies due, the Premises may be considered abandoned, and Lessor shall have the right without notice, to store or dispose of any property left on the Premises by Lessee. Lessor shall also have the right to store or dispose of any of

Lessee's property remaining on the Premises after termination of this Agreement. Any such property shall be considered Lessor's property, and title thereto shall rest in Lessor. Lessor shall have the right to re-rent the Premises after Lessee abandons same.

21. DEFAULT. Any breach or violation of any provision of this Lease by Lessee shall give Lessor the right to terminate this Lease or to take possession and hold Lessee liable for the remainder of the term. Should possession be obtained, Lessor, at Lessor's option, may re-rent the Premises as Lessee's agent at the risk and cost of the defaulting Lessee, whose default shall not relieve him or her of liability for the difference between the rent herein reserved and the rent actually received by Lessor during the term remaining after such default occurs.

22. CONDEMNATION. In the event that the Premises or any part thereof (other than Common Property, the taking of which does not prevent continued occupancy of the Premises) is taken by any authority exercising the power of eminent domain, this Lease shall terminate as of the date possession shall be taken by the condemnor. Lessee waives all claims against Lessor or any condemning authority by reason of the complete or partial taking of the Premises, and shall not be entitled to receive any part of any award which Lessor may receive, hereby quitclaiming all interest therein to Lessor.

23. SUBORDINATION OF RIGHTS. Lessee's and Lessor's rights shall be subject to all rights of the Association and any bona fide mortgage or deed to secure debt which is now or may hereafter be placed upon the Premises by Lessor.

24. ENTIRE AGREEMENT AND WAIVER. This Lease contains the entire agreement of the parties, and no representation, inducement, promises or agreements not contained herein shall be of any force or effect. No failure of Lessor to exercise any power given Lessor hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's right to demand exact compliance with the terms hereof.

25. REMEDIES CUMULATIVE. All remedies under this Lease or by law or equity shall be cumulative. If suit for any breach of this Lease establishes a breach by either Lessor or Lessee, the party found in breach shall pay to the other party all expenses incurred in connection therewith, including, but not limited to, attorney's fees.

26. ILLEGAL ACTIVITIES. The conduct of any unlawful activities on the Premises shall constitute a breach of this Lease.

27. SUCCESSORS. This Lease shall inure to the benefit of and shall bind the heirs, successors, personal representatives, and assigns of all parties to this Lease.

[OPTIONAL]

28. TERMINATION OF LEASE UPON SALE OF LOT. If at any time during the term of this Lease, Lessor contracts for the sale of the Lot, the Lessor shall send Lessee written notice of such proposed sale stating the date on which Lessee must vacate the Lot, which date shall not be later than (the date the lease terminates). Lessee shall have at least thirty (30) days from the date of the notice to vacate the Lot; provided, however, that Lessee shall vacate the Lot on or before (the date the lease terminates) if notice of sale is sent less than thirty days prior to the date this Lease Agreement terminates. If Lessee is required to vacate the Lot pursuant to this Paragraph, this Lease shall terminate upon the date which Lessee is required to vacate the Lot as stated in the notice of sale.

29. SPECIAL STIPULATIONS.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

LESSOR:(Signature)

Name:(Please Print)

LESSEE:(Signature)

Name:(Please Print)